

# Indiana Register

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# INDIANA REGISTER

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## RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

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

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

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

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## RETENTION SCHEDULE

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

- (1) 2003 Indiana Administrative Code (CD-ROM version).
- (2) Volumes 26 and 27 of the Indiana Register (CD-ROM version).

The Indiana Administrative Code and Indiana Register are distributed in CD-ROM format only. Both are also accessible at [www.in.gov/legislative/ic\\_iac/](http://www.in.gov/legislative/ic_iac/).

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

## 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

<b>Closing Dates:</b>	<b>Publication Dates:</b>	<b>Closing Dates:</b>	<b>Publication Dates:</b>
October 10, 2003	November 1, 2003	May 10, 2004	June 1, 2004
November 10, 2003	December 1, 2003	June 10, 2004	July 1, 2004
December 10, 2003	January 1, 2004	July 9, 2004	August 1, 2004
January 9, 2004	February 1, 2004	August 10, 2004	September 1, 2004
February 10, 2004	March 1, 2004	September 10, 2004	October 1, 2004
March 10, 2004	April 1, 2004	October 12, 2004	November 1, 2004
April 8, 2004	May 1, 2004	November 10, 2004	December 1, 2004

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

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

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

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

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

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

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

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

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

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

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

# State Agencies

## ALPHABETICAL LIST

AGENCY	TITLE NUMBER	AGENCY	TITLE NUMBER
Accountancy, Indiana Board of	872	†Industrial Board of Indiana	630
Accounts, State Board of	20	Insurance, Department of	760
Adjutant General	270	Labor, Department of	610
Administration, Indiana Department of	25	Land Surveyors, State Board of Registration for	865
†Administrative Building Council of Indiana	660	Law Enforcement Training Board	250
†Aeronautics Commission of Indiana	110	Library and Historical Board, Indiana	590
†Aging and Community Services, Department on	450	Library Certification Board	595
Agricultural Development Corporation, Indiana	770	Local Government Finance, Department of	50
Agricultural Experiment Station	350	Lottery Commission, State	65
†Agriculture, Commissioner of	340	Medical and Nursing Distribution Loan Fund Board of	
Agriculture, Commissioner of	375	Trustees, Indiana	580
†Air Pollution Control Board	325.1	Medical Licensing Board of Indiana	844
Air Pollution Control Board	326	Mental Health and Addiction, Division of	440
†Air Pollution Control Board of the State of Indiana	325	Meridian Street Preservation Commission	925
Alcohol and Tobacco Commission	905	Motor Vehicles, Bureau of	140
Amusement Device Safety Board, Regulated	685	Natural Resources, Department of	310
Animal Health, Indiana State Board of	345	Natural Resources Commission	312
Architects and Landscape Architects, Board of Registration for	804	Nursing, Indiana State Board of	848
Athletic Trainers Board, Indiana	898	Occupational Safety Standards Commission	620
Attorney General for the State, Office of	10	Optometric Legend Drug Prescription Advisory Committee, Indiana	857
Auctioneer Commission, Indiana	812	Optometry Board, Indiana	852
Barber Examiners, Board of	816	Parole Board	220
Boiler and Pressure Vessel Rules Board	680	†Personnel Board, State	30
Boxing Commission, State	808	Personnel Department, State	31
Budget Agency	85	Pesticide Review Board, Indiana	357
Chemist of the State of Indiana, State	355	Pharmacy, Indiana Board of	856
Children's Health Insurance Program, Office of the	407	Plumbing Commission, Indiana	860
Chiropractic Examiners, Board of	846	Podiatric Medicine, Board of	845
Civil Rights Commission	910	Police Department, State	240
†Clemency Commission, Indiana	230	Political Subdivision Risk Management Commission, Indiana	762
Commerce, Department of	55	Port Commission, Indiana	130
Community Residential Facilities Council	431	Private Detectives Licensing Board	862
Consumer Protection Division of the Office of the Attorney General	11	Professional Standards Board	515
Controlled Substances Advisory Committee	858	Proprietary Education, Indiana Commission on	570
Coroners Training Board	207	Psychology Board, State	868
Correction, Department of	210	Public Access Counselor, Office of the	62
Cosmetology Examiners, State Board of	820	Public Employees' Retirement Fund, Board of Trustees of the	35
Creamery Examining Board	365	Public Records, Oversight Committee on	60
Criminal Justice Institute, Indiana	205	Public Safety Training Institute	280
Dentistry, State Board of	828	Real Estate Commission, Indiana	876
Developmental Disabilities Residential Facilities Council	430	Reciprocity Commission of Indiana	145
Dietitians Certification Board, Indiana	830	Revenue, Department of State	45
Disability, Aging, and Rehabilitative Services, Division of	460	Safety Review, Board of	615
†Education, Commission on General	510	School Bus Committee, State	575
Education, Indiana State Board of	511	Secretary of State	75
Education Employment Relations Board, Indiana	560	Securities Division	710
Education Savings Authority, Indiana	540	Seed Commissioner, State	360
Egg Board, State	370	Social Worker, Marriage and Family Therapist, and Mental Health	
†Election Board, State	15	Counselor Board	839
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†Elevator Safety Board	670	Soil Scientists, Indiana Board of Registration for	307
Emergency Management Agency, State	290	†Solid Waste Management Board	320.1
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†Employment and Training Services, Department of	645	Standardbred Board of Regulations, Indiana	341
Engineers, State Board of Registration for Professional	864	†Stream Pollution Control Board of the State of Indiana	330
Enterprise Zone Board	58	Student Assistance Commission, State	585
Environmental Adjudication, Office of	315	Tax Review, Indiana Board of	52
Environmental Health Specialists, Board of	896	†Teacher Training and Licensing, Commission on	530
†Environmental Management Board, Indiana	320	Teachers' Retirement Fund, Board of Trustees of the Indiana State	550
Ethics Commission, State	40	Television and Radio Service Examiners, Board of	884
Fair Commission, State	80	†Textbook Adoptions, Commission on	520
Family and Children, Division of	470	Toxicology, State Department of	260
Family and Social Services, Office of the Secretary of	405	†Traffic Safety, Office of	150
Financial Institutions, Department of	750	†Transportation, Department of	100
Fire Marshal, State	650	Transportation, Indiana Department of	105
Fire Prevention and Building Safety Commission	675	Transportation Finance Authority, Indiana	135
Firefighting Personnel Standards and Education, Board of	655	Underground Storage Tank Financial Assurance Board	328
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Funeral and Cemetery Service, State Board of	832	Utility Regulatory Commission, Indiana	170
Gaming Commission, Indiana	68	†Vehicle Inspection, Department of	160
Geologists, Indiana Board of Licensure for Professional	305	Veterans' Affairs Commission	915
Grain Buyers and Warehouse Licensing Agency, Indiana	824	Veterinary Medical Examiners, Indiana Board of	888
Grain Indemnity Corporation, Indiana	825	Violent Crime Compensation Division	480
Hazardous Waste Facility Site Approval Authority, Indiana	323	†Vocational and Technical Education, Indiana Commission on	572
Health, Indiana State Department of	410	†Wage Adjustment Board	635
Health Facilities Council, Indiana	412	War Memorials Commission, Indiana	920
Health Facility Administrators, Indiana State Board of	840	†Watch Repairing, Indiana State Board of Examiners in	892
†Highways, Department of	120	Water Pollution Control Board	327
†Horse Racing Commission, Indiana	70	†Water Pollution Control Board	330.1
Horse Racing Commission, Indiana	71	Workforce Development, Department of	646
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Housing Finance Authority, Indiana	930		
Human Service Programs, Interdepartmental Board for the Coordination of	490		

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

# State Agencies

## NUMERICAL LIST

TITLE  
NUMBER

TITLE  
NUMBER

### GENERAL GOVERNMENT

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

### TRANSPORTATION AND PUBLIC UTILITIES

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

### CORRECTIONS, POLICE, AND MILITARY

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 207 Coroners Training Board  
 210 Department of Correction  
 220 Parole Board  
 †230 Indiana Clemency Commission  
 240 State Police Department  
 250 Law Enforcement Training Board  
 260 State Department of Toxicology  
 270 Adjutant General  
 280 Public Safety Training Institute  
 290 State Emergency Management Agency

### NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

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

### HUMAN SERVICES

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

### EDUCATION AND LIBRARIES

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

### LABOR AND INDUSTRIAL SAFETY

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

### BUSINESS, FINANCE, AND INSURANCE

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

### OCCUPATIONS AND PROFESSIONS

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

### MISCELLANEOUS

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

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

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## Final Rules

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-101(F)

#### DIGEST

Adds 10 IAC 1.5-6 to establish filing dates for reports required by holders of property presumed to be abandoned. Effective 30 days after filing with the secretary of state.

#### 10 IAC 1.5-6

SECTION 1. 10 IAC 1.5-6 IS ADDED TO READ AS FOLLOWS:

##### Rule 6. Filing Dates for Reports Required to Be Filed

#### 10 IAC 1.5-6-1 Filing dates for reports required to be filed

Authority: IC 32-34-1-52; IC 32-34-1-26  
Affected: IC 32-34-1

Sec. 1. Unless otherwise provided by statute, the reports required by IC 32-34-1-26(a) to be filed by holders of property presumed to be abandoned must be filed as follows:

- (1) The report of a life insurance company must be filed before May 1 of each year for the calendar year preceding the year in which the report is filed.
- (2) All other holders must file the report before November 1 of each year to cover the year preceding July 1 of the year in which the report is filed.

(Office of the Attorney General; 10 IAC 1.5-6-1; filed Sep 18, 2003, 5:30 p.m.: 27 IR 450)

LSA Document #03-101(F)

Notice of Intent Published: 26 IR 2649

Proposed Rule Published: July 1, 2003; 26 IR 3374

Hearing Held: July 22, 2003

Approved by Attorney General: September 8, 2003

Approved by Governor: September 16, 2003

Filed with Secretary of State: September 18, 2003, 5:30 p.m.

Incorporated Documents Filed with Secretary of State: None

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### TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #02-342(F)

#### DIGEST

Adds 50 IAC 19 to provide uniform procedures necessary to review and assess the real property of an industrial facility located in Lake County, Indiana under IC 6-1.1-8.5. Effective 30 days after filing with the secretary of state.

#### 50 IAC 19

SECTION 1. 50 IAC 19 IS ADDED TO READ AS FOLLOWS:

### ARTICLE 19. LAKE COUNTY INDUSTRIAL FACILITY; REAL PROPERTY ASSESSMENT

#### Rule 1. Applicability

#### 50 IAC 19-1-1 Scope

Authority: IC 6-1.1-8.5-12  
Affected: IC 6-1.1-8.5

Sec. 1. This article applies to the assessment of industrial facilities in qualifying counties under IC 6-1.1-8.5. (*Department of Local Government Finance; 50 IAC 19-1-1; filed Oct 6, 2003, 4:30 p.m.: 27 IR 450*)

#### 50 IAC 19-1-2 Definitions

Authority: IC 6-1.1-8.5-12  
Affected: IC 6-1.1-8.5

Sec. 2. Unless otherwise indicated, the definitions contained in IC 6-1.1-8.5 also apply to this article. (*Department of Local Government Finance; 50 IAC 19-1-2; filed Oct 6, 2003, 4:30 p.m.: 27 IR 450*)

#### Rule 2. General Provisions

#### 50 IAC 19-2-1 List of industrial facilities provided to the department

Authority: IC 6-1.1-8.5-12  
Affected: IC 6-1.1-4-4; IC 6-1.1-8.5-1

Sec. 1. (a) Before January 1, 2004, and before January 1 of each year that a general reassessment commences under IC 6-1.1-4-4, the county assessor shall provide to the department a list of each industrial facility located within the county.

(b) Each building commissioner before January 1 of each year for new construction completed during the prior twelve (12) months shall notify the department of a newly constructed industrial facility potentially exceeding at least twenty-five million dollars (\$25,000,000) in total value located in the jurisdiction that the building commissioner serves.

(c) The township assessor of each township before January 1 of each year for new construction completed during the prior twelve (12) months shall notify the department of a newly constructed industrial facility in a township that the assessor serves potentially exceeding at least twenty-five million dollars (\$25,000,000) in total value. (*Department of Local Government Finance; 50 IAC 19-2-1; filed Oct 6, 2003, 4:30 p.m.: 27 IR 450*)

**50 IAC 19-2-2 Assessment by the department**

Authority: IC 6-1.1-8.5-12

Affected: IC 6-1.1-4-4; IC 6-1.1-8.5-8; IC 6-1.1-8.5-9; IC 6-1.1-30-13

**Sec. 2. (a) The department shall assess each industrial facility located within the county for:**

- (1) purposes of a general reassessment under IC 6-1.1-4-4; and
- (2) a newly constructed industrial facility.

(b) Not less than six (6) months after receiving notice of the new construction from a township assessor or building commissioner under section 1 of this rule, the department shall schedule an assessment.

(c) To determine the true tax value of the industrial facility, the department shall use appraisal methods consistent with the rules pertaining to the assessment of real property under 50 IAC 2.3-1-1(d).

(d) The department may request that the industrial company or the county assessor make available all information necessary or proper to determine the true tax value. If the industrial company or county assessor fails or refuses to provide the information requested, the department may take necessary actions pursuant to IC 6-1.1-30-13. (*Department of Local Government Finance; 50 IAC 19-2-2; filed Oct 6, 2003, 4:30 p.m.: 27 IR 451*)

**50 IAC 19-2-3 Certification of values; appeal and review**

Authority: IC 6-1.1-8.5-12

Affected: IC 6-1.1-8.5-10; IC 6-1.1-8.5-11

**Sec. 3. (a) The department shall certify a preliminary determination of the true tax value of the industrial facility to the county auditor and to the county assessor and the industrial company.**

(b) The county assessor and industrial company have thirty (30) days to review the certified value to determine the validity and may present findings to the department. The department may extend this time to review for good cause. The department may make additions or corrections to the assessment.

(c) The department shall provide notice to the county assessor, the county auditor, and the industrial company of its final assessment.

(d) When the department determines the final assessment of an industrial facility, the county auditor shall enter for taxation the assessed valuation certified by the department. (*Department of Local Government Finance; 50 IAC 19-2-3; filed Oct 6, 2003, 4:30 p.m.: 27 IR 451*)

**50 IAC 19-2-4 Appeal of assessments**

Authority: IC 6-1.1-8.5-12

Affected: IC 6-1.1-8.5-11; IC 6-1.1-15

**Sec. 4. (a) The industrial company or the county assessor of the county in which the industrial facility is located may appeal an assessment by the department made under this article to the Indiana board of tax review.**

(b) If the industrial company or the county assessor appeals an assessment made by the department, the department must notify the county auditor of the appeal.

(c) An appeal under this section will be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8.

(d) An assessment made under this article that is not timely appealed is a final order of the department and is not subject to further appeal. (*Department of Local Government Finance; 50 IAC 19-2-4; filed Oct 6, 2003, 4:30 p.m.: 27 IR 451*)

LSA Document #02-342(F)

Notice of Intent Published: 26 IR 1114

Proposed Rule Published: April 1, 2003; 26 IR 2397

Hearing Held: April 29, 2003

Approved by Attorney General: October 1, 2003

Approved by Governor: October 3, 2003

Filed with Secretary of State: October 6, 2003, 4:30 p.m.

Incorporated Documents Filed with Secretary of State: None

**TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION**

LSA Document #03-17(F)

**DIGEST**

Amends 105 IAC 9-1-1 and 105 IAC 9-1-2 concerning prohibited activities on interstate highways, including stopping, standing, parking, pedestrian movement, and certain vehicles and to amend the list of interstate highways in order to delete I-165 and add I-275, I-469, and I-865. Effective 30 days after filing with the secretary of state.

**105 IAC 9-1-1**

**105 IAC 9-1-2**

SECTION 1. 105 IAC 9-1-1 IS AMENDED TO READ AS FOLLOWS:

**105 IAC 9-1-1 Stopping, standing, or parking prohibited on interstate highways**

Authority: IC 8-23-2; IC 8-23-4

Affected: IC 9-21-8; IC 9-21-16

Sec. 1. Stopping, standing, or parking shall be prohibited on the following enumerated highways:

- (1) I-64;

- (2) I-65;
- (3) I-69;
- (4) I-70;
- (5) I-74;
- (6) I-80;
- (7) I-90;
- (8) I-94;
- (9) I-164; ~~I-165~~;
- (10) I-265; and
- (11) **I-275**;
- (12) I-465;
- (13) **I-469**; and
- (14) **I-865**;

otherwise known as the “Interstate Highway System”, including ramp connections, except in designated rest areas. (*Indiana Department of Transportation; Rule 100-78; filed Jan 29, 1979, 3:11 p.m.: 2 IR 296; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; filed Sep 5, 2003, 8:26 a.m.: 27 IR 451*) **NOTE:** *Transferred from Department of Highways (120 IAC 4-2-1) to Indiana Department of Transportation (105 IAC 9-1-1) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 2. 105 IAC 9-1-2 IS AMENDED TO READ AS FOLLOWS:

**105 IAC 9-1-2 Pedestrians and certain vehicles prohibited on interstate highways**

**Authority:** IC 8-23-6; IC 8-23-4  
**Affected:** IC 9-21-8; IC 9-21-16

Sec. 2. Pedestrians, motorized bicycles, bicycles, and other nonmotorized traffic shall be prohibited from the following enumerated highways:

- (1) I-64;
- (2) I-65;
- (3) I-69;
- (4) I-70;
- (5) I-74;
- (6) I-80;
- (7) I-90;
- (8) I-94;
- (9) I-164; ~~I-165~~;
- (10) I-265;
- (11) I-275; and
- (12) I-465;
- (13) **I-469**; and
- (14) **I-865**;

otherwise known as the “Interstate Highway System”. (*Indiana Department of Transportation; Rule 101-78; filed Jan 29, 1979, 3:11 p.m.: 2 IR 296; readopted filed Nov 7, 2001, 3:20 p.m.: 25 IR 899; filed Sep 5, 2003, 8:26 a.m.: 27 IR 452*) **NOTE:** *Transferred from Department of Highways (120 IAC 4-2-2) to Indiana Department of Transportation (105 IAC 9-1-2) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

*LSA Document #03-17(F)*  
*Notice of Intent Published: 26 IR 1594*  
*Proposed Rule Published: April 1, 2003; 26 IR 2399*  
*Hearing Held: May 1, 2003*  
*Approved by Attorney General: August 22, 2003*  
*Approved by Governor: September 3, 2003*  
*Filed with Secretary of State: September 5, 2003, 8:26 a.m.*  
*Incorporated Documents Filed with Secretary of State: None*

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**TITLE 312 NATURAL RESOURCES COMMISSION**

LSA Document #02-329(F)

**DIGEST**

Adds 312 IAC 20-5 to assist the historic preservation review board in the administration of the register of Indiana historic sites and historic structures. Effective 30 days after filing with the secretary of state.

**312 IAC 20-5**

SECTION 1. 312 IAC 20-5 IS ADDED TO READ AS FOLLOWS:

**Rule 5. Indiana Register**

**312 IAC 20-5-1 Applicability of rule for Indiana register of historic sites and structures**

**Authority:** IC 14-21-1-31  
**Affected:** IC 14-9; IC 14-21-1-9

**Sec. 1. This rule governs matters pertaining to the register of Indiana historic sites and historic structures established under IC 14-21-1-9.** (*Natural Resources Commission; 312 IAC 20-5-1; filed Sep 19, 2003, 8:17 a.m.: 27 IR 452*)

**312 IAC 20-5-2 Criteria for eligibility on the register**

**Authority:** IC 14-21-1-31  
**Affected:** IC 14-9; IC 14-21-1

**Sec. 2. A site, district, building, structure, or object is eligible for inclusion in the Indiana register if it does each of the following:**

- (1) Possesses local, state, or national significance in Indiana history, architecture, archaeology, engineering, or culture.
- (2) Demonstrates sufficient integrity of location, setting, design, workmanship, and materials. Feeling and association are factors that may be considered.
- (3) Satisfies at least one (1) of the following:
  - (A) Is associated with events who have made a significant contribution to national, state, or local history.
  - (B) Is associated with individuals who have made significant contribution to the nation, state, or local community.



- (C) Embodies distinctive characteristics of a type, period, or method of construction.
- (D) Represents the work of a master.
- (E) Possesses high artistic values.
- (F) Has yielded, or will likely yield, information important in the archaeological knowledge of the prehistory or history of the state or nation.

(*Natural Resources Commission; 312 IAC 20-5-2; filed Sep 19, 2003, 8:17 a.m.: 27 IR 452*)

### 312 IAC 20-5-3 Eligibility exemptions

Authority: IC 14-21-1-31  
Affected: IC 14-9; IC 14-21-1

Sec. 3. (a) Except as provided in subsection (b), a structure or site cannot be included in the Indiana register if the structure is any of the following:

- (1) Moved from its original location.
- (2) A reconstructed historic building.
- (3) Primarily commemorative in nature.
- (4) An archaeological site where the contextual integrity is significantly altered.
- (5) A structure or site where the significance was achieved within the past fifty (50) years.

(b) A structure or site otherwise disqualified under subsection (a) may be included in the Indiana register if it is either of the following:

- (1) An integral part of a district that meets the criteria described in section 2 of this rule.
- (2) Falls into at least one (1) of the following categories:
  - (A) A building or structure removed from its original location but that is a rare surviving resource associated with an historical person or event.
  - (B) A reconstructed building that is accurately executed in a suitable environment and presented in a dignified manner.
  - (C) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance.
  - (D) A property that has achieved significance within the past fifty (50) years if it is of exceptional significance in the historic, architectural, archaeological, or cultural development of the state or nation.
  - (E) An archaeological site where the contextual integrity has been altered by natural forces or human activity but which may yield pertinent or quality cultural, biological, fauna, and floral data regarding cultural patterns, processes, or activities significant in our past.

(*Natural Resources Commission; 312 IAC 20-5-3; filed Sep 19, 2003, 8:17 a.m.: 27 IR 453*)

### 312 IAC 20-5-4 Listing and removal of properties from the Indiana register

Authority: IC 14-21-1-31  
Affected: IC 4-21.5; IC 14-9; IC 14-21-1-17

Sec. 4. (a) Additions and removals from the Indiana register are governed by IC 14-21-1-17, 312 IAC 2-3-1, and this section.

(b) The Indiana register includes any site listed by the board:

- (1) on the effective date of this rule; or
- (2) under this section.

(c) A property included on the National Register after the effective date of this rule is also automatically listed on the Indiana register unless:

- (1) the board or division otherwise specifies; or
- (2) the listing is made unilaterally by the federal government without approval by the board.

(d) This subsection governs petitions to list a property on the Indiana register, including the following:

- (1) A person may, in writing, petition the division to list a site on the Indiana register. The petition must include adequate photographic and written documentation to support listing, including the significance of the property and its current physical condition.
- (2) If the division determines the property meets the minimum criteria for listing, the division will issue a letter to indicate the property is being considered for listing and providing at least thirty (30) days for comment or objections to the following persons:
  - (A) The property owner.
  - (B) The chief elected official.
  - (C) The board of county commissioners.
  - (D) Any other person who requests notification.
- (3) If an objection is not received within the comment period, without intervention of the board, the division shall list the property on the Indiana register and notify the persons described in subdivision (2).
- (4) If timely objections are received, a designated member or members of the board will conduct a hearing under 312 IAC 2-3-1 to consider the objections. The board shall consider the recommendations of any hearing officer before determining whether to list the property.

(e) A property may be removed from the Indiana register if it either:

- (1) ceases to demonstrate the characteristics that originally made the property eligible for the Indiana register; or
- (2) was listed as a result of a procedural error during the listing process.

(f) Administrative review of a determination under subsection (b) is governed by IC 4-21.5 and 312 IAC 3-1. (*Natural Resources Commission; 312 IAC 20-5-4; filed Sep 19, 2003, 8:17 a.m.: 27 IR 453*)

LSA Document #02-329(F)  
Notice of Intent Published: 26 IR 814

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## Final Rules

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*Proposed Rule Published: May 1, 2003; 26 IR 2658*  
*Hearing Held: May 27, 2003*  
*Approved by Attorney General: September 2, 2003*  
*Approved by Governor: September 16, 2003*  
*Filed with Secretary of State: September 19, 2003, 8:17 a.m.*  
*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-12(F)

#### DIGEST

Amends 312 IAC 20-2 to add definitions for “certificate”, “Indiana register”, and “National Register”. Amends 312 IAC 20-3 to establish minimum periods for review by the division of historic preservation and archaeology and for review by the review board before making a determination regarding the grant, denial, or conditioning of a certificate. Effective December 1, 2003.

**312 IAC 20-2-1.7**                      **312 IAC 20-2-4.7**  
**312 IAC 20-2-4.3**                      **312 IAC 20-3-3**

SECTION 1. 312 IAC 20-2-1.7 IS ADDED TO READ AS FOLLOWS:

#### **312 IAC 20-2-1.7 “Certificate” defined**

**Authority:** IC 14-21-1-31  
**Affected:** IC 14-9; IC 14-21-1-18

**Sec. 1.7. “Certificate” refers to a certificate of approval under IC 14-21-1-18.** (*Natural Resources Commission; 312 IAC 20-2-1.7; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003*)

SECTION 2. 312 IAC 20-2-4.3 IS ADDED TO READ AS FOLLOWS:

#### **312 IAC 20-2-4.3 “Indiana register” defined**

**Authority:** IC 14-21-1-31  
**Affected:** IC 14-9; IC 14-21-1-9

**Sec. 4.3. “Indiana register” means the Indiana register of historic sites and historic structures established under IC 14-21-1-9.** (*Natural Resources Commission; 312 IAC 20-2-4.3; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003*)

SECTION 3. 312 IAC 20-2-4.7 IS ADDED TO READ AS FOLLOWS:

#### **312 IAC 20-2-4.7 “National Register” defined**

**Authority:** IC 14-21-1-31  
**Affected:** IC 14-9; IC 14-21-1-15

**Sec. 4.7. “National Register” means the National Register**

**of Historic Places established under 16 U.S.C. 470 et seq. and identified at IC 14-21-1-15.** (*Natural Resources Commission; 312 IAC 20-2-4.7; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003*)

SECTION 4. 312 IAC 20-3-3 IS ADDED TO READ AS FOLLOWS:

#### **312 IAC 20-3-3 Submission of application before review board meeting**

**Authority:** IC 14-21-1-31  
**Affected:** IC 14-9; IC 14-21-1

**Sec. 3. (a) A person who seeks a certificate must file a completed application, on a division form, at least forty (40) days before the meeting of the review board during which the application is to be considered.**

**(b) The completed application and any analysis and recommendations by the division shall be mailed to members of the review board at least five (5) working days before the meeting.** (*Natural Resources Commission; 312 IAC 20-3-3; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003*)

SECTION 5. SECTIONS 1 through 4 of this document take effect December 1, 2003.

LSA Document #03-12(F)

*Notice of Intent Published: 26 IR 1594*

*Proposed Rule Published: June 1, 2003; 26 IR 3084*

*Hearing Held: June 25, 2003*

*Approved by Attorney General: September 2, 2003*

*Approved by Governor: September 16, 2003*

*Filed with Secretary of State: September 18, 2003, 5:30 p.m.*

*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-50(F)

#### DIGEST

Amends 312 IAC 8 that governs public use of DNR properties to make substantive and technical changes. The standards governing the use of firearms and hunting are restructured and simplified. Service animals are distinguished from pets, and parallel regulatory modifications are made. In addition to a property manager, any other authorized DNR employee could allow a person to stay in a campground, for medical reasons, for longer than the ordinary time frames. A clarification is made to when swimming is authorized on lakes located within DNR properties. Amends 312 IAC 9-2-11 to provide that wild animals cannot be hunted or chased at a state historic site. Effective 30 days after filing with the secretary of state.

312 IAC 8-1-2  
312 IAC 8-1-4  
312 IAC 8-2-3  
312 IAC 8-2-6

312 IAC 8-2-9  
312 IAC 8-2-11  
312 IAC 9-2-11

SECTION 1. 312 IAC 8-1-2 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-1-2 Administration**

Authority: IC 14-10-2-4; IC 14-11-2-1  
Affected: IC 14

Sec. 2. (a) Except as provided in subsection (b), this article is administered by the department.

(b) This article does not apply to **a person who has contracted with the department, if the person is conducting business of the department, or to any of the following while performing official duties for the department or commission:**

- (1) An employee of the department.
- (2) A member of the commission.
- (3) An employee of the commission.
- (4) A member of the advisory council.
- (5) A member of the museum board of trustees.
- (6) A law enforcement officer.
- ~~(7) A person who has contracted with the department, if the person is conducting business on behalf of the department.~~  
(*Natural Resources Commission; 312 IAC 8-1-2; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; filed Sep 19, 2003, 8:14 a.m.: 27 IR 455*)

SECTION 2. 312 IAC 8-1-4 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-1-4 Definitions**

Authority: IC 14-10-2-4; IC 14-11-2-1  
Affected: IC 9-13-2-196; IC 9-25-2-4; IC 14-8-2-261; IC 14-16-1-3; IC 14-22-11-1; IC 14-31-1

Sec. 4. The following definitions are supplemental to those set forth at 312 IAC 1 and apply throughout this article:

- (1) "Authorized representative" means the director or another person designated by the director.
- (2) "Berry" means the fruiting body of:
  - (A) a blackberry;
  - (B) a blueberry;
  - (C) a dewberry;
  - (D) an elderberry;
  - (E) a gooseberry;
  - (F) a huckleberry;
  - (G) a mulberry;
  - (H) a raspberry;
  - (I) a serviceberry; and
  - (J) a strawberry.
- (3) "DNR property" means land and water owned, licensed, leased, or dedicated under IC 14-31-1, or under easement to

the state or managed by the department. The following areas are, however, exempted from the term:

- (A) Public freshwater lakes.
- (B) Navigable waterways.
- (C) Buildings and grounds (other than those of the Indiana state museum) not located at recreational, natural, or historic sites.
- (4) "Fallen cone" means the fruiting body of a coniferous tree that is no longer attached to a living tree.
- (5) "Firearm or bow and arrows" means:
  - (A) a firearm;
  - (B) an air gun;
  - (C) a CO<sub>2</sub> gun;
  - (D) a spear gun;
  - (E) a bow and arrows;
  - (F) a crossbow;
  - (G) a paint gun; or
  - (H) a similar mechanical device;

that can be discharged and is capable of causing injury or death to **a person or** an animal or damage to property.

- (6) "Fruit" means the fruiting body of:
  - (A) cherries;
  - (B) grapes;
  - (C) apples;
  - (D) hawthorns;
  - (E) persimmons;
  - (F) plums;
  - (G) pears;
  - (H) pawpaws; and
  - (I) roses.
- (7) ~~"Green"~~ **"Greens"** means the aboveground shoots or leaves of:
  - (A) asparagus;
  - (B) dandelion;
  - (C) mustard;
  - (D) plantain; and
  - (E) poke.

(8) "Group boat dock" means an artificial basin or enclosure for the reception of watercraft that is owned and maintained by adjacent landowners for their private usage.

(9) "Leaf" means the leaf of a woody plant for use in a leaf collection or similar academic project.

- (10) "License" means:
  - (A) a license;
  - (B) a permit;
  - (C) an agreement;
  - (D) a contract;
  - (E) a lease;
  - (F) a certificate; or
  - (G) other form of approval;

issued by the department. A license may authorize an activity otherwise prohibited by this rule.

(11) "Mushroom" means edible fungi.

- (12) "Nut" means the seeds of:
  - (A) hazelnuts;

- (B) hickories;
- (C) oaks;
- (D) pecans; and
- (E) walnuts.

(13) "Off-road vehicle" has the meaning set forth in IC 14-16-1-3.

(14) "Public road" means a public highway under IC 9-25-2-4 that is designated by the department for use by the public.

(15) "Recreation area" means an area that is managed by the department for specific recreation activities.

(16) "Snowmobile" has the meaning set forth in IC 14-8-2-261.

(17) "Vehicle" has the meaning set forth in IC 9-13-2-196(d).

*(Natural Resources Commission; 312 IAC 8-1-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 552, eff Jan 1, 2000; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1544; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3713; filed Sep 19, 2003, 8:14 a.m.: 27 IR 455)*

SECTION 3. 312 IAC 8-2-3 IS AMENDED TO READ AS FOLLOWS:

## 312 IAC 8-2-3 Firearms, hunting, and trapping

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-22-11-1

Sec. 3. (a) ~~A person must comply with all federal and state hunting, trapping, and firearms laws:~~

(b) ~~A person must not possess a firearm or bow and arrows at any of the following locations:~~

- (1) ~~Inside a check station or headquarters building.~~
- (2) ~~Within a nature preserve unless signs indicate that hunting is authorized.~~
- (3) ~~On a property administered by the division of museums and historic sites.~~

(c) ~~(a)~~ A person must not possess a firearm or bow and arrows **on a DNR property** unless one (1) of the following conditions apply:

- (1) The firearm or bow and arrows are:
  - (A) unloaded and uncocked; and
  - (B) placed in a case or locked within a vehicle.
- (2) The firearm or bow and arrows are possessed at, and of a type designated for usage on, a rifle, pistol, shotgun, or archery range.
- (3) The firearm or bow and arrows are being used in the lawful pursuit of either:
  - (A) a wild animal on a DNR property authorized for that purpose; or
  - (B) a groundhog as authorized under a license.

(d) ~~(b)~~ Except as provided in subsection (c), ~~a person must not possess (a)(1), a firearm or bow and arrows at the following locations:~~

- (1) ~~Within an area designated for public camping.~~
- (2) ~~On a fish and wildlife area administered by the division of~~

~~fish and wildlife, except under the terms of a one (1) day hunting permit and record card obtained from a checking station and possessed by the person in the field for a specified date. This subdivision does not apply to a fishing access site maintained by the division of fish and wildlife.~~

**may not be possessed on DNR properties within:**

**(1) a nature preserve unless hunting is authorized under subsection (c);**

~~(3) On~~ **(2) a property administered by the division of forestry within: museums and historic sites;**

~~(A)~~ **(3) a campground;**

~~(B)~~ **(4) a picnic area;**

~~(C)~~ **(5) a beach;**

~~(D)~~ **(6) a service area; or**

**(7) a headquarters building;**

**(8) a hunter check station; or**

~~(E)~~ **(9) a developed area: recreation site.**

~~(4) On a property administered by the division of state parks and reservoirs, except on a reservoir property in accordance with the terms of a one (1) day hunting permit and record card obtained from a hunter sign-in station and possessed by the person in the field for a specified date:~~

**(c) A person may hunt on a state forest administered by the division of forestry, a reservoir administered by the division of state parks and reservoirs, or a wildlife area administered by the division of fish and wildlife. A person using any of these areas must do the following:**

**(1) Comply with all federal and state hunting, trapping, and firearms laws.**

**(2) On a fish and wildlife area and a reservoir property, obtain a one (1) day hunting permit and record from a checking station. The person must obtain the permit and record while in the field for the authorized date and must, as directed, return them to the department.**

**(3) Refrain from hunting on a nature preserve if prohibited by signage posted at the site.**

~~(c)~~ **(d)** Unless otherwise posted or designated on a property map, a person must not place a trap except as authorized by a license issued for a property by an authorized representative. This license is in addition to the licensing ~~requirements~~ **requirement** for traps set forth in IC 14-22-11-1.

~~(f)~~ **(e)** A person must not run dogs, except during the lawful pursuit of wild animals, or as authorized by a license for field trials or in a designated training area. A property administered by the division of fish and wildlife may be designated for training purposes without requiring a field trial permit. Only dogs may be used during field trials on a DNR property, except where authorized by a license on a fish and wildlife property.

~~(g)~~ **(f)** Unless otherwise designated, a person must not discharge a firearm or bow and arrows within two hundred (200) feet of a:

- (1) campsite;
- (2) boat dock;
- (3) launching ramp;
- (4) picnic area; or
- (5) bridge.

(h) (g) A person must not leave a portable tree blind or duck blind unattended except for the period authorized by 312 IAC 9-3-2(j).

(i) (h) The following terms apply to the use of shooting ranges:

- (1) A person must not use a shooting range unless the person is at least eighteen (18) years of age or accompanied by a person who is at least eighteen (18) years of age.
- (2) A person must register with the department before using a shooting range.
- (3) A person must shoot only at paper targets placed on target holders provided by the department. All firing must be downrange with reasonable care taken to assure any projectile is stopped by the range backstop.
- (4) Shot no larger than size six (6) must be used on a shotgun range.
- (5) A person must not discharge a firearm using automatic fire.
- (6) A person must not use tracer, armor-piercing, or incendiary rounds.
- (7) A person must not play on, climb on, walk on, or shoot into or from the side berms.
- (8) A person must not shoot at clay pigeons, except on a site designated for shooting clay pigeons. Glass and other forms of breakable targets must not be used on a shooting range.
- (9) A person must dispose of the targets used by the person under section 2(a) of this rule.
- (10) Permission must be obtained from the department in advance for a shooting event that involves any of the following:
  - (A) An entry fee.
  - (B) Competition for cash, awards, trophies, citations, or prizes.
  - (C) The exclusive use of the range or facilities.
  - (D) A portion of the event occurring between sunset and sunrise.
- (11) On a field course, signs and markers must be staked. Trees must not be marked or damaged.

(j) (i) A person must not take a reptile or amphibian unless the person is issued a scientific collector license under 312 IAC 9-10-6. Exempted from this subsection are turtles taken under 312 IAC 9-5-2 and frogs taken under 312 IAC 9-5-3 from a DNR property where hunting or fishing is authorized. (*Natural Resources Commission; 312 IAC 8-2-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 553, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3714; filed Sep 19, 2003, 8:14 a.m.: 27 IR 456*)

SECTION 4. 312 IAC 8-2-6 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-2-6 Animals brought by people to DNR properties**

**Authority:** IC 14-10-2-4; IC 14-11-2-1

**Affected:** IC 14-22-11-1; IC 35-46-3-11.5

Sec. 6. (a) A person who possesses a pet or service animal must keep the animal caged or on a leash no more than six (6) feet long. A person must attend to a pet or service animal at all times. **This subsection does not apply to activities governed by section 3(e) of this rule.**

(b) If a pet or service animal appears likely to endanger a person or property or to create a nuisance, the owner may be required to immediately remove the pet or service animal from a DNR property.

(c) A person must not take or possess a cat, a dog, or other pet to a:

- (1) swimming beach;
- (2) swimming pool enclosure;
- (3) rental facility; or
- (4) public building.

**An assistance A service animal** used by a person with a disability is exempted from this subsection.

(d) A horse tag must be acquired and possessed for each horse that is brought into designated DNR properties from April 1 through November 30. At Brown County and Versailles State Parks and at Salamonie, the horse tag or pass must be prominently displayed on the left side of the bridle.

(e) A person must not allow livestock or domesticated animals to enter or remain upon a DNR property. These animals may be removed by the department and disposed or held at the owner's expense.

(f) A person must not release an animal on DNR property except under license issued by an authorized representative under this subsection. To receive a license, a person must demonstrate the animal is healthy and unlikely to endanger public safety or the environment. A person in violation of this subsection shall reimburse the department for any expenses reasonably incurred.

**(g) For purposes of this section, a pet is not a service animal under IC 35-46-3-11.5.** (*Natural Resources Commission; 312 IAC 8-2-6; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 554, eff Jan 1, 2000; filed Nov 30, 2001, 10:55 a.m.: 25 IR 1074, eff Jan 1, 2002; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3715; filed Sep 19, 2003, 8:14 a.m.: 27 IR 457*)

SECTION 5. 312 IAC 8-2-9 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-2-9 Swimming, snorkeling, scuba diving, and tow kite flying**

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 9. (a) A person must not swim, or allow a child or other person in the person's care to swim, other than at the following locations:

- (1) At a designated swimming beach or pool during designated hours.
- (2) **From a watercraft** between sunrise and sunset in an embayment on a reservoir property ~~designated established~~ **under 312 IAC 5-10** as an idle speed zone, but not:
  - (A) in a causeway; or
  - (B) within one hundred (100) feet of a designated launching ramp or other public use facility.

(b) A person must not snorkel, except from a watercraft on a reservoir property and within an embayment designated as an idle speed zone.

(c) A person must not scuba dive unless in compliance with each of the following:

- (1) A license is issued by the department.
- (2) Between the hours of sunrise and sunset.
- (3) A diving flag is displayed to designate the area in use.

(d) A person must not engage in tow ~~kite~~ **kit** [*sic.*, kite] flying, except during the following periods:

- (1) On weekdays from sunrise to sunset.
- (2) Except as provided in subdivision (3), on Saturdays, Sundays, or holidays, from sunrise until 11 a.m. and from 5 p.m. until sunset.
- (3) On:
  - (A) Memorial Day weekend;
  - (B) the Fourth of July and a Saturday or Sunday that immediately precedes or follows the Fourth of July; and
  - (C) Labor Day weekend;from sunrise until 11 a.m.

(*Natural Resources Commission; 312 IAC 8-2-9; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Sep 19, 2003, 8:14 a.m.: 27 IR 458*)

SECTION 6. 312 IAC 8-2-11 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-2-11 Campsites and camping**

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 11. (a) A person must not place or maintain a camp, tent, or trailer except during periods and at sites authorized by the department for camping. Between 11 p.m. and 7 a.m., a person must not occupy a site other than a designated campsite, cabin,

or inn room unless otherwise authorized by a written permit.

(b) No more than six (6) individuals may lawfully occupy one (1) campsite in a family campground unless otherwise approved by an authorized representative.

(c) An individual at least eighteen (18) years of age must register at a campground on behalf of the persons in a group. The responsible person registering for a campsite must remain with the group during the camping period. Campers under eighteen (18) years of age must be accompanied by a person at least eighteen (18) years of age.

(d) A camping fee shall be paid in advance and entitles a group or family to occupy one (1) campsite for one (1) overnight period. The department may provide, on the written fee receipt, restrictions on use of the campsite that supplement the restrictions contained in this article.

(e) Campground occupancy is limited to fourteen (14) consecutive nights unless another period is designated by the department. The property manager **or another designated representative of the department** may extend the duration of the occupancy for a period not to exceed sixty (60) days where a medical need is established. At the end of the camping period, a camping family or group must vacate the property and remove all equipment for at least forty-eight (48) hours.

(f) A person must not lease or sublease a campsite or equipment on-site to another person.

(g) A person must not:

- (1) bathe; or
- (2) wash a:
  - (A) pet;
  - (B) dish or other cooking utensil; or
  - (C) other personal property;

at a drinking fountain, lavatory, or laundry tub. Dishwater must be disposed through proper sanitary facilities and must not be discharged on the ground. A boat or a vehicle must not be washed in a camping area.

(h) Quiet hours shall be observed from 11 p.m. until 7 a.m.

~~(i) A pet must be caged or leashed within a campsite so as to maintain the pet within the campsite. Section 6(a) of this rule does not apply to this subsection.~~

~~(j)~~ (i) Equine animals and llamas are allowed in a horsemen's campground but are prohibited from entering a family campground.

~~(k)~~ (j) A person must not dispose of refuse or garbage, except in a receptacle provided for that purpose.

~~(l)~~ (k) Check-out time from a campground is 2 p.m. on

Monday through Saturday and 5 p.m. on Sunday or a holiday. ~~Renewals are due by 10 a.m. on the date of scheduled departure.~~ (Natural Resources Commission; 312 IAC 8-2-11; filed Oct 28, 1998, 3:32 p.m.: 22 IR 742, eff Jan 1, 1999; errata filed Dec 17, 1998, 9:32 a.m.: 22 IR 1525; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3716; filed Sep 19, 2003, 8:14 a.m.: 27 IR 458)

SECTION 7. 312 IAC 9-2-11, AS READOPTED AT 27 IR 286, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 9-2-11 State parks and state historic sites**

Authority: IC 14-22-2-6  
Affected: IC 4-21.5; IC 14-22-6-1

Sec. 11. ~~It is unlawful to~~ **A person must not** take or chase a wild animal, other than a fish, in a state park ~~or a state historic site.~~ (Natural Resources Commission; 312 IAC 9-2-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2701; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 19, 2003, 8:14 a.m.: 27 IR 459)

LSA Document #03-50(F)  
Notice of Intent Published: 26 IR 2393  
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Incorporated Documents Filed with Secretary of State: None

**TITLE 326 AIR POLLUTION CONTROL BOARD**

LSA Document #02-189(F)  
DIGEST

Amends 326 IAC 23-1, 326 IAC 23-2, 326 IAC 23-3, and 326 IAC 23-4 concerning the licensing of individuals and contractors engaged in lead-based paint and training activities. Adds 326 IAC 23-5 to add work practice standards for nonabatement activities. Repeals 326 IAC 23-1-23, 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, and 326 IAC 23-1-47. Effective 30 days after filing with the secretary of state.

**HISTORY**

First Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3464).  
Second Notice of Comment Period and Notice of First Public Hearing: November 1, 2002, Indiana Register (26 IR 548).  
Change in Notice of Public Hearing: February 1, 2003, Indiana Register (26 IR 1592).  
First Public Hearing: Opened on February 5, 2003, and continued to March 5, 2003.  
Continuation of First Public Hearing: March 5, 2003.

Proposed Rule and Notice of Second Public Hearing: April 1, 2003, Indiana Register (26 IR 2401).

Notice of Third Public Comment Period: April 1, 2003, Indiana Register (26 IR 2402).

Date of Second Hearing: June 4, 2003.

326 IAC 23-1-4	326 IAC 23-1-60.6
326 IAC 23-1-5	326 IAC 23-1-61.5
326 IAC 23-1-5.5	326 IAC 23-1-62.5
326 IAC 23-1-6.5	326 IAC 23-1-62.6
326 IAC 23-1-7.5	326 IAC 23-1-63
326 IAC 23-1-7.6	326 IAC 23-1-64
326 IAC 23-1-9	326 IAC 23-1-69.5
326 IAC 23-1-10	326 IAC 23-1-69.6
326 IAC 23-1-11	326 IAC 23-1-69.7
326 IAC 23-1-11.5	326 IAC 23-1-71
326 IAC 23-1-12.5	326 IAC 23-2-1
326 IAC 23-1-17	326 IAC 23-2-3
326 IAC 23-1-21	326 IAC 23-2-4
326 IAC 23-1-21.5	326 IAC 23-2-5
326 IAC 23-1-22	326 IAC 23-2-6
326 IAC 23-1-23	326 IAC 23-2-6.5
326 IAC 23-1-27	326 IAC 23-2-7
326 IAC 23-1-27.5	326 IAC 23-2-8
326 IAC 23-1-32.1	326 IAC 23-2-9
326 IAC 23-1-32.2	326 IAC 23-3-1
326 IAC 23-1-34	326 IAC 23-3-2
326 IAC 23-1-34.5	326 IAC 23-3-3
326 IAC 23-1-34.8	326 IAC 23-3-5
326 IAC 23-1-37	326 IAC 23-3-7
326 IAC 23-1-40	326 IAC 23-3-11
326 IAC 23-1-42	326 IAC 23-3-12
326 IAC 23-1-43	326 IAC 23-3-13
326 IAC 23-1-44	326 IAC 23-4-1
326 IAC 23-1-45	326 IAC 23-4-2
326 IAC 23-1-46	326 IAC 23-4-3
326 IAC 23-1-47	326 IAC 23-4-4
326 IAC 23-1-48.5	326 IAC 23-4-5
326 IAC 23-1-52	326 IAC 23-4-6
326 IAC 23-1-52.5	326 IAC 23-4-7
326 IAC 23-1-54.5	326 IAC 23-4-9
326 IAC 23-1-55.5	326 IAC 23-4-11
326 IAC 23-1-58.5	326 IAC 23-4-12
326 IAC 23-1-58.7	326 IAC 23-4-13
326 IAC 23-1-60.1	326 IAC 23-5
326 IAC 23-1-60.5	

SECTION 1. 326 IAC 23-1-4 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-4 “Approved initial training course and approved refresher 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, **U.S. EPA, or a U.S. EPA state or tribe authorized lead-based paint program** 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 459)*

SECTION 2. 326 IAC 23-1-5 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-1-5 “Approved training course provider” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 5. “Approved training course provider” means a training course provider who has been approved by the department, **U.S. EPA, or a U.S. EPA state or tribe authorized lead-based paint program** to provide training for individuals engaged in lead-based paint activities **or provide an Indiana lead-based paint rules awareness course**. This approval is specific to each discipline and to each initial or refresher training course and is not an overall approval to provide training for all training courses. *(Air Pollution Control Board; 326 IAC 23-1-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1432; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 460)*

SECTION 3. 326 IAC 23-1-5.5 IS ADDED TO READ AS FOLLOWS:

### **326 IAC 23-1-5.5 “Arithmetic mean” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 5.5. “Arithmetic mean” means the algebraic sum of data values divided by the number of data values. For example, the sum of the concentration of lead in several soil samples divided by the number of samples is the arithmetic mean of the lead concentration. *(Air Pollution Control Board; 326 IAC 23-1-5.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 460)*

SECTION 4. 326 IAC 23-1-6.5 IS ADDED TO READ AS FOLLOWS:

### **326 IAC 23-1-6.5 “Chewable surface” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 6.5. “Chewable surface” means an interior or exterior surface painted with lead-based paint that a child six (6) years of age or younger can mouth or chew. **Hard metal substrates and other materials that cannot be dented by the bite of a child six (6) years of age or younger are not considered chewable.** *(Air Pollution Control Board; 326 IAC 23-1-6.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 460)*

SECTION 5. 326 IAC 23-1-7.5 IS ADDED TO READ AS FOLLOWS:

### **326 IAC 23-1-7.5 “Clearance examination” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 7.5. “Clearance examination” means an activity conducted by an Indiana licensed clearance examiner for the purpose of establishing proper completion of interim controls. Interim controls are defined by the U.S. Department of Housing and Urban Development (HUD) in 24 CFR 35.110\*, **Lead-based paint poisoning and prevention in certain residential structures; definitions.**

*\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-1-7.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 460)*

SECTION 6. 326 IAC 23-1-7.6 IS ADDED TO READ AS FOLLOWS:

### **326 IAC 23-1-7.6 “Clearance examiner” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 7.6. “Clearance examiner” means a person who has been trained by an approved training course provider and licensed by the department to perform clearance examinations. *(Air Pollution Control Board; 326 IAC 23-1-7.6; filed Sep 10, 2003, 4:24 p.m.: 27 IR 460)*

SECTION 7. 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;~~ **common areas include,** but ~~is~~ **are** 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 460)

SECTION 8. 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 461)

SECTION 9. 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,

jamb, sills and stools, and troughs.

(L) Built-in cabinets.

(M) Columns and beams.

(N) Bathroom vanities.

(O) Counter tops.

(P) Air conditioners.

**(Q) Baseboards.**

**(R) Pipes.**

(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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 461)

SECTION 10. 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 is the concentration of lead in the sample.** (Air Pollution Control Board; 326 IAC 23-1-11.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 461)

SECTION 11. 326 IAC 23-1-12.5 IS ADDED TO READ AS FOLLOWS:

### 326 IAC 23-1-12.5 "Contractor" defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 12.5. "Contractor" means:**

**(1) a company;**

**(2) a partnership;**

- (3) a corporation;
- (4) a sole proprietorship;
- (5) an association; or
- (6) 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 23-1-12.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 461*)

SECTION 12. 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 cracking, flaking, chipping, peeling, or chalking; or
- (2) any paint or coating located on an interior or exterior surface or fixture;

that is otherwise separating damaged or separated 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 462*)

SECTION 13. 326 IAC 23-1-21 IS AMENDED TO READ AS FOLLOWS:

## 326 IAC 23-1-21 “Dripline” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 21. “Dripline” means the farthest extended point around a foundation where water drips off the building onto the ground; including, but not limited to, gutters, overhangs, soffits, and porches. area within three (3) feet surrounding the perimeter of a building. (*Air Pollution Control Board; 326 IAC 23-1-21; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1434; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 462*)

SECTION 14. 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. (a) “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) micrograms per square foot on floors or two hundred fifty (250) micrograms per square foot on interior window sills based on wipe samples.

(b) A dust-lead hazard is present in a residential dwelling or child-occupied facility:

- (1) in a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than forty (40) micrograms per square foot for floors and two hundred fifty (250) micrograms per square foot for interior window sills;
- (2) on floors and interior window sills, in an unsampled residential dwelling in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one (1) sampled residential unit on the property; and
- (3) on floors and interior window sills in an unsampled common area in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one (1) sampled common area in the same common area group on the property.

(*Air Pollution Control Board; 326 IAC 23-1-21.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 462*)

SECTION 15. 326 IAC 23-1-22 IS AMENDED TO READ AS FOLLOWS:

## 326 IAC 23-1-22 “Elevated blood lead level” or “EBL” defined

Authority: IC 13-17-14-5

Affected: IC 13-11-2-61.5; IC 13-17-14; IC 22-8-1.1

Sec. 22. “Elevated blood lead level” or “EBL” means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of:

- (1) twenty (20) micrograms of lead per deciliter of whole blood for one (1) venous test; or
- (2) fifteen (15) to nineteen (19) micrograms of lead per deciliter of whole blood in two (2) consecutive tests taken three (3) to four (4) months apart. has the meaning set forth in IC 13-11-2-61.5.

(*Air Pollution Control Board; 326 IAC 23-1-22; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1434; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 462*)

SECTION 16. 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 462*)

SECTION 17. 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 18. 326 IAC 23-1-32.1 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-32.1 “Impact surface” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 32.1. “Impact surface” means any interior or exterior surface that is subject to damage by repeated sudden force, including parts of door frames.** (*Air Pollution Control Board; 326 IAC 23-1-32.1; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 19. 326 IAC 23-1-32.2 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-32.2 “Inspector” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 32.2. “Inspector” means a person who has been trained by an 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 23-1-32.2; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 20. 326 IAC 23-1-34 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-34 “Interim controls” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 34. “Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including the following:**

- (1) Specialized cleaning.
- (2) Repairs.
- (3) Maintenance.
- (4) Painting.
- (5) Clearance.**
- ~~(5)~~ **(6)** Temporary containment.
- ~~(6)~~ **(7)** Ongoing monitoring of lead-based paint hazards or potential hazards.

~~(7)~~ **(8)** The establishment and operation of management and resident education programs.

(*Air Pollution Control Board; 326 IAC 23-1-34; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1435; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 21. 326 IAC 23-1-34.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-34.5 “Interior window sill” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 34.5. “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 23-1-34.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 22. 326 IAC 23-1-34.8 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-34.8 “Lead abated waste” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 34.8. “Lead abated waste” means lead or lead contaminated materials removed from an abatement project.** (*Air Pollution Control Board; 326 IAC 23-1-34.8; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 23. 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 equals the loading.** (*Air Pollution Control Board; 326 IAC 23-1-48.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 24. 326 IAC 23-1-52 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-52 “Paint in poor condition” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 52. “Paint in poor condition” means:**

- (1) more than ~~ten~~ ~~(10)~~ **twenty (20)** square feet of deteriorated paint on exterior components with large surface areas such as walls, ceilings, floors, and doors;
- (2) more than two (2) square feet of deteriorated paint on

interior components with large surface areas, such as walls, ceilings, floors, and doors; or

(3) more than ten percent (10%) of the total surface area of the component is deteriorated on interior or exterior components with small surface areas, such as window sills, baseboards, soffits, and trim.

(*Air Pollution Control Board; 326 IAC 23-1-52; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1438; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 463*)

SECTION 25. 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 464*)

SECTION 26. 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 six (6) years of age or younger as indicated by, but not limited to, such factors as the following:**

(1) The presence of play equipment, including the following:

(A) Sand boxes, swing sets, and sliding board.

(B) Toys.

(C) Other children’s possessions.

(2) Observations of play patterns.

(3) Information provided by parents, residents, care givers, or property owners.

(*Air Pollution Control Board; 326 IAC 23-1-54.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 464*)

SECTION 27. 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 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 464*)

SECTION 28. 326 IAC 23-1-58.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-58.5 Renovation**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 58.5. “Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces unless that activity is performed as part of an abatement.** (*Air Pollution Control Board; 326 IAC 23-1-58.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 464*)

SECTION 29. 326 IAC 23-1-58.7 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-58.7 “Residential building” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 58.7. “Residential building” means a building containing one (1) or more residential dwellings.** (*Air Pollution Control Board; 326 IAC 23-1-58.7; filed Sep 10, 2003, 4:24 p.m.: 27 IR 464*)

SECTION 30. 326 IAC 23-1-60.1 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-60.1 “Risk assessor” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 60.1. “Risk assessor” means a person who has been trained by an 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 23-1-60.1; filed Sep 10, 2003, 4:24 p.m.: 27 IR 464*)

SECTION 31. 326 IAC 23-1-60.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-60.5 “Room” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.5. “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 23-1-60.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 465*)

SECTION 32. 326 IAC 23-1-60.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-60.6 “Soil-lead hazard” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.6. (a) “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.

(b) A soil-lead hazard is present:

- (1) in a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than four hundred (400) parts per million; or
- (2) in the rest of the yard when the arithmetic mean lead concentration from a composite sample or composite samples of bare soil from the rest of the yard, including nonplay areas, for each residential building on a property equal to or greater than one thousand two hundred (1,200) parts per million.

(c) If the soil is removed, it:

- (1) shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than four hundred (400) parts per million; and
- (2) shall not be used as top soil at another residential property or facility.

(*Air Pollution Control Board; 326 IAC 23-1-60.6; filed Sep 10, 2003, 4:24 p.m.: 27 IR 465*)

SECTION 33. 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\*.”

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-1-61.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 465*)

SECTION 34. 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 approved training course provider, licensed by the department to supervise and conduct abatements, and prepare occupant protection plans and abatement reports. (*Air Pollution Control Board; 326 IAC 23-1-62.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 465*)

SECTION 35. 326 IAC 23-1-62.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-62.6 “Surface-by-surface investigation” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 62.6. “Surface-by-surface investigation” means an investigation of an entire facility to determine the presence of lead-based paint as described in Chapter 7, Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing, 1997, U.S. Department of Housing and Urban Development (HUD)\*.

\*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, Indiana Government Center-North, Tenth Floor, 100 North

**Senate Avenue, Indianapolis, Indiana 46204.** (*Air Pollution Control Board; 326 IAC 23-1-62.6; filed Sep 10, 2003, 4:24 p.m.: 27 IR 465*)

SECTION 36. 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 466*)

SECTION 37. 326 IAC 23-1-64 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-64 “Third-party examination” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 64. (a) “Third-party examination” means ~~an~~ a U.S. EPA **developed** examination administered by:

- (1) the department or its designated representative; or
  - (2) **U.S. EPA or an authorized state or tribe;**
- as a licensure requirement as required under this article for inspectors, risk assessors, **project designers**, and supervisors.

(b) **Workers and clearance examiners are not required to take the third-party examination.** (*Air Pollution Control Board; 326 IAC 23-1-64; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1439; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 466*)

SECTION 38. 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. The types of samples include the following:

- (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) micrograms per square foot;
  - (2) a composite sample of three (3) subsamples containing one hundred (100) micrograms per square foot; and
  - (3) a composite sample of four (4) subsamples containing one hundred ten (110) micrograms per square foot.
- The equation is  $(60 + (3 \times 100) + (4 \times 110)) / (1 + 3 + 4) = 100$  micrograms per square foot. (*Air Pollution Control Board; 326 IAC 23-1-69.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 466*)

SECTION 39. 326 IAC 23-1-69.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-69.6 “Window trough or window well” 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 or window well” means, for a 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. (*Air Pollution Control Board; 326 IAC 23-1-69.6; filed Sep 10, 2003, 4:24 p.m.: 27 IR 466*)

SECTION 40. 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”, 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 466*)

SECTION 41. 326 IAC 23-1-71 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-71 “Worker” defined**

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

**Sec. 71. “Worker” means a person who has been trained by an approved training course provider and licensed by the department to perform abatements.** (*Air Pollution Control Board; 326 IAC 23-1-71; filed Sep 10, 2003, 4:24 p.m.: 27 IR 467*)

SECTION 42. 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 13-11-2-61.5; 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 326 IAC 23-4.** (*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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 467*)

SECTION 43. 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) Have attended an Indiana approved lead-based paint two (2) hour rules awareness course within twelve (12) months prior to making license application, if the approved lead-based paint course in subdivision (1) is not an Indiana-approved course.**

~~(2) (3) Meet or exceed the experience and education requirements for each desired discipline as listed in subsection (b). (3) (4) For inspector, risk assessor, project designers, and supervisor applicants, pass the third-party examination in the appropriate discipline. offered by the department or its designated representative.~~

**(5) Notwithstanding subdivisions (1) through (4), an applicant may follow the reciprocity provisions in section 6.5 of this rule.**

(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 must comply with subsections [sic, subsection] (a)(1) and (a)(2).~~

(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 course~~ and all required examinations, including a

[sic.] third-party ~~exams~~; **examinations**, and meet one (1) of the following:

(A) One (1) year of experience as a ~~certified~~ **licensed** 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 abatement~~ to be conducted for compensation shall ~~hold be~~ a lead-based paint activities contractor ~~license~~; **licensed under this article**. 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 **within twelve (12) months prior to making license application**, receive a certificate of training from an ~~Indiana-approved~~ **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 job site 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)~~ **(6)** Contractor applicants must themselves have or have a designated representative who has:

(A) one (1) year of experience as a ~~certified~~ **licensed** lead-based paint abatement worker or

~~(B)~~ at least two (2) years of experience in a related field, ~~such as to include~~ lead, asbestos, environmental remediation, or work in the construction trades; and

~~(C)~~ **(B)** successfully completed an approved lead-based paint supervisor course, received a certificate of training from an ~~Indiana-approved~~ **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)~~ **(d)** To take the third-party examination, a person shall:

(1) successfully complete an ~~Indiana-approved~~ **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)~~ **(e)** 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)~~ **(f)** 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~~ **approved** training course provider before reapplying for a license from the department.

~~(h)~~ **(g)** Any individual who has had ~~an eighteen (18) more~~



than a forty-eight (48) 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 as follows:
  - (A) Inspectors, risk assessors, and supervisors shall take the examination for that discipline.
  - (B) Project designers shall take the third-party examination for supervisor.
  - (C) Workers or clearance examiners are not required to take a third-party examination.

(h) 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.
- (4) Official documentation indicating the passage of a third-party examination.

(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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 467)

SECTION 44. 326 IAC 23-2-4 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(~~4~~) 3(h) 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 copy of the current Indiana lead-based paint project supervisor license of the designated representative.
- (2) Submit a signed contractor certificate and signature form.
- (3) Submit signed signature cards.

(~~4~~) (4) 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"\*. (~~5~~) (5) Submit a copy of all required documents, as provided in section 3(~~4~~) 3(h) 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.

(~~6~~) (6) 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.

(~~7~~) (7) Submit an up-to-date copy of the contractor's written standard operating procedures that include current compliance procedures.

(~~8~~) (8) 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.

(~~9~~) (9) Submit a list of any contractual penalties **related to lead-based paint activities** that the contractor has paid for noncompliance with contract specifications.

(~~10~~) (10) 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.

(~~11~~) (11) 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)~~ **(12)** 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)~~ **(13)** 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 **application** fee is not transferable ~~and nonrefundable~~.

(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 lead-based paint program license shall expire three (3) years after issuance.** 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.~~

~~(4) (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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 469*)

SECTION 45. 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 as required for inspector, risk assessor, **project designer**, 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) **For a contractor, submit a complete list of contracts for the prior thirty-six (36) months for lead-based paint activities, including names, addresses, and telephone numbers of persons for whom projects were performed.**

- ~~(5)~~ (6) 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:

- (1) include updated information in the application, if any information has changed during the previous ~~twelve (12)~~ **thirty-six (36) months; The contractor shall**

- (2) 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; **and**
- (3) **submit a complete list of contracts for the prior thirty-six (36) months for lead-based paint projects, including names, addresses, and telephone numbers of persons for whom projects were performed.**

(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. **The lead-based paint program license shall expire three (3) years after issuance.** 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 forty-eight (48)** 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 471)

SECTION 46. 326 IAC 23-2-6 IS AMENDED TO READ AS FOLLOWS:

### 326 IAC 23-2-6 Compliance requirements for lead-based paint activities 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 471)**

SECTION 47. 326 IAC 23-2-6.5 IS ADDED TO READ AS FOLLOWS:

### **326 IAC 23-2-6.5 Lead-based paint license reciprocity**

Authority: IC 13-17-14-5

Affected: IC 4-21.5; IC 13-17-14

**Sec. 6.5. (a) Any person holding a current U.S. EPA state or tribe authorized lead-based paint program license from another state, who is applying for an initial Indiana lead-**

**based paint license from the department as a lead-based paint inspector, risk assessor, project designer, supervisor, worker, or clearance examiner under this rule, shall do the following:**

**(1) Submit a completed application on forms provided by the department.**

**(2) Submit a copy of all current lead-based paint program licenses.**

**(3) For persons applying for inspector, risk assessor, project designer, or supervisor licenses, provide proof of having passed the third-party examination.**

**(4) Have attended an Indiana approved lead-based paint two (2) hour rules awareness course.**

**(5) Pay the license application fee specified in section 8 of this rule.**

**(b) Any person holding a current U.S. EPA state or tribe authorized lead-based paint program license, who is applying for an initial Indiana license from the department to conduct lead-based paint activities as a contractor under this rule, 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 U.S. EPA or U.S. EPA state or tribe authorized lead-based paint program licenses and documentation indicating that the applicant or the applicant's designated representative meets the experience, education, and training requirements of 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 an up-to-date copy of the contractor's written standard operating procedures that include current compliance procedures.**

**(4) 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.**

**(5) Have attended an Indiana approved lead-based paint two (2) hour rules awareness course.**

**(6) Pay the license application fee specified in section 8 of this rule.**

**(c) If the department determines the information on the application is 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 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 to take an examination administered by the department. The examination shall cover only the discipline for which the applicant is seeking licensure. 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 examinations.

(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.

(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 lead-based paint license shall expire three (3) years after issuance. 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) Applications must be completed in writing and submitted for processing. If the license is approved, the license will be sent to the applicant via the United States Postal Service to the address listed on the application.

\*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 23-2-6.5; filed Sep 10, 2003, 4:24 p.m.: 27 IR 472*)

SECTION 48. 326 IAC 23-2-7 IS AMENDED TO READ AS FOLLOWS:

### 326 IAC 23-2-7 Lead-based paint license revocation; denial

Authority: IC 13-17-14-5

Affected: IC 4-21.5; IC 13-17-14

Sec. 7. (a) The department may, under IC 4-21.5, deny an application for a license, reprimand a license, or suspend or revoke a license for any of the following reasons:

(1) Violating any requirement of the following:

(A) This title.

(B) 40 CFR 745 (Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities)\*.

(C) IC 13-17-14.

(D) Any federal, state, or local lead-based paint regulations.

(2) Falsifying information on an application for a lead-based paint license, including, but not limited to, approval records, instructor qualifications, or other approval information.

(3) Violating or failing to meet any requirement specified in this article.

(4) Conducting a lead-based paint project, or related activity, in a manner that is hazardous to the public health.

(5) Performing work requiring a lead paint license at a job site without being in physical possession of initial and current certificates of training or license.

(6) Permitting the duplication or use of one's own lead-based paint license by another person.

(7) Performing work for which a lead-based paint license has not been received.

(8) Obtaining training from a training course provider who does not have the approval to offer training for the particular discipline for which the license was received.

(9) Obtaining training documentation through fraudulent means.

(10) Gaining admission to and completing an approved training curriculum through misrepresentation of admission requirements.

(11) Fraudulently or deceptively obtaining a license or attempts to obtain a license through misrepresentation of certificate of training requirements, third-party examination, or related documents dealing with education, training, professional registration, or experience.

(12) Misrepresenting the extent of a training courses's approval.

(13) Failing to submit required information or notifications in a timely manner.

(b) In addition to the causes in subsection (a), the department may, under IC 4-21.5, reprimand a lead-based paint contractor or suspend or revoke a lead-based paint license if the contractor:

(1) performs work requiring licensure at a job site with individuals who are not licensed;

(2) fails to comply with the work practice standards established in 326 IAC 23-4;

(3) misrepresents facts in the contractor's letter of application for a license;

(4) fails to maintain required records; or

(5) fails to comply with federal, state, or local lead-based paint rules, regulations, or statutes.

(c) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a

consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(d) If the department finds that a lead-based paint activities project is not being performed in accordance with air pollution control laws or rules adopted by the board, the department may enjoin further work on the lead-based paint project without prior notice or hearing by completing the following procedures:

- (1) A notice shall be delivered to:
  - (A) the lead-based paint activities contractor engaged in the lead-based paint activities project; or
  - (B) an agent or representative of the lead-based paint activities contractor.
- (2) A notice issued under this section must:
  - (A) specify the violations of law that are occurring on the lead-based paint activities project; and
  - (B) prohibit further work on the lead-based paint activities project until the specified violations cease and the notice is rescinded by the commissioner.
- (3) The contractor shall have fourteen (14) days in which to provide written notification to the department that violations have been corrected.
- (4) Not later than ten (10) days after receiving written notification from a contractor that violations specified in a notice issued under this section have been corrected, the commissioner shall issue a determination regarding rescission of the notice.

\*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, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-2-7; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1445; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3109; filed Sep 10, 2003, 4:24 p.m.: 27 IR 473*)

SECTION 49. 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 any lead-based paint program license a person shall pay a nonrefundable application fee as follows: of one hundred fifty dollars (\$150).**

- ~~(1) Inspector, one hundred fifty dollars (\$150);~~
- ~~(2) Risk assessor, one hundred fifty dollars (\$150);~~
- ~~(3) Project designer, one hundred dollars (\$100);~~
- ~~(4) Supervisor, one hundred fifty dollars (\$150);~~
- ~~(5) Worker, fifty dollars (\$50);~~

~~(6) 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 474*)

SECTION 50. 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 a valid state-issued driver's license, an Indiana issued identification card, a valid United States 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 474)

SECTION 51. 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) A person may apply to the department to be an approved training course provider to offer an Indiana lead-based paint two (2) hour rules awareness course.

~~(b)~~(c) Training course providers may apply to the department for approval of their lead-based paint activities courses, **Indiana lead-based paint two (2) hour rules awareness course**, or refresher courses pursuant to this rule on or after the effective date of this rule.

~~(c)~~(d) A training course provider shall not provide, offer, or claim to provide approved lead-based paint activities courses **or Indiana lead-based paint two (2) hour rules awareness course** without applying for and receiving approval from the department as required under this rule.

~~(d)~~(e) 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 North 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, Indiana Government Center-North, Tenth Floor, 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 475)**

SECTION 52. 326 IAC 23-3-2 IS AMENDED TO READ AS FOLLOWS:

### 326 IAC 23-3-2 Initial and refresher training course and lead-based paint two (2) hour rules awareness course application for approval

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 2. The following procedures shall be followed by a training course provider to receive approval by the department to offer initial or refresher lead-based paint activities courses **or Indiana lead-based paint two (2) hour rules awareness course**:

(1) A training course provider seeking approval for each training course shall submit one (1) written application, per discipline, for each initial and refresher training course **or two (2) hour rules awareness course** on forms provided by the department. The application for approval 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) The training course test blueprint for each course.
- (E) A letter from the training course provider that clearly indicates how the course meets the applicable requirements of this rule, including the following information:
  - (i) Length of training in days.
  - (ii) A description of the facilities and equipment to be used for lecture and hands-on training.
  - (iii) Amount and type of hands-on training.
  - (iv) Description of the examinations, including the length, format, and passing score.
  - (v) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.
  - (vi) Topics covered in the course.
  - (vii) A copy of the quality control plan as defined in 326 IAC 23-1-56.
  - (viii) A copy of the certificates of training.
- (F) If a training course provider uses U.S. EPA-recommended model training materials, the training course manager shall include a statement certifying that the recommended version will be used.
- (G) The names and qualifications of the course instructors, including guest instructors, to include academic credentials and field experience.
- (H) A detailed statement about the development of the examinations and a copy of the examinations used in the course.
- (I) A description and an example of numbered certificates issued to students who complete the course and pass the examination, with the following information:

- (i) Name and address of 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~~ **thirty-six (36) months** 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.
- (J) A list of all U.S. EPA authorized 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.
- (K) 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.

**(L) The requirements under clauses (D), (E)(iii) through (E)(v), (E)(vii), (H), and (I)(iv) are not required for the two (2) hour rules awareness course.**

(2) 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:

- (A) A copy of the student and instructor manuals.
- (B) A copy of the course agenda.

(3) A training course provider may apply for approval 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.

(4) 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 is not transferable or refundable.

*(Air Pollution Control Board; 326 IAC 23-3-2; filed Jan 6, 1999, 4:28 p.m.; 22 IR 1447; filed Sep 10, 2003, 4:24 p.m.; 27 IR 475)*

SECTION 53. 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.~~

~~(H) (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) An 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 postrenovation 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.
- (7) The course of study for the Indiana lead-based paint rules awareness course must be a minimum of two (2) training hours. This course of study shall include the use of all Indiana guidelines, manuals, and appendices on 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.
  - (B) Indiana lead-based paint rules to include the following:
    - (i) Review and comparison of Indiana lead-based paint rules to federal rule requirements.
    - (ii) Review other Indiana state rule requirements.
    - (iii) Student question and answer session on Indiana lead-based paint rules.
  - (C) Indiana lead-based paint forms to include the following:
    - (i) Licensing application form.
    - (ii) Project notification form.
    - (iii) Inspection and risk assessment reports.
- \*Copies of pertinent sections of the Toxic Substances Control Act (TSCA) and the United States Code (U.S.C.) are available
- \*These documents are incorporated by reference. Copies

may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Management, Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 476)~~

SECTION 54. 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 **minimum** number of questions shall be required for each respective discipline:

- (1) Inspector, ~~fifty (50)~~ **one hundred (100)** questions.
- (2) Risk assessor, ~~one hundred (100)~~ **fifty (50)** questions.
- (3) Project designer, ~~one hundred (100)~~ **fifty (50)** questions.
- (4) Supervisor, one hundred (100) questions.
- (5) Worker, fifty (50) questions.
- (6) **Clearance examiner, twenty-five (25) questions.**

(h) **No more than twenty percent (20%) of the same questions may be retained between any two (2) examinations.**

**(i) The Indiana lead-based paint rules awareness course does not require the administration of an examination for the completion of the course. (Air Pollution Control Board; 326 IAC 23-3-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1451; filed Sep 10, 2003, 4:24 p.m.: 27 IR 479)**

SECTION 55. 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.~~
- (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.
- (1) A completed and signed application form for lead-based paint training courses.
- (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, or 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 applicable 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 **or the Indiana lead-based paint rule awareness course**. 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.

(e) 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 479)

SECTION 56. 326 IAC 23-3-11 IS AMENDED TO READ AS FOLLOWS:

## 326 IAC 23-3-11 Course notification and record submittal requirements

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 11. All approved providers of approved initial and refresher training courses **or the Indiana lead-based paint two (2) hour rule awareness course** shall comply with the following requirements:

(1) Notify the department in writing of all intended training courses to be held. Notification shall contain course dates, daily scheduled beginning and ending times, and exact course locations. Submission information shall be as follows:

(A) Notice of courses to be held in Indiana shall be submitted to the department two (2) weeks prior to the scheduled course start date.

(B) Notice of courses to be held outside Indiana shall be submitted to the department four (4) weeks prior to the scheduled course start date.

(C) Notice of course cancellation shall be submitted to the department two (2) working days prior to the scheduled course start date.

(2) All approved providers of accredited initial and refresher training courses **or the Indiana lead-based paint two (2)**

**hour rule awareness course** shall provide the department, not later than two (2) weeks after the completion of each course, the following:

- (A) A list of all course attendee names.
- (B) The type of course attended.
- (C) The date or dates of the course and the examination.
- (D) ~~Exam~~ **Examination** scores for each attendee.
- (E) The certificate number issued to each attendee.

(*Air Pollution Control Board; 326 IAC 23-3-11; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1454; filed Sep 10, 2003, 4:24 p.m.: 27 IR 480*)

SECTION 57. 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 ~~an~~ initial or refresher lead-based paint activities course approval **or an initial or refresher training course 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 approval or reapproval of an Indiana lead-based paint two (2) hour rules awareness course~~, a training course provider shall pay ~~an annual~~ **a nonrefundable** 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) Fees paid by mail shall be paid by check or money order and shall be made payable to the lead trust fund.

(d) 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.

**(e) The following are exempt 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.**

**\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** (*Air Pollution Control Board; 326 IAC 23-3-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1454; filed Sep 10, 2003, 4:24 p.m.: 27 IR 481*)

SECTION 58. 326 IAC 23-3-13 IS AMENDED TO READ AS FOLLOWS:

### 326 IAC 23-3-13 Representation of training course approval

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 13. No person shall make representation as conducting an approved initial training course or approved refresher training course **or the Indiana lead-based paint two (2) hour rules awareness course** for the purpose of licensing persons under 326 IAC 23-2 without prior written approval from the department under this rule. (*Air Pollution Control Board; 326 IAC 23-3-13; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1455; filed Sep 10, 2003, 4:24 p.m.: 27 IR 481*)

SECTION 59. 326 IAC 23-4-1 IS AMENDED TO READ AS FOLLOWS:

### Rule 4. Work Practices for Abatement Activities

#### 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 481*)

SECTION 60. 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 multifamily dwelling or child-occupied facility, each component with a distinct painting history in every common area **group**.

(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 parties to a transfer of the inspected property as required by 876 IAC 1-4-2.**

(*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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 482*)

SECTION 61. 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 which 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 multifamily 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 used by any child six (6) years of age and under; and  
 (B) other common area groups in the child-occupied facility where any child six (6) years of age and under is 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 sills and floors where one (1) or more children, any child, six (6) years of age or younger, are most 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 482)

SECTION 62. 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 multifamily 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 area groups adjacent to the sampled residential dwelling or child-occupied facility.

(B) Other common areas area groups 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~~ **area groups** 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) **Any yard area 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 483)*

SECTION 63. 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: as follows:

(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. The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(B) 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~~ lead-abated 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 thou-~~

~~sand 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) Lead-contaminated (A) Lead-abated~~ 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~~

**(B) Lead-abated** waste shall be stored ~~outside~~ in locked containers, rooms, trucks, or trailers.

(C) 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) Consumable and disposable supplies, ~~such as includ-~~ing mop heads, plastic sheeting, sponges, and rags, shall be treated as ~~contaminated debris~~ **lead-abated waste**.

**\*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 from 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 23-4-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1457; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 485)**

SECTION 64. 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~~ **a 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 485)*

SECTION 65. 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 **group** 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 **group** shall be erected.

(8) If a safe passage cannot be created and alternative entrances and exits do not exist, then abatement in common ~~areas~~ **area groups** 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; filed Sep 10, 2003, 4:24 p.m.; 27 IR 486)*

SECTION 66. 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 one (1) 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~~ **licensed** 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**;

**then the sample is a failed 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 as follows:**

- (i) **Forty (40) micrograms per square foot for floors.**
- (ii) **Two hundred fifty (250) micrograms per square foot for interior window sills.**
- (iii) **Four hundred (400) micrograms 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 487)

SECTION 67. 326 IAC 23-4-11 IS AMENDED TO READ AS FOLLOWS:

## 326 IAC 23-4-11 Lead-based paint abatement disposal procedures

Authority: IC 13-17-14-5  
Affected: IC 13-11; IC 13-17-14

Sec. 11. The following procedures shall be followed when disposing of lead-based paint waste:

- (1) All lead-based paint waste left at a facility or stored elsewhere prior to disposal shall be securely stored in a manner that restricts access by unauthorized persons to the material.
- (2) The material shall be stored in locked containers, rooms, trucks, or trailers.
- (3) Lead hazard warning signs or labels shall be prominently displayed on the door of the locked containers, rooms, trucks, or other security measures shall be employed, including the use of barriers, barrier tape, or other measures approved by the department.
- (4) Lead warning labels shall be posted in all areas where lead is stored.
- (5) All waste shall be transported in accordance with United States department of transportation requirements and disposed of in accordance with ~~329 IAC 2-21, 329 IAC 3-1-6-1,~~

**329 IAC 3.1 and 329 IAC 10-8-1: 329 IAC 10.**

(Air Pollution Control Board; 326 IAC 23-4-11; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1461; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 488)

SECTION 68. 326 IAC 23-4-12 IS AMENDED TO READ AS FOLLOWS:

## 326 IAC 23-4-12 Analysis of samples

Authority: IC 13-17-14-5  
Affected: IC 13-11; IC 13-17-14

Sec. 12. (a) Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this section shall be:

- (1) collected by persons licensed by the department as an inspector or risk assessor; and
- (2) analyzed by a laboratory recognized by the U.S. EPA pursuant to the TSCA, Section 405(b) U.S.C. 2685(b)\* as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

(b) The following conditions shall apply when composite dust sampling is conducted:

- (1) Composite dust samples shall consist of at least two (2) subsamples.
- (2) Every component that is being tested shall be included in the sampling.
- (3) Composite dust samples shall not consist of subsamples from more than one (1) type of component.

\***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. (Air Pollution Control Board; 326 IAC 23-4-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1462; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 488)

SECTION 69. 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) **calendar** 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) **calendar** 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 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 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; filed Sep 10, 2003, 4:24 p.m.: 27 IR 488*)

SECTION 70. 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; IC 13-17-14-12

Affected: IC 13-11-2-61.5; 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) 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) 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 as defined at IC 13-11-2-61.5.

(*Air Pollution Control Board; 326 IAC 23-5-1; filed Sep 10, 2003, 4:24 p.m.: 27 IR 489*)

### 326 IAC 23-5-2 Remodeling, renovation, and maintenance activities

Authority: IC 13-17-14-5; IC 13-17-14-12

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 (b) through (d).

(b) 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.

(c) 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.

(d) A person conducting remodeling, renovation, or maintenance 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.

(e) Effective June 1, 1999, pursuant to Section 406(b) of the TSCA, persons who perform renovations shall provide the owner and occupants of the unit with a lead hazard information pamphlet "Protect Your Family from Lead in Your Home"\*\*\* under all of 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.

The renovator shall obtain from the owner or occupant a written confirmation of receipt of the lead pamphlet from the owner or occupant or a certificate of mailing from the post office. Lead abatement work performed by people on their own property is excluded from the requirements of this subsection.

\*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.

\*\*\*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. 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 Quality, Indiana Government Center-North, Tenth Floor,

100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-5-2; filed Sep 10, 2003, 4:24 p.m.; 27 IR 489*)

SECTION 71. THE FOLLOWING ARE REPEALED: 326 IAC 23-1-23; 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.

LSA Document #02-189(F)

*Proposed Rule Published: April 1, 2003; 26 IR 2401*

*Hearing Held: June 4, 2003*

*Approved by Attorney General: August 29, 2003*

*Approved by Governor: September 10, 2003*

*Filed with Secretary of State: September 10, 2003, 4:24 p.m.*

*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #03-9(F)

#### DIGEST

Amends 345 IAC 1-3-22 to allow a person to move certain dogs and cats into the state with a rabies vaccination administered within three years. Amends 345 IAC 1-5-1 to make clear that an animal vaccinated by a veterinarian licensed in another state is legally vaccinated for rabies in Indiana. Effective 30 days after filing with the secretary of state.

**345 IAC 1-3-22**

**345 IAC 1-5-1**

SECTION 1. 345 IAC 1-3-22 IS AMENDED TO READ AS FOLLOWS:

#### **345 IAC 1-3-22 Rabies vaccination required for dogs, cats, and ferrets**

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-21-6

Sec. 22. (a) **Before a person may move** a dog, cat, or ferret ninety (90) days of age or older **into the state, the animal** must ~~have been~~ be vaccinated against rabies by a licensed and accredited veterinarian **as follows:**

- (1) **Ferrets must be vaccinated** within the ~~three hundred sixty-five (365)~~ days immediately preceding **twelve (12) months prior** to the animal entering ~~Indiana~~ **the state**.
- (2) **Dogs and cats must be vaccinated within one (1) of the following time frames:**

- (A) **Within the twelve (12) months prior to entering the state in the following circumstances:**

- (i) **The animal has not previously been vaccinated against rabies.**

- (ii) The animal was previously vaccinated against rabies and the manufacturer of the vaccine used recommends a booster within one (1) year as designated on the rabies vaccine label and package insert.
- (iii) The animal has, within the last twelve (12) months, been bitten by a wild animal or a domestic animal of unknown rabies status.

(B) Within the thirty-six (36) months prior to entering the state if:

- (i) none of the circumstances in clause (A) apply; and
- (ii) the animal was previously vaccinated against rabies and the manufacturer of the vaccine used recommends a booster within three (3) years as designated on the rabies vaccine label and package insert.

(b) A dog, cat, or ferret ~~imported~~ moved into the state for the immediate delivery to or use by a research and or teaching facilities facility is exempt from the requirements in subsection (a). The state veterinarian shall determine if animals are exempt under this section.

~~(b)~~ (c) No one may transport into ~~Indiana the state~~ an animal that has been exposed to a rabid animal within the ~~three hundred sixty-five (365) days immediately preceding twelve (12) months prior to the animal entering Indiana: the state.~~ (*Indiana State Board of Animal Health; Reg 76-1, Title VII, Sec 2; filed Aug 10, 1976, 10:29 a.m.: Rules and Regs. 1977, p. 134; filed Jan 8, 1986, 2:52 p.m.: 9 IR 996; filed Mar 23, 2000, 4:24 p.m.: 23 IR 1913; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Sep 18, 2003, 5:25 p.m.: 27 IR 490*)

SECTION 2. 345 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

### 345 IAC 1-5-1 Rabies vaccination

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-6

Sec. 1. (a) For the purpose of administering IC 15-2.1-6 and this rule, an animal is deemed to be vaccinated for rabies only when the following provisions are met:

- (1) The animal is vaccinated by a veterinarian that is:
  - (A) licensed to practice veterinary medicine; ~~in Indiana;~~ and
  - (B) accredited by the United States Department of Agriculture under 9 CFR, Subchapter J.
- (2) The vaccine used must be licensed and approved by the United States Department of Agriculture. The dosage and administration of the vaccine used must be in accordance with this rule and the manufacturers' specifications described on the vaccine's label and package insert.

(b) The veterinarian performing a rabies vaccination of an animal shall do the following:

- (1) Complete a vaccination certificate or computerized record, in triplicate, on each animal being vaccinated for

rabies that shall include the following information:

- (A) The name and address of the animal's owner.
- (B) The species, sex, and age of the animal vaccinated.
- (C) The date the animal was vaccinated.
- (D) The product name and lot **or** serial number of the vaccine used.
- (E) The date the animal must be revaccinated under section 2 of this rule.
- (F) The number of the tag issued if a tag is issued under subdivision (3).
- (G) The name of the veterinarian completing the vaccination and his or her Indiana veterinary license number.
- (2) The rabies vaccination certificate completed under subdivision (1) shall be distributed as follows:
  - (A) One (1) copy of the certificate or computerized record shall be given to the owner or custodian of the animal being vaccinated for rabies.
  - (B) One (1) copy of the certificate or computerized record shall be forwarded to the county health officer or the officer's designated agent upon the county health officer's request, or as the state veterinarian otherwise directs, within thirty (30) days of the vaccination.
  - (C) One (1) copy of the certificate or computerized record shall be retained by the veterinarian vaccinating such animal covering the period of immunization.
- (3) A veterinarian that vaccinates a dog, cat, or ferret shall furnish to the owner or custodian of the animal a rabies vaccination identification tag that contains the following:
  - (A) The veterinarian's or clinic's name and telephone number.
  - (B) A unique identification number.

(c) The owner or custodian of an animal vaccinated for rabies shall keep a copy of the certificate and tag required to be issued under subsection (b) until such time as the animal must be revaccinated under section 2 of this rule. The board recommends that the owner or custodian of a dog affix the rabies vaccination tag to the collar or harness of the dog and that it be worn at all times. Nothing in this rule shall prevent a local unit of government from requiring that rabies vaccination tags be worn at all times.

(d) Animals that have been vaccinated for rabies are subject to all quarantine provisions that may be imposed by state or local regulations. The final determination of an animal's rabies vaccination status shall be made by the state veterinarian. (*Indiana State Board of Animal Health; Reg 57-2, Title I; filed Jun 4, 1958, 3:30 p.m.: Rules and Regs. 1959, p. 284; filed Jan 20, 1988, 4:05 p.m.: 11 IR 1740; filed Oct 23, 1989, 5:00 p.m.: 13 IR 383; filed Jun 14, 1995, 3:30 p.m.: 18 IR 2759; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Oct 1, 2001, 11:10 a.m.: 25 IR 374; filed Sep 18, 2003, 5:25 p.m.: 27 IR 491*) NOTE: Originally adopted by the Indiana State Livestock Sanitary Board. Name changed by Acts 1969, Ch. 81, Sec. 1.

LSA Document #03-9(F)

Notice of Intent Published: 26 IR 1594

Proposed Rule Published: June 1, 2003; 26 IR 3108

Hearing Held: July 10, 2003

Approved by Attorney General: September 10, 2003

Approved by Governor: September 12, 2003

Filed with Secretary of State: September 18, 2003, 5:25 p.m.

Incorporated Documents Filed with Secretary of State: None

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## **TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION**

LSA Document #03-57(F)

### **DIGEST**

Adds 440 IAC 5.2 to establish standards for the certification and operation of assertive community treatment teams and requirements for community mental health centers. Effective 30 days after filing with the secretary of state.

#### **440 IAC 5.2**

SECTION 1. 440 IAC 5.2 IS ADDED TO READ AS FOLLOWS:

### **ARTICLE 5.2. ASSERTIVE COMMUNITY TREATMENT TEAMS CERTIFICATION**

#### **Rule 1. Definitions**

##### **440 IAC 5.2-1-1 Applicability**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 1. The definitions in this rule apply throughout this article.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-1; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-2 “Accreditation” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 2. “Accreditation” means an accrediting agency has determined that a community mental health center has met specific requirements of the accrediting agency.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-2; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-3 “Accrediting agency” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 3. “Accrediting agency” means an organization, included on a list of accrediting organizations approved by the division, which has developed clinical, financial, and**

**organizational standards for the operation of a provider of mental health services and which evaluates a provider’s compliance with its established standards on a regularly scheduled basis.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-3; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-4 “Assertive community treatment (ACT)” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 4. “Assertive community treatment (ACT)” means a multidisciplinary team that has the responsibility for the direct provision of community-based psychiatric treatment, assertive outreach, rehabilitation, and support services to an adult population with serious mental illness that also has cooccurring problems or multiple hospitalizations and meets the criteria outlined in this article.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-4; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-5 “Consumer” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 5. “Consumer” means an individual who is receiving assessment or mental health services from the assertive community treatment team.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-5; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-6 “Division” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 6. “Division” means the division of mental health and addiction.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-6; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-7 “Rural county” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 7. “Rural county” means a county with no city or town that has a population of fifty thousand (50,000) or more according to the most recent United States census.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-7; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)

##### **440 IAC 5.2-1-8 “Urban county” defined**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 8. “Urban county” means a county with a city or town that has a population of fifty thousand (50,000) or more according to the most recent United States census.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-8; filed Sep 30, 2003, 9:50 a.m.: 27 IR 492*)



## Rule 2. Certification of Assertive Community Treatment Teams

### 440 IAC 5.2-2-1 Applicability

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 1.** This article applies to all community mental health centers operating assertive community treatment teams. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-1; filed Sep 30, 2003, 9:50 a.m.: 27 IR 493*)

### 440 IAC 5.2-2-2 Certification by the division

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 2. (a)** Assertive community treatment teams must be part of a certified community mental health center that has been certified by the division for at least two (2) consecutive years at the time of application.

**(b)** The CMHC must have a contract with the office of vocational rehabilitation services for a supported employment program.

**(c)** Each ACT team serving consumers must be certified pursuant to this article.

**(d)** Each team must be certified and named independently. Certification is specific to a team.

**(e)** A community mental health center which has one (1) or more certified teams must provide information related to services as requested by the division and must participate in the division's quality assurance program.

**(f)** A CMHC must respond to a request from the division as fully as it is capable. Failure to comply with such a request may result in termination of the assertive community treatment team's certification.

**(g)** When a CMHC has demonstrated compliance with all applicable laws and regulations, including the specific criteria in this article, a certificate for each team shall be issued and shall be posted in a conspicuous place in the facility open to consumers and the public. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-2; filed Sep 30, 2003, 9:50 a.m.: 27 IR 493*)

### 440 IAC 5.2-2-3 Regular staff and operational standards

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 3. (a)** A regular certified ACT team must be composed of the following staff:

**(1)** A team leader who is assigned full-time to the team and is a qualified mental health professional (QMHP) as defined in 405 IAC 5-21-1(c) with at least a master's

degree and prior supervisory experience. Responsibilities shall be limited to the ACT team. The team leader shall perform the following roles:

**(A)** Provide direct supervision of team members.

**(B)** Function as a practicing clinician with consumer contact at least five (5) hours a week.

**(2)** No more than two (2) psychiatrists per team who provide in total a minimum of sixteen (16) hours a week per fifty (50) consumers. If the team includes two (2) psychiatrists, the agency must demonstrate full integration of the psychiatrists as members of the team. A psychiatrist or psychiatrists must perform the following critical roles:

**(A)** Supervise the psychiatric treatment of all consumers, including psychiatric assessment and provision of needed psychopharmacologic treatment, and at least monthly assessment of the consumer's response to medications. If a consumer is in crisis more frequent assessment may be required.

**(B)** Attend the majority of treatment planning meetings.

**(C)** Attend at least two (2) daily ACT team meetings weekly.

**(D)** Actively collaborate with all registered nurses (RNs) and all licensed practical nurses (LPNs).

**(E)** Supervise the medication management system.

**(3)** At least one (1) full-time equivalent (FTE) registered nurse and a minimum of one (1) FTE registered nurse per fifty (50) consumers. The RNs shall have at least six (6) months of experience working with persons with mental illness and perform the following critical roles:

**(A)** In collaboration with the psychiatrist, manage the medication system and administer and document medication treatment.

**(B)** Conduct health assessments within scope of practice.

**(C)** Coordinate services with other health providers.

**(D)** Provide training to other ACT team members to help them monitor psychiatric symptoms and medication side effects.

**(4)** At least one (1) full-time equivalent (FTE) substance abuse specialist, who is credentialed in addictions counseling by a credentialing body approved by the division, or who has two (2) years of experience as a substance abuse counselor in a substance abuse program. The substance abuse counselor shall perform the following roles:

**(A)** Take the lead in substance abuse assessment, planning, and treatment for all ACT consumers.

**(B)** Provide treatment specifically indicated for consumers with mental illness and substance abuse for all consumers of the team.

**(C)** Provide training to other ACT team members to help them identify substance abuse and monitor progress in treatment.

(5) At least one (1) FTE vocational specialist who works under a supported employment (SE) program operated by the agency under contract with the office of vocational rehabilitation services is assigned to the ACT team full time. All vocational specialists shall perform the following critical roles:

(A) Provide a full range of supported employment services (e.g., vocational assessment and planning, job development, job placement, job support, career counseling, follow along, maintains liaison with vocational rehabilitation counselors).

(B) Provide training to other ACT team members regarding the range of supported employment services.

(6) All other team members must be assigned exclusively to the team and meet at least one (1) of the following requirements:

(A) Have a bachelor's degree.

(B) Be a RN or LPN who has been trained to work with consumers with mental illness, or

(C) Have a minimum of four (4) years of experience as a case manager.

No team shall have more than two (2) team members who do not meet the criteria listed in clauses [clause] (A) or (B).

(7) A team may have no more than one (1) peer specialist that does not meet criteria listed in Sec. 3(a)(6) [subdivision (6)]. A peer specialist shall:

(A) be assigned to the team full time and participate in the clinical responsibilities and functions of the team in providing direct services to consumers; and

(B) be counted when calculating the case ratio.

(8) All members of the team shall be individuals with experience working with persons with mental illness, as well as having the ability to establish caring, trusting relationships based on respect for individual consumers.

(9) Excluding the psychiatrists, the minimum team size shall be as follows:

(A) Each team providing services to an urban county must have at least eight (8) FTE staff members.

(B) Each team providing services to a rural county must have at least six (6) FTE staff members.

(C) Clinical staff to consumer ratio must be at least 1:10.

(b) Each regularly certified team shall meet the following regular operational standards:

(1) All consumers admitted to the ACT team must meet the admission criteria as defined in Sec. 4 [section 4 of this rule].

(2) At least eighty percent (80%) of consumers must have 295-296 Axis I Diagnosis under Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition, published by the American Psychiatric Association (DSM IV).

(3) Highest intake rate during a six (6) month period shall not exceed five (5) consumers per month.

(4) The program shall operate at least eight (8) hours per

day, Monday through Friday. On weekends and holidays at least two (2) hours of direct service shall be provided daily. A team member shall be on call all other hours.

(5) Consumers must be contacted face-to-face on average at least three (3) times per week.

(6) Consumers must be contacted face-to-face on average two (2) hours per week or more per consumer.

(7) At least seventy-five percent (75%) of all team contacts shall occur out of the office.

(8) An average of at least ninety percent (90%) of consumers shall have contact with three (3) or more team members per month.

(9) For a minimum of six (6) months, the team shall attempt at least two (2) face-to-face contacts per month for consumers who refuse services.

(10) At least eighty percent (80%) of inpatient admissions are planned jointly with the ACT team.

(11) At least eighty percent (80%) of inpatient discharges are planned jointly with the ACT team.

(12) Excluding planned graduations, at least eighty-five percent (85%) of the caseload is retained over a twelve (12) month period.

(13) All consumers are offered services on a time unlimited basis.

(14) Less than ten percent (10%) of consumers will be transitioned to less intensive services annually (excluding dropouts).

(15) A team shall not serve more than one hundred twenty (120) consumers.

(16) The team must demonstrate consistent, well planned engagement strategies to prevent harm to the consumer or others; such strategies may include legal mechanisms, such as representative payee, outpatient commitment, and probation.

(17) The team shall effectively communicate and coordinate activities and comply with the following:

(A) Organizational team meetings shall be held daily, Monday through Friday, and attended by all team members assigned to be on duty. During the organizational meeting, all consumers' status shall be briefly reviewed using a daily log and staff report. Services and contacts shall be scheduled according to treatment plans and triage.

(B) All team member contacts with consumers are logged and easily accessible to the entire team.

(18) The team shall provide emergency service backup, twenty-four (24) hours a day and make decisions about direct team intervention and comply with the following:

(A) A team member shall be available by phone or face-to-face with backup by team leader and a psychiatrist.

(B) The team shall have an active, ongoing collaboration with emergency services providers.

(19) The team shall operate at no less than eighty percent (80%) of full staffing during any twelve (12) month period on average.

(Division of Mental Health and Addiction; 440 IAC 5.2-2-3; filed Sep 30, 2003, 9:50 a.m.: 27 IR 493)

**440 IAC 5.2-2-4 ACT admission and discharge criteria**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 4. (a)** All consumers admitted to ACT must meet the following criteria:

- (1) Be an individual who is eighteen (18) years of age or older.
- (2) The division criteria for persons with serious mental illness as defined in 440 IAC 8-2-2. and
- (3) The team specific, division approved admission criteria.

(b) The team specific, division approved admission criteria must be submitted with the initial application and should be objective and address the following:

- (1) Discharge from long term psychiatric hospitalizations.
- (2) Number of psychiatric hospitalizations or days hospitalized in the prior two (2) years.
- (3) Criminal justice/legal system involvement despite mental health intervention.
- (4) Difficult-to-treat substance abuse disorder of greater than six (6) months duration.
- (5) Homelessness or unstable housing.
- (6) Lack of consistent benefit from traditional mental health programs.

(c) At least eighty percent (80%) of consumers must have a diagnosis of 295-296 Axis I Diagnosis under Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition, published by the American Psychiatric Association (DSM IV).

(d) Prior to the implementation of changes to team specific admission criteria an agency must submit, in writing, the revised admission criteria. Revised admission criteria may not be implemented until approved by the division.

(e) When consumers are discharged from ACT, documentation must include:

- (1) a gradual transfer period;
- (2) a plan to maintain continuity of treatment at appropriate levels of intensity to support the consumer's continued recovery; and
- (3) a plan for consumers to easily return to the ACT team, if needed.

(Division of Mental Health and Addiction; 440 IAC 5.2-2-4; filed Sep 30, 2003, 9:50 a.m.: 27 IR 495)

**440 IAC 5.2-2-5 Support and rehabilitative services**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 5. (a)** Based on consumer needs, the team performs the following case management functions for all ACT consumers:

- (1) Locate and maintain safe, affordable housing, with an emphasis on consumer choice and independent community housing.
- (2) Provide financial management support, including use of legal mechanisms such as representative payee.
- (3) Support and skills training in activities of daily living, including self care, homemaking, financial management, use of transportation, and use of health and social service resources.
- (4) Support and skills training in social, interpersonal relationship, and leisure time activities.
- (5) Education regarding mental illness or addiction issues.

(b) The ACT team monitors, provides supervision, education, and consumer support in the administration of psychiatric medications for all ACT consumers.

(c) All team members monitor symptom response and medication side effects.

(d) ACT team educates consumers about symptom management and early identification of both premorbid and prodromal symptoms.

(e) The team shall actively and assertively engage and reach out to consumers' family members or significant others, after obtaining consumer permission. The team shall:

- (1) Establish ongoing communication and collaboration between the team and family members.
- (2) Educate the family about mental illness and the family's role in treatment.
- (3) Educate the family about symptom management and early identification of both premorbid and prodromal symptoms.
- (4) Provide interventions to promote positive interpersonal relationships.

(f) The team shall facilitate consumer access to the following services:

- (1) Medical and dental services.
- (2) Social services.
- (3) Transportation and access to transportation. and
- (4) Legal advocacy.

(Division of Mental Health and Addiction; 440 IAC 5.2-2-5; filed Sep 30, 2003, 9:50 a.m.: 27 IR 495)

**440 IAC 5.2-2-6 Program improvement and evaluation**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 6. (a)** The ACT team shall monitor hospitalization, housing, and employment outcomes for all consumers.

(b) The ACT team shall monitor compliance with this article quarterly and modify team operations as indicated.

(c) The ACT team shall participate in the division quality assurance program. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-6; filed Sep 30, 2003, 9:50 a.m.: 27 IR 495*)

#### **440 IAC 5.2-2-7 Regular certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

Sec. 7. (a) Application for regular certification must include the following:

- (1) Documentation that the team has operated in compliance with the regular operational standards.
- (2) Documentation that the team meets the regular staffing standards.
- (3) The team's admission criteria.
- (4) All materials requested by the division.

(b) When the division determines that the provider meets the requirements for regular certification as set forth in this article the division shall issue a regular certification.

(c) The regular certification expires ninety (90) days after the expiration of the agency's accreditation.

(d) During the regular certification period, the division may request the agency to submit documentation of ongoing compliance with this article.

(e) During the regular certification period, the team shall maintain compliance with this article. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-7; filed Sep 30, 2003, 9:50 a.m.: 27 IR 496*)

#### **440 IAC 5.2-2-8 Provisional certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

Sec. 8. (a) A team that meets the provisional staff standards may apply for a provisional certification. Provisional certification will be effective for twelve (12) months.

(b) A provisional certification application shall contain the following:

- (1) Documentation that the team meets the provisional staff standards.
- (2) A plan for the achievement of provisional operational standards.
- (3) The team's admission criteria.
- (4) All materials requested by the division.

(c) Provisional team staff standards are as follows:

- (1) The team members shall perform the functions as set forth in the regular staff standards.
- (2) The team leader must be assigned full time to the team

and be a qualified mental health professional (QMHP) as defined in 405 IAC 5-21-1(c) and have at least two (2) years postgraduate experience in mental health and prior supervisory experience. The team leader must have at least bachelor's level training.

(3) No more than two (2) psychiatrists must provide in total a minimum of twelve (12) hours per week per fifty (50) consumers.

(4) At least seventy-five percent (75%) of a FTE registered nurse and at least seventy-five percent (75%) of a FTE per fifty (50) consumers. The RNs shall have at least six (6) months of experience working with persons with mental illness.

(5) A substance abuse specialist as defined in 440 IAC 5.2-2-3(a)(4) [section 3(a)(4) of this rule] must be at least seventy-five percent (75%) of a FTE.

(6) A vocational specialist must be at least twenty (20) hours per week and twenty (20) hours per fifty (50) consumers.

(7) The remainder of the team members must comply with 440 IAC 5.2-2-3(a)(6) and (7) [section 3(a)(6) and 3(a)(7) of this rule].

(8) All members of the team shall be individuals with experience working with persons with mental illness, as well as having the ability to establish caring, trusting relationships based on respect for individual consumers.

(9) Excluding the psychiatrists, the minimum team size shall be as follows:

(A) Each team providing services to an urban county must have at least six (6) FTE staff members.

(B) Each team providing services to a rural county must have at least four (4) FTE staff members.

(C) Clinical staff to consumer ratio must be at least 1:13.

(d) Provisional operational standards are as follows:

(1) All consumers admitted to the ACT team must meet the admission criteria as defined in Sec. 4 [section 4 of this rule].

(2) Subsequent provisional certifications require that the highest intake rate during the past six (6) months, as calculated from the ending of the first provisional certification, must not exceed five (5) consumers per month.

(3) Program operates at least eight (8) hours per day, Monday through Friday. On weekends and holidays at least two (2) hours of direct service shall be provided daily. A team member shall be on call all other hours.

(4) Across total consumer population, consumers must be contacted face-to-face an average of at least two (2) times per week.

(5) Across total consumer population, consumers must be contacted face-to-face an average of ninety (90) minutes per week or more per consumer.

(6) At least sixty percent (60%) of all team contacts occur out of the office.

(7) An average of at least sixty-five percent (65%) of consumers have contact with three (3) or more team members per month.

(8) For a minimum of six (6) months, the team shall attempt at least two (2) face-to-face contacts per month for consumers who refuse services.

(9) At least sixty-five percent (65%) of inpatient admissions are planned jointly with the ACT team.

(10) At least sixty-five percent (65%) of inpatient discharges are planned jointly with the ACT team.

(11) Excluding planned graduations, at least eighty percent (80%) of the caseload is retained over a twelve (12) month period.

(12) All consumers are offered services on a time unlimited basis.

(13) Less than ten percent (10%) of consumers will be transitioned to less intensive services annually (excluding dropouts).

(14) A team shall not serve more than one hundred twenty (120) consumers.

(15) The team must demonstrate consistent, well planned engagement strategies to prevent harm to the consumer or others; such strategies may include legal mechanisms, such as representative payee, outpatient commitment, and probation.

(16) The team shall effectively communicate and coordinate activities.

(A) Organizational team meeting shall be held daily, Monday through Friday, and attended by all team members assigned to be on duty. During the organizational meeting, all consumers' status shall be briefly reviewed using a daily log and staff report. Services and contacts shall be scheduled according to treatment plans and triage.

(B) All team member contacts with consumers are logged and easily accessible to the entire team.

(17) The team shall provide emergency service backup, twenty-four (24) hours a day and make decisions about direct team intervention.

(A) A team member shall be available by phone or face-to-face with backup by team leader and a psychiatrist.

(B) The team shall have an active, ongoing collaboration with emergency services providers.

(18) The team shall operate at no less than eighty percent (80%) of full staffing during any twelve (12) month period on average.

(e) Prior to the expiration of the provisional certification, the CMHC may apply for an extension of the provisional certification or for regular certification.

(f) For an extension of the provisional certification, the agency must submit documentation to demonstrate that the team has done the following:

(1) Operated at the provisional operational standards.

(2) Has a plan to meet the regular operational standards.

(3) Meets the regular staffing standards.

(4) Complies with all request for the material by the division.

(g) Upon verification of meeting the requirements in [subsection] (e) the provisional certification may be extended for no more than twelve (12) months.

(h) Before the extended provisional certification expires, the agency must demonstrate compliance with regular certification requirements and apply for regular certification.

(i) During the provisional certification period the division may request the agency to submit documentation of ongoing compliance with this article.

(j) During the provisional certification period, the team shall maintain compliance with this article. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-8; filed Sep 30, 2003, 9:50 a.m.: 27 IR 496*)

#### 440 IAC 5.2-2-9 Notification of change

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19; IC 12-27

Sec. 9. (a) Notwithstanding subsection (b), an agency must notify the division, in writing, of any of the following within thirty (30) days after the occurrence:

(1) Documented violation of the rights of an individual being treated for mental illness under IC 12-27.

(2) Suicide attempt by a consumer. or

(3) The death of a consumer.

(b) Prior to implementation of changes to team specific admission criteria, an agency must submit, in writing, the revised admission criteria. Revised admission criteria may not be implemented until approved by the division. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-9; filed Sep 30, 2003, 9:50 a.m.: 27 IR 497*)

#### 440 IAC 5.2-2-10 Conditional certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

Sec. 10. (a) The division shall issue the team a conditional certification under this article upon the division's investigation and determination of any of the following conditions:

(1) Failure to comply with this article.

(2) A substantive change in the agency's accreditation status other than revocation of the accreditation.

(3) Failure of the agency to renew accreditation within ninety (90) days following expiration of the agency's current accreditation.

(4) A substantive change in the agency's community mental health center's certification status other than

termination.

(5) Conduct or any practice in the operation of the agency that is found by the division to be detrimental to the welfare of persons served by the team. or

(6) Violation of a federal or state statute, rule, or regulation in the course of the operation of this agency.

(b) The time period of a conditional certification is determined by the division, but may not exceed twelve (12) months. The division shall notify the agency of the following:

(1) The requirements not met and actions the agency must take to meet those requirements.

(2) The time period granted by the division for the agency to meet the requirements.

(c) The division shall reinstate certification if the agency meets the requirements.

(d) The division shall terminate the team's certification if the agency fails to meet the requirements within the allotted time period. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-10; filed Sep 30, 2003, 9:50 a.m.: 27 IR 497*)

#### 440 IAC 5.2-2-11 Termination of certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

Sec. 11. (a) The division shall terminate the certification of the team if one (1) of the following occurs:

(1) The agency's accreditation is revoked.

(2) The ACT team that has a conditional certification under Sec. 10 [section 10 of this rule] does not meet the requirements of the division within the period of time required.

(3) The ACT team fails to meet the standards to progress from provisional certification in Sec. 8 [section 8 of this rule] to regular certification in Sec. 7 [section 7 of this rule].

(4) The agency's CMHC certification is terminated.

(b) If a team's certification is terminated, the community mental health center cannot apply for certification of a new ACT team for twelve (12) months after the termination effective date. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-11; filed Sep 30, 2003, 9:50 a.m.: 27 IR 498*)

#### 440 IAC 5.2-2-12 Transfer of certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

Sec. 12. Each certification is specific to one (1) team. The certification may not be transferred to another team within the agency. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-12; filed Sep 30, 2003, 9:50 a.m.: 27 IR 498*)

#### 440 IAC 5.2-2-13 Appeal rights

Authority: IC 12-21-2-3

Affected: IC 4-21.5-3

Sec. 13. An agency that is aggrieved by any adverse action taken under this rule may appeal the action under IC 4-21.5-3. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-13; filed Sep 30, 2003, 9:50 a.m.: 27 IR 498*)

LSA Document #03-57(F)

Notice of Intent Published: 26 IR 2394

Proposed Rule Published: July 1, 2003; 26 IR 3385

Hearing Held: July 22, 2003

Approved by Attorney General: September 19, 2003

Approved by Governor: September 26, 2003

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Incorporated Documents Filed with Secretary of State: None

## TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #03-33(F)

### DIGEST

Adds 470 IAC 10.2 concerning the determination of financial eligibility and the amount of assistance payments in the Temporary Assistance to Needy Families (TANF) program and sanctions for noncompliance with certain TANF program requirements. Repeals 470 IAC 10.1-3-4, 470 IAC 10.1-3-4.1, and 470 IAC 10.1-3-5. Effective 30 days after filing with the secretary of state.

470 IAC 10.1-3-4

470 IAC 10.1-3-5

470 IAC 10.1-3-4.1

470 IAC 10.2

SECTION 1. 470 IAC 10.2 IS ADDED TO READ AS FOLLOWS:

### ARTICLE 10.2. TEMPORARY ASSISTANCE TO NEEDY FAMILIES

#### Rule 1. Definitions

##### 470 IAC 10.2-1-1 Definitions

Authority: IC 12-13-2-3; IC 12-13-5-3

Affected: IC 12-14

Sec. 1. The definitions in 470 IAC 10.1-1-1 apply throughout this article. (*Division of Family and Children; 470 IAC 10.2-1-1; filed Sep 30, 2003, 11:45 a.m.: 27 IR 498*)

#### Rule 2. Determination of Income

##### 470 IAC 10.2-2-1 Countable income determination

Authority: IC 12-13-2-3; IC 12-13-5-3

Affected: IC 12-14

Sec. 1. (a) In addition to the income sources specifically excluded under federal law, the following income is excluded from consideration in determining eligibility and the

amount of the assistance payment:

- (1) Assistance provided by a township trustee or other agency that provides in-kind assistance based on need through vendor payments.
- (2) Nonexempt educational income not received directly by, or made available to, a member of a TANF group.
- (3) A loan for which there is a verified repayment schedule in effect.
- (4) Tax refunds.
- (5) Home energy assistance administered or funded by the division.
- (6) Workforce Investment Act income.
- (7) The value of the monthly food stamp allotment.
- (8) Contributions from a supplemental security income recipient in the household.
- (9) Earned income of a TANF dependent child who is a full-time student.
- (10) Nonexempt educational income that is not received directly or made available to the student.
- (11) The first thirty dollars (\$30) of all infrequent and inconsequential contributions received by an individual during a calendar quarter.
- (12) The income of a nonparent caretaker who is not included as a member of the assistance group.

(b) When determining eligibility and the amount of the assistance payment, the computations in this subsection shall be made to establish countable gross income for the payment month. Income received other than monthly shall be converted to a monthly amount as follows:

- (1) Income received weekly shall be multiplied by four and three-tenths (4.3).
- (2) Income received every two (2) weeks shall be multiplied by two and fifteen-hundredths (2.15).
- (3) Income received twice per month shall be multiplied by two (2).
- (4) Income that is not expected to continue throughout the payment month shall count only to the extent it is anticipated to be received during the payment month.
- (5) Income resulting from a contractual agreement shall be prorated over the number of months covered under the contract, and the resultant amount shall be considered available monthly income during these months.
- (6) Income received on a quarterly, semiannual, or annual basis shall be divided by the appropriate number of months to establish the monthly amount.
- (7) Income received to defray the cost of education shall be prorated over the period intended to be covered by the income.
- (8) Fluctuating income may be averaged to determine a monthly amount.
- (9) The countable self-employment income is determined by subtracting from the total income the deduction listed in clause (A) or (B) as follows, whichever is greater:

- (A) Deduct forty percent (40%) of the gross income.

(B) Deduct actual business expenses as follows when there is proof of such expenses:

- (i) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.
- (ii) The cost of shelter in the form of rent, mortgage, or contract payments, including interest, taxes, and utilities.
- (iii) The cost of inventory, machinery, and equipment in the form of rent, loans, direct purchase, and contract payments, including the interest on the loans or contract payments.
- (iv) Insurance on the real and personal property of the business.
- (v) The cost of repairs on the business equipment or shelter.
- (vi) The cost of any travel required. If the actual cost cannot be determined, twenty-five cents (\$0.25) per mile shall be used to calculate the expense.

(c) The following deductions may be applied against an individual's gross countable income to determine eligibility:

- (1) The first ninety dollars (\$90) of the earned income of an applicant, recipient, or financially responsible adult.
- (2) Thirty dollars (\$30) of an applicant's or recipient's earned income remaining after the deduction in subdivision (1) for a period not to exceed twelve (12) consecutive months.
- (3) One-third ( $\frac{1}{3}$ ) of the applicant's or recipient's remaining earned income following the deductions in subdivisions (1) and (2) for a period not to exceed four (4) consecutive months.
- (4) Mandatory deductions withheld from the unearned income of an applicant, recipient, or financially responsible nonrecipient adult.
- (5) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the applicant's or recipient's spouse and their nonrecipient dependent children under eighteen (18) years of age living in the home.
- (6) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the financially responsible adult's nonrecipient dependent children under eighteen (18) years of age living in the home.
- (7) The actual costs of tuition, mandatory books, fees, and transportation directly associated with education from the nonexempt educational income of an undergraduate student when the individual's exempt educational income is insufficient to meet those expenses.
- (8) Child support payments for nonrecipient children living outside the home made by the spouse of an applicant or recipient.
- (9) Child support payments for nonrecipient children living outside the home made by the nonrecipient parent of a minor applicant or recipient parent or caretaker living in the home.

(d) The following deductions may be applied against an

individual's gross countable income to determine the amount of TANF assistance:

- (1) Seventy-five percent (75%) of the earned income received by a recipient.
- (2) Mandatory deductions withheld from the unearned income of an applicant, recipient, or financially responsible nonrecipient adult.
- (3) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the applicant's or recipient's spouse and their nonrecipient dependent children under eighteen (18) years of age living in the home.
- (4) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the financially responsible adult's nonrecipient dependent children under eighteen (18) years of age living in the home.
- (5) The actual costs of tuition, mandatory books, fees, and transportation directly associated with education from the nonexempt educational income of an undergraduate student when the individual's exempt educational income is insufficient to meet those expenses.
- (6) Child support payments for nonrecipient children living outside the home made by the spouse of an applicant or recipient.
- (7) Child support payments for nonrecipient children living outside the home made by the nonrecipient parent of a minor applicant or recipient parent or caretaker living in the home.

*(Division of Family and Children; 470 IAC 10.2-2-1; filed Sep 30, 2003, 11:45 a.m.: 27 IR 498)*

### Rule 3. Sanctions

#### 470 IAC 10.2-3-1 Sanctions for noncompliance

Authority: IC 12-13-2-3; IC 12-13-5-3  
Affected: IC 12-14

Sec. 1. (a) Termination of employment or noncompliance with the provisions of the IMPACT employment and training requirements and the IV-D Child Support program, without good cause, shall result in the following penalties:

- (1) Reduction of TANF assistance by excluding the applicant's or recipient's needs from the determination of the amount of assistance until the noncompliance ceases.
- (2) When the noncompliance continues for a period of two (2) consecutive payment months, the case shall be closed.

(b) An individual's failure to comply is considered to have ceased when the applicant or recipient performs either of the following:

- (1) The previously assigned action or activity for which the noncompliance penalty was imposed.
- (2) A comparable activity determined by the agency to meet the requirements of the program. When participation in the activity required for compliance extends for a

period of two (2) weeks or more, compliance will be met when the individual has participated successfully in the activity for a period of two (2) weeks.

(c) An individual reapplying for assistance after their case was closed under subsection (a)(2) shall have thirty (30) days from the date of application to come into compliance with program requirements.

(d) Failure to comply within thirty (30) days of application as required in subsection (c) shall result in denial of assistance.

(e) An individual reapplying for assistance who was sanctioned or would have been sanctioned under subsection (a)(1) when the case was closed shall have thirty (30) days from the date of application to come into compliance with program requirements.

(f) Failure to comply within thirty (30) days of application as required in subsection (e) shall result in the sanction under subsection (a)(1) being imposed for the initial payment month and subsequent months in accordance with subsection (a)(2) if noncompliance continues.

(g) Good cause for failure to comply with the requirements of this section shall be limited to the following:

- (1) The required actions were beyond the capability of the individual to perform.
- (2) The agency failed to provide the services needed by the individual to perform the required action.
- (3) The required child support action would result in harm or threat of harm to the parent or dependent child.

*(Division of Family and Children; 470 IAC 10.2-3-1; filed Sep 30, 2003, 11:45 a.m.: 27 IR 500)*

SECTION 2. THE FOLLOWING ARE REPEALED: 470 IAC 10.1-3-4; 470 IAC 10.1-3-4.1; 470 IAC 10.1-3-5.

*LSA Document #03-33(F)*

*Notice of Intent Published: 26 IR 1963*

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*Hearing Held: May 28, 2003*

*Approved by Attorney General: September 19, 2003*

*Approved by Governor: September 26, 2003*

*Filed with Secretary of State: September 30, 2003, 11:45 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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## TITLE 515 PROFESSIONAL STANDARDS BOARD

LSA Document #02-314(F)

### DIGEST

Adds 515 IAC 1-7 to define continuing education require-



ments for the renewal of certain proficient practitioner licenses and for all instructional, school services, instructional supervision, administrative standard, and professional licenses. Repeals 515 IAC 1-3. Effective 30 days after filing with the secretary of state.

**515 IAC 1-3**  
**515 IAC 1-7**

SECTION 1. 515 IAC 1-7 IS ADDED TO READ AS FOLLOWS:

**Rule 7. Renewal of Licenses**

**515 IAC 1-7-1 “Academic content standards” defined**

Authority: IC 20-1-1.4-9  
Affected: IC 20-6.1-2-1

**Sec. 1.** As used in this rule, “academic content standards” mean expectations of what a student should know and be able to do as adopted by the Indiana state board of education. (*Professional Standards Board; 515 IAC 1-7-1; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-2 “Board” defined**

Authority: IC 20-1-1.4-7  
Affected: IC 20-6.1-2-1

**Sec. 2.** As used in this rule, “board” means the professional standards board. (*Professional Standards Board; 515 IAC 1-7-2; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-3 “Certification renewal credit” or “CRU” defined**

Authority: IC 20-1-1.4-9  
Affected: IC 20-6.1-2-1

**Sec. 3.** As used in this rule, “certification renewal credit” or “CRU” means credit for two (2) contact hours experienced by an applicant during a class that is presented by a sponsor approved by the board and is designed to improve the skills of a teacher. (*Professional Standards Board; 515 IAC 1-7-3; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-4 “License” defined**

Authority: IC 20-1-1.4-7  
Affected: IC 20-6.1-2-1

**Sec. 4.** As used in this rule, “license” means the following:

- (1) A proficient practitioner license.
- (2) A standard license. or
- (3) A provisional license issued under this title.

(*Professional Standards Board; 515 IAC 1-7-4; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-5 “License renewal report” defined**

Authority: IC 20-1-1.4-7  
Affected: IC 20-6.1-2-1

**Sec. 5.** As used in this rule, “license renewal report” includes the professional growth plan prepared by the applicant. (*Professional Standards Board; 515 IAC 1-7-5; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-6 “Licensing advisor” defined**

Authority: IC 20-1-1.4-7  
Affected: IC 20-6.1-2-1

**Sec. 6.** As used in this rule, “licensing advisor” means the person at an accredited teacher preparation institution who is responsible for advising students who are studying to be teachers with respect to licensing requirements. (*Professional Standards Board; 515 IAC 1-7-6; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-7 “Professional growth experiences” defined**

Authority: IC 20-1-1.4-7  
Affected: IC 20-6.1-2-1

**Sec. 7.** As used in this rule, “professional growth experiences” means professional experiences demonstrating goals and strategies for a teacher’s development based on the following:

- (1) Principles promulgated by the Interstate New Teacher Assessment and Support Consortium (INTASC) in its Model Standards for Beginning Teacher Licensing and Development: A Resource for State Dialogue, 1992 edition, which are incorporated herein by reference, copies of which are available from INTASC, One Massachusetts Avenue, NW, Suite 700, Washington, D.C. 20001.
- (2) Content and development standards in this title as adopted by the board.
- (3) Standards promulgated by the National Board for Professional Teaching Standards (NBPTS) in its Guide to National Board Certification, 2002-2003 edition, which is incorporated herein by reference, copies of which are available from 26555 Evergreen Road, Suite 400, Southfield, Michigan 48076, or on-line at [www.nbpts.org](http://www.nbpts.org).
- (4) Standards promulgated by the Interstate School Leaders Licensure Consortium (ISLLC) of the Council of Chief State School Officers (CCSSO), and entitled “Standards for School Leaders,” copies of which are available from CCSSO One Massachusetts Avenue, NW, Suite 700, Washington, D.C. 2001-1431 [*sic.*].
- (5) Academic content standards as set forth in section 1 of this rule.

(*Professional Standards Board; 515 IAC 1-7-7; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-8 “Professional growth plan” defined**

Authority: IC 20-1-1.4-7  
Affected: IC 20-6.1-2-1

**Sec. 8.** As used in this rule, “professional growth plan” means a report submitted by an applicant that incorporates the professional growth experiences found in section 7 of

**this rule.** (*Professional Standards Board; 515 IAC 1-7-8; filed Sep 30, 2003, 9:45 a.m.: 27 IR 501*)

**515 IAC 1-7-9 “Rule 46-47 basis” defined**

Authority: IC 20-1-1.4-9  
Affected: IC 20-6.1-2-1

**Sec. 9.** As used in this rule, “Rule 46-47 basis” means a teaching license that was issued pursuant to the requirements of this article. (*Professional Standards Board; 515 IAC 1-7-9; filed Sep 30, 2003, 9:45 a.m.: 27 IR 502*)

**515 IAC 1-7-10 “Standards-based” defined**

Authority: IC 20-1-1.4-9  
Affected: IC 20-6.1-2-1

**Sec. 10.** As used in this rule, “standards-based” means teaching and learning that is based on content as adopted by the Indiana state board of education and on standards as adopted by the board (515 IAC 11). (*Professional Standards Board; 515 IAC 1-7-10; filed Sep 30, 2003, 9:45 a.m.: 27 IR 502*)

**515 IAC 1-7-11 “Teaching standards” defined**

Authority: IC 20-1-1.4-9  
Affected: IC 20-6.1-2-1

**Sec. 11.** As used in this rule, “teaching standards” means expectations of what teachers, school administrators, and school service persons should know and be able to do to assist learning for students as adopted by the board. (*Professional Standards Board; 515 IAC 1-7-11; filed Sep 30, 2003, 9:45 a.m.: 27 IR 502*)

**515 IAC 1-7-12 Application requirements for renewal of proficient practitioner licenses and standard licenses**

Authority: IC 20-1-1.4-9  
Affected: IC 20-6.1-2-1

**Sec 12. (a)** An application for renewal of a proficient practitioner license or a standard license must include the following:

- (1) Completed application form approved by the board, which application may be submitted electronically.
- (2) Limited criminal history report issued by the Indiana state police not earlier than one (1) year prior to the board’s receipt of the application.
- (3) The renewal fee prescribed by 515 IAC 1-2-19, which fee may be submitted electronically if arrangements to accept electronic payment have been made by the board.
- (4) Documentation issued by the board or licensing advisor that the requirements of section 13 or section 14 of this rule have been met.

**(b)** Applicants for license renewal shall provide all necessary evidence of eligibility.

**(c)** An application for license renewal shall be submitted no sooner than sixty (60) days prior to the expiration date of the license. (*Professional Standards Board; 515 IAC 1-7-12; filed Sep 30, 2003, 9:45 a.m.: 27 IR 502*)

**515 IAC 1-7-13 Renewal of standard licenses with a Rule 46-47 basis and issued before December 31, 2007; Bulletin 400 provisional licenses; and Bulletin 192 licenses**

Authority: IC 20-1-1.4-9  
Affected: IC 20-1-11.3; IC 20-5-11; IC 20-6.1-2-1; IC 36-1-7

**Sec. 13. (a)** An applicant for the renewal of a standard license with a Rule 46-47 basis or licensing under other prior rules (see 515 IAC 1-2-2) that was issued before December 31, 2007, must meet the following requirements:

**(1)** An applicant who has:

**(A)** obtained a master’s degree in accordance with 515 IAC 1-1;

**(B)** completed five (5) years’ teaching experience in accredited schools at the level and in one (1) or more areas covered by the license; and

**(C)** met the other requirements for such a license;

may be issued a renewal license that will be valid for ten (10) years and renewable for five (5) years thereafter as provided in 515 IAC 1-1.

**(2)** An applicant who has completed six (6) semester hours of academic credit approved by the board, ninety (90) certification renewal units (CRUs) or an equivalent combination of academic credit and CRUs, may be issued a renewal license provided, however, that, for purposes of this subdivision, CRUs shall be the equivalent of semester hours and quarter hours of academic credit in the ratios set forth in subdivision (5)(A) and, provided further, that academic credits and CRUs shall count toward license renewal only if they are earned during the five (5) year period preceding the submission of the application for renewal.

**(3)** Academic credit must be earned in the applicant’s certification major, certification minor, or professional education. Credits or CRUs in excess of the minimum required for renewal of the current license will not count toward a subsequent renewal.

**(4)** CRUs are granted for experiences that will aid applicants in maintaining and improving professional capabilities in areas of licensure.

**(5)** CRUs will be granted as follows:

**(A)** One (1) CRU will be granted for each two (2) contact hours of participation in an organized educational experience leading to improved instruction under responsible sponsorship, capable direction, and qualified instruction. Ten (10) CRUs will be granted for each quarter hour of academic credit that is related to professional growth. Fifteen (15) CRUs will be granted for each semester hour of academic credit that is

related to professional growth. Programs used for professional growth experiences as part of an applicant's professional growth plan do not require approval.

(B) A CRU program provider will not be approved by the board unless it is one (1) of the following:

- (i) A bona fide professional educator organization organized under Indiana law, provided, however, a professional teacher organization will not be approved by the board unless it files with the board, using the board's form, a report setting forth its name, address, and other information required by the board's form. Thereafter, the report shall be filed with the board annually on the anniversary of the provider's approval by the board.
- (ii) An accredited college or university.
- (iii) A school corporation or combination of school corporations.
- (iv) An educational service center organized under IC 20-1-11.3.
- (v) A joint program organized under IC 20-5-11.
- (vi) Organizations that individually would be acceptable who are operating together under an interlocal agreement organized under IC 36-1-7.
- (vii) The Indiana state board of education through the Indiana department of education.
- (viii) The board.

An individual program sponsored by an approved provider will not be accepted for license renewal unless it is aligned with the standards defined in section 11 of this rule.

(C) Organizations offering CRUs shall issue to each eligible participant a uniform certificate of completion denoting the number of hours attended or CRUs earned. Each participant is responsible for maintaining his or her record for submission to the board at the time of license renewal.

(D) In order to qualify for renewal of a standard or provisional license in instructional supervision, school services, school services personnel, or administration, a licensee must meet the requirements for renewal or professionalization set forth in 515 IAC 1-1, whereupon, the licensee will qualify for a professional (nonlife) license that will be initially issued for ten (10) years and will be renewable thereafter for five (5) year periods under this rule.

(E) If the credits used to renew a license are semester or quarter hour units, the licensing advisor at the applicant's institution will provide the necessary documentation to meet the requirements of section 12(4) [section 12(a)(4)] of this rule.

(F) A license issued pursuant to 515 IAC 1-1 is eligible for renewal for subsequent five (5) year periods if all other requirements are met.

(G) An applicant who has:

- (i) obtained a master's degree in accordance with 515 IAC 1-1;
  - (ii) completed the professional education course requirements for a license under 515 IAC 1-1;
  - (iii) five (5) years of teaching experience at an accredited school at the level and in one (1) or more areas covered by the license; and
  - (iv) met the other requirements for such a license; may be issued a professional (nonlife) license.
- (H) A license obtained under clause (G) must be renewed under section 12 of this rule.
- (I) A person who completes an approved teacher education program and fails to acquire an Indiana standard license within five (5) years thereafter must complete an additional six (6) semester hours of academic credit at an approved teacher preparation institution before applying for a teaching license.

(b) As an alternative to meeting the requirements of this section, an applicant may comply with section 14 of this rule. However, a teacher who applies for license renewal under this subsection may not be subsequently granted a license renewal under this section and, therefore, must renew under section 14 of this rule. (*Professional Standards Board; 515 IAC 1-7-13; filed Sep 30, 2003, 9:45 a.m.: 27 IR 502*)

#### 515 IAC 1-7-14 Renewal of any license expiring on or after July 1, 2004

Authority: IC 20-1-1.4-9  
Affected: IC 20-1-1-6.5

Sec. 14. (a) This section applies to any license renewal under section 13(b) of this rule and all renewals of proficient practitioner licenses

(b) Any license expiring on or after July 1, 2004, may, and all proficient practitioner licenses must, be renewed for an additional five (5) year term by one (1) of the following methods:

- (1) Completion of the process for certification by the National Board of Professional Teaching Standards (NBPTS) in a content area for which the NBPTS offers certification and submission to the board of written verification from the NBPTS that the certification process has been completed, regardless of whether the licensee succeeded in earning NBPTS certification.
- (2) Submission of a license renewal report that is approved by the board or its designee provided, however, that the license renewal report must be in a format approved by the board. The license renewal report may not be submitted more than twenty-four (24) months before the expiration of the applicant's current proficient practitioner's license. If the license renewal report is approved, a certificate to that effect will be issued to the applicant and that certificate must accompany the

application for license renewal.

(3) Submission of documentation from a licensing advisor that the requirements of the license renewal report have been met through academic credits.

(c) To qualify for renewal, the applicant must have obtained a minimum of ninety (90) professional growth experience points in the five (5) year period immediately preceding the submission of the application for renewal. The professional growth experience points shall be calculated with one (1) clock hour qualifying for one (1) professional growth experience point subject to the following limitations:

- (1) In-service workshop up to a maximum of forty-five (45) points per renewal.
- (2) Professional conference or workshop up to a maximum of forty-five (45) points per renewal.
- (3) Mentoring of beginning educator up to a maximum of thirty-six (36) points per renewal.
- (4) Certified mentor training up to a maximum of twenty-five (25) points per renewal.
- (5) Professional growth team member up to a maximum of twenty-five (25) points per renewal.
- (6) Cooperating teacher for a student teacher up to a maximum of fifty (50) points per renewal.
- (7) Educational travel up to a maximum of five (5) points per renewal.
- (8) Workshop presentation up to a maximum of thirty (30) points per renewal.
- (9) Curriculum development up to a maximum of forty-five (45) points per renewal.
- (10) Educational committee membership up to a maximum of fifty (50) points per renewal.
- (11) School accreditation activities up to a maximum of fifty (50) points per renewal.
- (12) College credit up to a maximum of ninety (90) points per renewal.
- (13) Peer coaching up to a maximum of twenty-five (25) points per renewal.
- (14) Educational publication up to a maximum of forty-five (45) points per renewal.
- (15) Professional experience or activity up to a maximum of thirty (30) points per renewal.
- (16) College teaching up to a maximum of ninety (90) points per renewal.
- (17) Educational research up to a maximum of thirty (30) points per renewal.
- (18) Indiana principal leadership academy conducted by the Indiana department of education up to a maximum of ninety (90) points per renewal.

(d) Verification of the professional growth experiences must be provided on a form approved by the board. (*Professional Standards Board; 515 IAC 1-7-14; filed Sep 30, 2003, 9:45 a.m.: 27 IR 503*)

#### **515 IAC 1-7-15 Applicants are responsible for delay**

Authority: IC 20-1-1.4-9

Affected: IC 20-1-1-6.5

Sec. 15. An applicant is responsible for any delays in the issuance of a renewal license if the license renewal report is received by the board less than one hundred twenty (120) days prior to the license's expiration date. (*Professional Standards Board; 515 IAC 1-7-15; filed Sep 30, 2003, 9:45 a.m.: 27 IR 504*)

#### **515 IAC 1-7-16 Professional growth team**

Authority: IC 20-1-1.4-9

Affected: IC 20-1-1-6.5

Sec. 16. A professional growth team may be established by an applicant as part of the professional growth experiences requirement for renewal of a teaching license; however, such a team must be convened as part of the license renewal process for an administrator's license. The activities of the team shall be compatible with school improvement plans and professional development programs required by IC 20-1-1-6.5. A professional growth plan submitted for the renewal of an instructional license may not be used to renew a school administrator or a school services license, however, a professional growth plan submitted to renew a school administrator or school services license may also be used to renew an instructional license. (*Professional Standards Board; 515 IAC 1-7-16; filed Sep 30, 2003, 9:45 a.m.: 27 IR 504*)

#### **515 IAC 1-7-17 Renewal of original administration and supervision licenses issued after January 1, 2003**

Authority: IC 20-1-1.4-9

Affected: IC 20-1-1-6.5

Sec. 17. In order to renew an original administrator's and supervision license that was issued after January 1, 2003, its holder will be required to successfully complete the requirements of the School Leader Licensure Assessment referred to in 515 IAC 1-4 unless he or she holds a current standard, provisional, or professional administration and supervision license issued by Indiana or an equivalent license issued by another state and he or she can verify at least three (3) years of full-time experience in an accredited kindergarten through grade 12 school in the appropriate position under that license. (*Professional Standards Board; 515 IAC 1-7-17; filed Sep 30, 2003, 9:45 a.m.: 27 IR 504*)

#### **515 IAC 1-7-18 Incomplete applications**

Authority: IC 20-1-1.4-9

Affected: IC 20-6.1-2-1

Sec. 18. An incomplete application may be returned to the applicant who may be required to pay a new application fee in the event the application is resubmitted. The applicant is

responsible for any delays caused by the submission of an incomplete application. (*Professional Standards Board; 515 IAC 1-7-18; filed Sep 30, 2003, 9:45 a.m.: 27 IR 504*)

SECTION 2. 515 IAC 1-3 IS REPEALED.

*LSA Document #02-314(F)*  
*Notice of Intent Published: 26 IR 815*  
*Proposed Rule Published: January 1, 2003; 26 IR 1253*  
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*Approved by Attorney General: September 10, 2003*  
*Approved by Governor: September 25, 2003*  
*Filed with Secretary of State: September 30, 2003, 9:45 a.m.*  
*Incorporated Documents Filed with Secretary of State: (1) principles promulgated by the Interstate New Teacher Assessment and Support Consortium in its Model Standards for Beginning Teacher Licensing and Development: A Resource for State Dialogue, current 1992 edition; (2) content and development standards set forth in administrative rules promulgated by the board; (3) standards promulgated by the National Board for Professional Teaching Standards in its Guide to National Board Certification, current 2002-2003 edition; and standards promulgated by the Interstate School Leaders Licensure Consortium of the Council of Chief State School Officers.*

**TITLE 760 DEPARTMENT OF INSURANCE**

LSA Document #03-7(F)

DIGEST

Amends 760 IAC 1-57 to include the most recent changes by the National Association of Insurance Commissioners to the Actuarial Opinion and Memorandum Model Regulation. Effective December 31, 2003.

<b>760 IAC 1-57-1</b>	<b>760 IAC 1-57-6</b>
<b>760 IAC 1-57-2</b>	<b>760 IAC 1-57-7</b>
<b>760 IAC 1-57-3</b>	<b>760 IAC 1-57-8</b>
<b>760 IAC 1-57-4</b>	<b>760 IAC 1-57-9</b>
<b>760 IAC 1-57-5</b>	<b>760 IAC 1-57-10</b>

SECTION 1. 760 IAC 1-57-1 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-1 Authority**

**Authority:** IC 27-1-12-10.1  
**Affected:** IC 27-1-12-10

Sec. 1. This rule is ~~adopted~~ and promulgated pursuant to the authority granted by IC 27-1-12-10.1. (*Department of Insurance; 760 IAC 1-57-1; filed May 16, 1997, 9:30 a.m.: 20 IR 2778; filed Oct 6, 2003, 5:15 p.m.: 27 IR 505, eff Dec 31, 2003*)

SECTION 2. 760 IAC 1-57-2 IS AMENDED TO READ AS

FOLLOWS:

**760 IAC 1-57-2 Purpose**

**Authority:** IC 27-1-12-10.1  
**Affected:** IC 27-1-12-10.1

Sec. 2. The purpose of this rule is to prescribe the following:  
 (1) Guidelines and standards for statements of actuarial opinion that are to be submitted in accordance with IC 27-1-12-10.1 and for memoranda in support thereof.

~~(2) Guidelines and standards for statements of actuarial opinion that are to be submitted when a company is exempt from IC 27-1-12-10.1.~~

~~(3)~~ (2) Rules applicable to the appointment of an appointed actuary.

(*Department of Insurance; 760 IAC 1-57-2; filed May 16, 1997, 9:30 a.m.: 20 IR 2778; filed Oct 6, 2003, 5:15 p.m.: 27 IR 505, eff Dec 31, 2003*)

SECTION 3. 760 IAC 1-57-3 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-3 Scope**

**Authority:** IC 27-1-12-10.1  
**Affected:** IC 27-1-12-10; IC 27-11-8-2

Sec. 3. (a) This rule shall apply to:

- (1) all life insurance companies and fraternal benefit societies doing business in this state;
- (2) all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities, or accident and health insurance business in this state; and
- (3) any annual statement filed with the commissioner after the effective date of this rule.

(b) A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with section 8 of this rule, and a memorandum in support thereof in accordance with section 9 of this rule, shall be required each year. ~~This subsection does not apply to any company that is exempted from this subsection pursuant to section 6 of this rule.~~

~~(c) Any company that is exempt pursuant to section 6 of this rule from the requirements of subsection (b); must file a statement of actuarial opinion pursuant to section 7 of this rule.~~

~~(d) Notwithstanding subsection (c); the commissioner may require any company to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with sections 8 and 9 of this rule if the commissioner determines that an asset adequacy analysis is necessary with respect to the company.~~ (*Department of Insurance; 760 IAC 1-57-3; filed May 16, 1997, 9:30 a.m.: 20 IR 2778; filed Oct 6, 2003, 5:15 p.m.: 27 IR 505, eff Dec 31, 2003*)

SECTION 4. 760 IAC 1-57-4 IS AMENDED TO READ AS

FOLLOWS:

**760 IAC 1-57-4 Definitions**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10; IC 27-1-20-21

Sec. 4. The following definitions apply throughout this rule, IC 27-1-12-10, and IC 27-1-12-10.1:

(1) "Actuarial opinion" means

(A) with respect to section 8, 9, or 10 of this rule, the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with section 8 of this rule and with presently accepted actuarial standards. and

(B) with respect to section 7 of this rule, the opinion of an appointed actuary regarding the calculation of reserves and related items in accordance with section 7 of this rule and with those presently accepted actuarial standards that specifically relate to that opinion.

(2) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual statement" means the statement required by IC 27-1-20-21 to be filed by the company with the department annually.

(4) "Appointed actuary" means any individual who meets the requirements of section 5(c) of this rule.

(5) "Asset adequacy analysis" means an analysis that meets the requirements of section 5(d) of this rule. The term includes cash flow testing, sensitivity testing, or applications of risk theory.

(6) "Commissioner" means the commissioner of the department of insurance.

(7) "Company" means a life insurance company, fraternal benefit society, or reinsurer subject to this rule.

(8) "Department" means the department of insurance.

(9) "NAIC" means the National Association of Insurance Commissioners.

(10) "Noninvestment grade bonds" means bonds designated as Class 3, 4, 5, or 6 by the NAIC securities valuation office.

(11) "Qualified actuary" means any individual who meets the requirements of section 5(b) of this rule.

*(Department of Insurance; 760 IAC 1-57-4; filed May 16, 1997, 9:30 a.m.; 20 IR 2778; filed Oct 6, 2003, 5:15 p.m.; 27 IR 506, eff Dec 31, 2003)*

SECTION 5. 760 IAC 1-57-5 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-5 General requirements**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10

Sec. 5. (a) Requirements for the submission of statement of actuarial opinion shall be as follows:

(1) A statement entitled "Statement of Actuarial Opinion"

that meets the requirements of section 8 of this rule and is rendered by an appointed actuary shall be included on or attached to page 1 of the annual statement of any company.

(2) A statement of actuarial opinion that meets the requirements of section 7 of this rule and is rendered by an appointed actuary shall be included on or attached to page 1 of the annual statement of any company exempted pursuant to section 6 of this rule from the requirements of section 8 of this rule.

(3) If, in the previous year, a company provided a statement of actuarial opinion in accordance with section 7 of this rule; and, in the current year, does not meet the exemption criteria of section 6(c)(1), 6(c)(2), or 6(c)(5) of this rule, the company shall provide a statement of actuarial opinion in accordance with section 7 with an appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with section 8 of this rule. The statement of actuarial opinion in accordance with section 8 of this rule shall not be required until August 1 following the date of the annual statement.

(4) The commissioner may accept the statement of actuarial opinion filed by a foreign or alien company with the insurance regulator of another state if the commissioner determines that the opinion meets the requirements applicable to a company domiciled in this state.

(5) (2) The commissioner may grant an extension of the date for submission of the statement of actuarial opinion upon written request by a company.

(b) As used in this section, "qualified actuary" means an individual who:

(1) is a member in good standing of the American Academy of Actuaries;

(2) is qualified to sign a statement of actuarial opinion for any life or health insurance company annual statement in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

(3) is familiar with the valuation requirements applicable to life and health insurance companies;

(4) has not been found by the commissioner (or, if so found, has been subsequently reinstated as a qualified actuary), following appropriate notice and hearing, to have:

(A) violated any provision of, or any obligation imposed by, IC 27 or other law in the course of his or her dealings as a qualified actuary;

(B) been found guilty of fraudulent or dishonest practices;

(C) demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(D) submitted to the commissioner during the past five (5) years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or

(E) resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure

to adhere to generally acceptable actuarial standards; and  
(5) has not failed to notify the commissioner of any action similar to that described in subdivision (4) taken by any insurance supervisory regulator of any other state.

(c) As used in this rule, "appointed actuary" means a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by IC 27-1-12-10.1 and this rule, either directly by a company or by the authority of the board of directors through an executive officer of a company. Notice requirements shall be as follows:

- (1) A company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm), and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements in subsection (b).
- (2) A company shall give the commissioner timely notice in the event an appointed actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in subsection (b).
- (3) If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(d) The asset adequacy analysis required by this rule **shall**:  
(1) ~~shall~~ conform to the standards of practice promulgated by the Actuarial Standards Board and any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with section 8 of this rule; and  
(2) ~~shall~~ be based on methods of analysis deemed appropriate for such purposes by the Actuarial Standards Board.

- (e) Liabilities to be covered shall be as follows:
- (1) Pursuant to IC 27-1-12-10.1, the statement of actuarial opinion shall apply to all in force business on the annual statement date regardless of when or where issued. ~~for example, reserves of Exhibits 8, 9, and 10 and claim liabilities in Exhibit 11, Part 1 and equivalent items in the separate account statement or statements.~~
  - (2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with the methods set forth in IC 27-1-12-10, the company shall establish such additional reserve.
  - (3) For years ending prior to December 31, 1999, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:
    - (A) December 31, 1998, the additional reserve divided by three (3);
    - (B) December 31, 1997, two (2) times the additional reserve divided by three (3);
  - (4) (3) Any additional reserve established under subdivision

(2) ~~or (3)~~ and deemed not necessary in any subsequent year may be released. Any amount released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves shall not be deemed an adoption of a lower standard of valuation.

*(Department of Insurance; 760 IAC 1-57-5; filed May 16, 1997, 9:30 a.m.; 20 IR 2779; filed Oct 6, 2003, 5:15 p.m.; 27 IR 506, eff Dec 31, 2003)*

SECTION 6. 760 IAC 1-57-6 IS AMENDED TO READ AS FOLLOWS:

#### 760 IAC 1-57-6 Required opinions

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10.1

Sec. 6. (a) In accordance with IC 27-1-12-10.1, every company doing business in this state shall annually ~~submit the opinion of an appointed actuary in accordance with this rule. The type of opinion submitted shall be determined by this section.~~

(b) A company shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:

- (1) Category A: any company whose admitted assets do not exceed twenty million dollars (\$20,000,000);
- (2) Category B: any company whose admitted assets exceed twenty million dollars (\$20,000,000) but do not exceed one hundred million dollars (\$100,000,000);
- (3) Category C: any company whose admitted assets exceed one hundred million dollars (\$100,000,000) but do not exceed five hundred million dollars (\$500,000,000);
- (4) Category D: any company whose admitted assets exceed five hundred million dollars (\$500,000,000);

(c) The following are the exemption eligibility tests for purposes of this rule:

(1) Any Category A company that, for any year beginning with the year during which this rule becomes effective, meets the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with section 8 of this rule for the year in which these criteria are met. The following ratios shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:

- (A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to one-tenth (0.10);
- (B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than three-tenths (0.30);
- (C) The ratio of the book value of the noninvestment grade bonds to the sum of capital and surplus is less than five-tenths (0.50);

(D) The examiner team for the NAIC has not:

(i) designated the company as a:

(AA) first priority company in any of the two (2)

calendar years preceding the calendar year for which the actuarial opinion is applicable; or

(BB) second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or

(ii) if the company has been so designated; the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(2) Any Category B company that, for any year beginning with the year during which this rule becomes effective; meets the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with section 8 of this rule for the year in which the criteria are met. The following ratios shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:

(A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to seven-hundredths (0.07);

(B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than four-tenths (0.40);

(C) The ratio of the book value of the noninvestment grade bonds to the sum of capital and surplus is less than five-tenths (0.50);

(D) The examiner team for the NAIC has not:

(i) designated the company as a:

(AA) first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or

(BB) second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or

(ii) if the company has been so designated; the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(3) Any Category A company that meets the criteria in subdivision (1) or any Category B company that meets the criteria in subdivision (2) is exempted from the requirement to submit a statement of actuarial opinion in accordance with section 8 of this rule unless the commissioner notifies the company that the exemption is not to be taken.

(4) Any Category A or Category B company that is notified by the commissioner that the exemption is not to be taken shall be required to submit a statement of actuarial opinion in accordance with section 8 of this rule for the year for which it is not exempt.

(5) Any Category C company that fails to meet the criteria in clauses (A) through (C) for any year shall submit a statement

of actuarial opinion in accordance with section 8 of this rule for that year. The ratios in clauses (A) through (C) shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

(A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to five-hundredths (0.05);

(B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than five-tenths (0.50);

(C) The ratio of the book value of the noninvestment grade bonds to the sum of the capital and surplus is less than five-tenths (0.50);

(D) The examiner team for the NAIC has not:

(i) designated the company as a:

(AA) first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or

(BB) second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or

(ii) if the company has been so designated; the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

Any Category C company that has submitted an opinion in accordance with section 8 of this rule and thereafter meets criteria in clauses (A) through (C) each year shall not be required to submit a statement of actuarial opinion in accordance with section 8 of this rule more frequently than every third year.

(6) Any company that is not required by this section to submit a statement of actuarial opinion in accordance with section 8 of this rule for any year shall submit a statement of actuarial opinion in accordance with section 7 of this rule for that year unless the commissioner, pursuant to section 3(d) of this rule; requires a statement of actuarial opinion in accordance with section 8 of this rule.

(d) Every Category D company shall submit a statement of actuarial opinion in accordance with section 8 of this rule for each year beginning with the year in which this rule becomes effective. (*Department of Insurance; 760 IAC 1-57-6; filed May 16, 1997, 9:30 a.m.; 20 IR 2780; filed Oct 6, 2003, 5:15 p.m.; 27 IR 507, eff Dec 31, 2003*)

SECTION 7. 760 IAC 1-57-8 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-8 Statement of actuarial opinion based on an asset adequacy analysis**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10.1

Sec. 8. (a) **A** The statement of actuarial opinion based on an



asset adequacy analysis **required by IC 27-1-12-10.1** shall consist of the following:

- (1) An opening paragraph.
- (2) A scope paragraph.
- (3) A reliance paragraph.
- (4) An opinion paragraph.
- (5) One (1) or more additional paragraphs will be needed in individual company cases as follows:
  - (A) If the appointed actuary considers it necessary to state a qualification of his or her opinion.
  - (B) If the appointed actuary must disclose the method or aggregation for reserves of different products or lines of business for asset adequacy analysis.
  - (C) If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR), or other mandatory or voluntary statement of reserves for asset adequacy analysis.
  - (D) If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion.
  - (E) If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release.
  - (F) If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

(b) A statement of actuarial opinion issued in accordance with this section must contain all pertinent aspects of the language provided in this section. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses his or her professional judgment. The following language is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this section:

(1) The opening paragraph shall include an identification of the appointed actuary and a description of the appointed actuary's relationship to the company and his or her qualifications to sign the opinion. The opening paragraph of the actuarial opinion shall read as follows:

(A) For a company actuary, "I, [name], am [title] of [company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said company to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(B) For a consulting actuary, "I, [name and title of actuary], am a member of the American Academy of Actuaries and am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph must identify the subjects on which an opinion is to be expressed and describe the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, and identify the reserves and related actuarial items covered by the opinion that have not been so analyzed. The scope paragraph shall include a statement such as, "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, [ ]. The following tabulation contains those reserves and related actuarial items which have been subjected to asset adequacy analysis:

Asset Adequacy Tested Amounts Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a)(2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
<b>Exhibit 8 Aggregate Reserves for Life Policies and Contracts</b>					
A. Life Insurance					
B. Annuities					
C. Supplementary Contracts Involving Life Contingencies					
D. Accidental Death Benefit					
E. Disability-Active					
F. Disability-Disabled					
G. Miscellaneous					

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Total ( <del>Exhibit 8, Item 1, (Page 3, __, Line __)</del> )					
<b>Exhibit 9 Aggregate Reserves for Accident and Health Contracts</b>					
A. Active Life Reserve					
B. Claim Reserve					
Total ( <del>Exhibit 9, Item 2, (Page 3, __, Line __)</del> )					
<b>Exhibit 10 Deposit Type Contracts</b>					
1. Premiums and Other Deposit Funds					
1.1. Policyholder Premiums (Page 3, __, Line <del>10.1</del> __)					
1.2. Guaranteed Interest Contracts (Page 3, __, Line <del>10.2</del> __)					
1.3. Other Contract Deposit Funds (Page 3, __, Line <del>10.3</del> __)					
2. Supplementary Contracts Not Involving Life Contingencies (Page 3, __, Line 3) __)					
3. Dividend and Coupon Accumulations (Page 3, __, Line 5) __)					
Total Exhibit 10					
<b>Exhibit 11, Policy and Contract Claims for Life and Accident and Health Policies and Contracts, Part 1</b>					
1. Life (Page 3, __, Line <del>4.1</del> __)					
2. Health (Page 3, __, Line <del>4.2</del> __)					
Total Exhibit 11, Part 1 (Page __, Line __)					
Separate Accounts (Page 3, __, Line <del>27</del> __)					
<b>TOTAL RESERVES</b>					

IMR (Page __ Line __)	
AVR (Page __ Line __)	(c)

Notes:

- (a) The additional actuarial reserves are the reserves established under section 5(e)(2) ~~or 5(e)(3)~~ of this rule.
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in section 5(d) of this rule, by means of symbols that should be defined in footnotes to the table.
- (c) Allocated amount.

(3) The reliance paragraph shall describe those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures, or assumptions, for example, anticipated cash flows according to economic scenarios. The reliance paragraph shall include the following:

(A) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include ~~a~~ **the** statement: ~~such as either of the following:~~

- (i) "I have relied on [name], [title] for [e.g., 'anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios' ~~and~~, or 'certain critical aspects of the analysis performed in conjunction with forming my opinion'] as certified in the attached statement. **I have reviewed the information relied upon for reasonableness.**"
- (ii) "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

A statement of reliance on other experts shall be accompanied by a statement by each of such experts in the form

prescribed by subsection (e).

(B) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include the statement, "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. **I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement.**"

(C) If the appointed actuary has not examined the underlying records, but has relied upon **data (for example, listings and summaries of policies in force and/or asset records)** prepared by the company, ~~or a third party~~, the reliance paragraph shall include ~~a sentence such as either of the following: statement,~~

- (i) **"In forming my opinion on [specify reserves] I have relied upon listings and summaries [of policies and contracts; of asset records] data** prepared by [name and title of company officer certifying in-force records ~~or~~

other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included such review of the actuarial assumptions and actuarial methods used and such tests of the actuarial calculations as I considered necessary."

(ii) "I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities; as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

A statement of reliance on other experts shall be accompanied by a statement by each of such experts in the form prescribed by subsection (e).

(4) The opinion paragraph shall express the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities. The opinion paragraph shall include a statement, such as, "In my opinion the reserves and related actuarial values concerning the statement items identified above:

(A) are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(B) are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method and are in accordance with all other contract provisions;

(C) meet the requirements of Indiana [state of domicile] insurance law and regulations and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(D) are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year end (with any exceptions noted below); or

(E) include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items, including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as Promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow the assumptions used in the analysis.

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Signature of Appointed Actuary

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Address of Appointed Actuary

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Telephone Number of Appointed Actuary".

(c) The adoption for new issues or new claims or other new liabilities of an actuarial assumption, which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities, is not a change in actuarial assumptions within the meaning of this section.

(d) If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason or reasons for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(e) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion a statement similar to either of the following by a company officer or the accounting firm who prepared such underlying data:

(1) "I [name of officer], [title], of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [ ], prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

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Signature of the Officer of the Company or Accounting Firm

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Address of the Officer of the Company or Accounting Firm

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Telephone Number of the Officer of the Company or Accounting Firm".

(2) "I, [name of officer], [title] of [name and address of company, accounting firm, or security analyst], hereby affirm that the listings, summaries, and analyses relating to data

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prepared for and submitted to [name of appointed actuary] in support of the asset oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

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Signature of the Officer of the Company, the Accounting Firm, or the Security Analyst

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Address of the Officer of the Company, the Accounting Firm, or the Security Analyst

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Telephone Number of the Officer of the Company, the Accounting Firm, or the Security Analyst”.

(f) The commissioner may accept the valuation of a foreign insurer when that valuation meets the requirement applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of subsection (b)(4)(C), the commissioner may make one (1) or more of the following additional approaches available to the opining actuary:

(1) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile”. If the commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

(2) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company’s request to file an opinion based on the laws of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met”. If the commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

(3) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state”, including the following:

(A) If the commissioner chooses to allow this alternative, a formal written list of products (to be added to

the table in clause (B)) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

(B) If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

(C) The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

(D) If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

(E) The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

Notwithstanding this subsection, the commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the commissioner after consultation with the company, the commissioner may contract an independent actuary at the company’s expense to prepare and file the opinion. (*Department of Insurance; 760 IAC 1-57-8; filed May 16, 1997, 9:30 a.m.; 20 IR 2783; filed Oct 6, 2003, 5:15 p.m.; 27 IR 508, eff Dec 31, 2003*)

SECTION 8. 760 IAC 1-57-9 IS AMENDED TO READ AS FOLLOWS:

### 760 IAC 1-57-9 Description of actuarial memorandum including an asset adequacy analysis

Authority: IC 27-1-12-10.1

Affected: IC 27-1-3.1; IC 27-1-12-10

Sec. 9. (a) In accordance with IC 27-1-12-10.1, the appointed

actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under an opinion issued pursuant to section 8 of this rule. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of section 5(b) of this rule, with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(d) The reviewing actuary shall have the same status as an examiner under IC 27-1-3.1 for purposes of obtaining data from the company. The work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to IC 27-1-12-10 and IC 27-1-12-10.1. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer under this rule for the current year or any one (1) of the preceding three (3) years.

**(e) The appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection (g). The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.**

**(f)** When an actuarial opinion ~~under section 8 of this rule~~ is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for

asset adequacy analysis referred to in section 5(d) of this rule and any additional standards under this rule. It shall specify the following:

(1) For reserves:

- (A) product descriptions, including market description, underwriting and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;
- (B) source of liability in force;
- (C) reserve method and basis;
- (D) investment reserves; ~~and~~
- (E) reinsurance arrangements;
- (F) identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and**
- (G) documentation of assumptions to test reserves for:**
  - (i) lapse rates (both base and excess);**
  - (ii) interest crediting rate strategy;**
  - (iii) mortality;**
  - (iv) policyholder dividend strategy;**
  - (v) competitor or market interest rate;**
  - (vi) annuitization rates;**
  - (vii) commissions and expenses; and**
  - (viii) morbidity.**

**The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.**

(2) For assets:

- (A) portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;
- (B) investment and disinvestment assumptions;
- (C) source of asset data; ~~and~~
- (D) asset valuation bases; ~~and~~
- (E) documentation of assumptions made for the following:**
  - (i) default costs;**
  - (ii) bond call function;**
  - (iii) mortgage prepayment function;**
  - (iv) determining market value for assets sold due to disinvestment strategy; and**
  - (v) determining yield on assets acquired through the investment strategy.**

**The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.**

(3) Analysis basis:

- (A) methodology;
- (B) rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
- (C) rationale for degree of rigor in analyzing different blocks of business;

(D) criteria for determining asset adequacy; and

(E) effect **whether the impact** of federal income taxes **was considered and the method of treating** reinsurance and other relevant factors: **in the asset adequacy analysis.**

**(4) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis.**

~~(4)~~ **(5) Summary of results.**

~~(5)~~ **(6) Conclusion.**

~~(f)~~ **(g)** The memorandum shall include a statement similar to, "Actuarial methods, considerations, and analysis used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

**(h) The regulatory asset adequacy issues summary required by subsection (e) shall state the name of the company for which it is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion. The regulatory asset adequacy issues summary shall include the following:**

**(1) Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.**

**(2) The extent to which the appointed actuary uses assumptions in the asset adequacy that are materially different than the assumptions used in the previous asset adequacy analysis.**

**(3) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion.**

**(4) Comments on any interim results that may be of significant concern to the appointed actuary.**

**(5) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested.**

**(6) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including, but not limited to, those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately**

**considered in the asset adequacy analysis.**

*(Department of Insurance; 760 IAC 1-57-9; filed May 16, 1997, 9:30 a.m.; 20 IR 2787; filed Oct 6, 2003, 5:15 p.m.; 27 IR 512, eff Dec 31, 2003)*

SECTION 9. 760 IAC 1-57-10 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-10 Additional considerations for analysis**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10.1

Sec. 10. **(a) For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with section 8 of this rule, reserves and assets may be aggregated by either of the following methods:**

**(1) Aggregate the reserves and related actuarial items and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated:**

**(2) Aggregate the results of asset adequacy analysis of one (1) or more products or lines of business; the reserves for which prove through analysis to be redundant; with the results of one (1) or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:**

**(A) are developed using consistent economic scenarios; or**

**(B) are subject to mutually independent risks; that is, the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.**

In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of the method established in subdivision (1) or (2), whichever is applicable, and describe the aggregation in the supporting memorandum.

**(b) (a) The appointed actuary shall analyze only those assets held in support of the reserves that are the subject for specific analysis, hereafter called "specified reserves". A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subsection (c). If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.**

(b) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for in risk analysis and reserve support.

(c) The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

(d) Interest rate scenarios used in performing the asset adequacy analysis shall be as follows:

(1) For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; however, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:

- (A) Level with no deviation.
- (B) Uniformly increasing over ten (10) years at one-half percent (0.5%) per year and then level.
- (C) Uniformly increasing at one percent (1%) per year over five (5) years and then uniformly decreasing at one percent (1%) per year to the original level at the end of ten (10) years and then level.
- (D) An immediate increase of three percent (3%) and then level.
- (E) Uniformly decreasing over ten (10) years at one-half percent (0.5%) per year and then level.
- (F) Uniformly decreasing at one percent (1%) per year over five (5) years and then uniformly increasing at one percent (1%) per year to the original level at the end of ten (10) years and then level.
- (G) An immediate decrease of three percent (3%) and then level.

For these and other scenarios that may be used, projected interest rates for a five (5) year Treasury Note need not be reduced beyond the point where the five (5) year Treasury Note yield would be at fifty percent (50%) of its initial level.

(2) The beginning interest rates may be based on:

- (A) interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested; or
  - (B) an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date.
- Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest

rates should be consistent for all interest rate scenarios.

(e) The appointed actuary shall retain on file, for at least seven (7) years:

- (1) sufficient documentation so that it will be possible to determine the procedures followed;
- (2) the analysis performed;
- (3) the bases for assumptions; and
- (4) the results obtained.

(Department of Insurance; 760 IAC 1-57-10; filed May 16, 1997, 9:30 a.m.: 20 IR 2787; filed Oct 6, 2003, 5:15 p.m.: 27 IR 514, eff Dec 31, 2003)

SECTION 10. 760 IAC 1-57-7 IS REPEALED.

SECTION 11. SECTIONS 1 through 10 of this document take effect December 31, 2003.

LSA Document #03-7(F)

Notice of Intent Published: 26 IR 1596

Proposed Rule Published: July 1, 2003; 26 IR 3398

Hearing Held: July 31, 2003

Approved by Attorney General: September 19, 2003

Approved by Governor: October 3, 2003

Filed with Secretary of State: October 6, 2003, 5:15 p.m.

Incorporated Documents Filed with Secretary of State: None

## TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

LSA Document #03-21(F)

### DIGEST

Amends 820 IAC 4-1-11 to revise the graduation requirements for a manicurist student in a cosmetology school. Amends 820 IAC 6-1-3 to bring the requirements for the certificate of completion into conformity with the distance learning continuing education requirements and procedures. Adds 820 IAC 6-3 to establish distance learning continuing education requirements and procedures for cosmetology professionals, continuing education educators, and courses. Effective 30 days after filing with the secretary of state.

**820 IAC 4-1-11**

**820 IAC 6-1-3**

**820 IAC 6-3**

SECTION 1. 820 IAC 4-1-11 IS AMENDED TO READ AS FOLLOWS:

**820 IAC 4-1-11 Graduation defined**

Authority: IC 25-8-3-23

Affected: IC 25-8-5-4; IC 25-8-9-3

Sec. 11. A student shall be deemed to have graduated from a cosmetology school (having completed the educational requirements established by IC 25-8-9-3(3)) when all of the following have occurred:

(1) When one (1) of the following education requirements have been completed:

(A) At least the one thousand five hundred (1,500) hours as required by 820 IAC 4-4-4.

(B) At least the ~~three~~ **four** hundred (~~300~~) **fifty (450)** hours as required by 820 IAC 4-4-5.

(C) At least the three hundred (300) hours as required by 820 IAC 4-4-6.

(D) At least the three hundred (300) hours as required by 820 IAC 4-4-7.

(E) At least the seven hundred (700) hours as required by 820 IAC 4-4-7.1.

(F) At least the one thousand (1,000) hours as required by 820 IAC 4-4-7.2.

(2) The student has passed all required examinations.

(3) All money owed by the student to the school has been paid.

*(State Board of Cosmetology Examiners; 820 IAC 4-1-11; filed Feb 23, 1990, 5:00 p.m.: 13 IR 1406, eff Apr 1, 1990; filed Dec 3, 1991, 11:00 a.m.: 15 IR 570; filed Dec 29, 1998, 10:54 a.m.: 22 IR 1489; filed May 4, 2001, 11:16 a.m.: 24 IR 2685; readopted filed May 22, 2001, 9:56 a.m.: 24 IR 3236; filed Sep 30, 2003, 11:30 a.m.: 27 IR 515)*

SECTION 2. 820 IAC 6-1-3 IS AMENDED TO READ AS FOLLOWS:

### **820 IAC 6-1-3 Certificate of course completion**

Authority: IC 25-8-3-23

Affected: IC 25-8-15-6

Sec. 3. The certificate of course completion required under IC 25-8-15-6 shall indicate the following:

(1) Name, address, and signature of the approved cosmetology educator **and provider**.

**(2) Name, address, and signature of the instructor.**

~~(2)~~ **(3)** Name, address, and license number of the attendee.

~~(3)~~ **(4)** Title of the course.

~~(4)~~ **(5)** Course location.

~~(5)~~ **(6)** Date of the course.

~~(6)~~ **(7)** Number of continuing education credit hours completed.

*(State Board of Cosmetology Examiners; 820 IAC 6-1-3; filed Jul 18, 1996, 8:45 a.m.: 19 IR 3467; readopted filed Jul 18, 2002, 12:21 p.m.: 25 IR 4221; filed Sep 30, 2003, 11:30 a.m.: 27 IR 516)*

SECTION 3. 820 IAC 6-3 IS ADDED TO READ AS FOLLOWS:

### **Rule 3. Distance Learning Continuing Education**

#### **820 IAC 6-3-1 "Distance education" defined**

Authority: IC 25-1-4-3.2; IC 25-8-15-11; IC 25-8-16-4

Affected: IC 25-8-15; IC 25-8-16

**Sec. 1. (a) As used in this rule, "distance education" means a course in which instruction does not take place in a traditional classroom setting but rather through other media where educator and student are separated by distance and sometimes by time.**

**(b) Methods of distance learning education include, but are not limited to, the following:**

**(1) Education by correspondence.**

**(2) Video instruction.**

**(3) Internet education.**

**(c) A provider means an individual or company that creates and delivers continuing education by distance learning methods.** *(State Board of Cosmetology; 820 IAC 6-3-1; filed Sep 30, 2003, 11:30 a.m.: 27 IR 516)*

#### **820 IAC 6-3-2 Distance education courses and providers**

Authority: IC 25-1-4-3.2; IC 25-8-15-11; IC 25-8-16-4

Affected: IC 25-8-15-4; IC 25-8-16

**Sec. 2. (a) The state board of cosmetology examiners (board) must approve continuing education courses offered by a distance learning method and the provider of the distance learning method.**

**(b) A licensee must complete the distance education course within one (1) year of the date of enrollment.**

**(c) Course subjects allowed under IC 25-8-15-4, 820 IAC 6-2-2, and 820 IAC 6-2-3 may be taken through distance learning. However, a maximum of fifty percent (50%) (eight (8) hours) of continuing education courses will be credited toward the sixteen (16) hour requirement.**

**(d) The board must approve a distance education course if the board determines to its satisfaction the following:**

**(1) The distance education course serves to protect the public by contributing to the maintenance and improvement of the quality of the services provided by the cosmetology professional to the public.**

**(2) An appropriate and complete application has been filed and approved by the board.**

**(3) The distance education course meets the content requirements as prescribed in 820 IAC 6-2-2 and 820 IAC 6-2-3.**

**(4) The distance education course(s) meets all other requirements as prescribed in the statutes and rules, which govern the operation of approved courses.**

*(State Board of Cosmetology Examiners; 820 IAC 6-3-2; filed Sep 30, 2003, 11:30 a.m.: 27 IR 516)*

#### **820 IAC 6-3-3 Approval of distance education course and provider**

Authority: IC 25-1-4-3.2; IC 25-8-15-11; IC 25-8-16-4

Affected: IC 25-8-15; IC 25-8-16



Sec. 3. In order for a distance education course to be approved for credit, the cosmetology educator shall submit the following information:

(1) For course design, the following:

(A) A plan for submitting substantial changes in the course to the state board of cosmetology examiners (board). Substantial changes include, but are not limited to, the following:

- (i) Expanded or reduced course content.
- (ii) Changes in the time allotments for portions of the course.
- (iii) Changes or redirect learning objectives.
- (iv) Change of instructor.
- (v) Changes in course delivery method.

(B) A course may provide a test and the participant must score at least a seventy-five percent (75%) to pass and receive credit for the class. Tests may have multiple choice, true/false, fill-in, and/or essays questions with at least twenty (20) questions per two (2) hours of instruction. If a test is not used, an alternate method of timing the licensee's participation must be provided to verify completion of the course.

(2) For course delivery, the following:

(A) Names and qualifications for cosmetology educator, provider, and instructor of the course offered by distance learning methods. Submit their credentials, including any specific training for teaching via the specified delivery method as well as a plan for their continued professional development.

(B) An identity affirmation statement is required. The licensee is required to sign the statement before any certificate of completion for distance learning is issued.

(C) A plan for sufficient security to:

- (i) ensure against fraudulent practices;
- (ii) protect licensee identification information; and
- (iii) verify that the student enrolled in the course is the one who completes the course and any required tests.

(3) For licensee support services, information about the course, if applicable, including the following:

- (A) Broadcasts and distance site locations.
- (B) Faculty contact information.
- (C) Course outline and learning objectives.
- (D) Testing and grading information.
- (E) Guidelines regarding what constitutes successful completion of the course.
- (F) Homework assignments and deadlines.
- (G) Fees and refunds.
- (H) Prerequisites for the course.
- (I) List of required student materials.
- (J) A list of other support services made available to the students.

(4) For evaluation and assessment, an evaluation form, which solicits licensee feedback on:

- (A) the delivery approach;
- (B) the equipment;

- (C) suggestions for class improvement; and
- (D) their overall satisfaction with the course.

It is required that every licensee in a distance education course be provided an evaluation form at the conclusion of the course.

(State Board of Cosmetology Examiners; 820 IAC 6-3-3; filed Sep 30, 2003, 11:30 a.m.: 27 IR 516)

LSA Document #03-21(F)

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Incorporated Documents Filed with Secretary of State: None

## TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

LSA Document #02-270(F)

### DIGEST

Amends 839 IAC 1-3-2 concerning licensure by examination for social workers and clinical social workers. Amends 839 IAC 1-4-5 concerning supervision for marriage and family therapist applicants. Amends 839 IAC 1-5-1 concerning educational requirements for mental health counselors. Adds 839 IAC 1-5-1.5 concerning experience requirements for mental health counselors. Effective 30 days after filing with the secretary of state.

839 IAC 1-3-2

839 IAC 1-4-5

839 IAC 1-5-1

839 IAC 1-5-1.5

SECTION 1. 839 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-3-2 Licensure by examination for social workers and clinical social workers

Authority: IC 25-23.6-2-8

Affected: IC 25-22.5; IC 25-23.6-5-1; IC 25-23.6-5-3.5; IC 25-33

Sec. 2. (a) An applicant for licensure as a social worker or clinical social worker shall pass an examination required by the board.

(b) As used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, "experience" means full-time paid experience of at least one thousand five hundred (1,500) hours per year. Part-time experience will be considered if the applicant can verify a total of four thousand five hundred (4,500) hours, three thousand (3,000) hours of which must take place after receiving the graduate degree.

(c) As used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, supervision must be face-to-face contact between the supervisor and supervisee for the purpose of assisting the supervisee in the process of learning the skills of social work or clinical social work practice for a minimum of four (4) hours per month.

(d) As used in IC 25-23.6-5-1, “equivalent supervisor” means a psychologist licensed under IC 25-33 or a physician licensed under IC 25-22.5 who has training in psychiatric medicine.

(e) As used in IC 25-23.6-5-3.5, “equivalent supervisor” means a psychologist licensed under IC 25-33, a physician licensed under IC 25-22.5 who has training in psychiatric medicine, a marriage and family therapist licensed under IC 25-23.6, or a mental health counselor licensed under IC 25-23.6.

(f) (d) Experience, as that term is used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, shall be earned as an employee in one (1) of the following settings:

- (1) Social service agencies.
- (2) Schools.
- (3) Institutions of higher education.
- (4) Hospitals.
- (5) Private practice.
- (6) Mental health centers.
- (7) Correctional institutions.
- (8) Home health agencies.
- (9) Long term health care facilities.
- (10) Employee assistance programs.
- (11) Occupational social services.
- (12) Military facilities.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-2; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2457; filed Nov 4, 1992, 5:00 p.m.: 16 IR 871; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505, eff Jul 1, 1999; filed Oct 1, 2003, 9:28 a.m.: 27 IR 517)*

SECTION 2. 839 IAC 1-4-5 IS AMENDED TO READ AS FOLLOWS:

**839 IAC 1-4-5 Supervision for marriage and family therapist licensure applicants**

**Authority:** IC 25-23.6-2-8

**Affected:** IC 25-23.6-8-2.5; IC 25-23.6-8-2.7

Sec. 5. (a) As used in IC 25-23.6-8-2.5, “qualified supervisor” ~~and, as used in IC 25-23.6-8-2.7, “equivalent supervisor”~~ means **any of the following:**

- (1) An American Association for Marriage and Family Therapy approved supervisor.
- (2) An American Association for Marriage and Family Therapy ~~approved supervisor in training, or candidate.~~
- (3) A supervisor who has demonstrated to the marriage and family therapy section of the board possession of a master’s degree or higher in the mental health field, training and supervision in marriage and family therapy ~~which that~~

focused on family systems, and completion of at least thirty (30) clock hours in marriage and family therapy supervision training.

(b) As used in IC 25-23.6-8-2.7, “equivalent supervisor” means an individual who is licensed in a mental health field or, if the supervision was provided in a state where no regulation exists, by a mental health professional of equivalent status, and is any of the following:

- (1) An American Association for Marriage and Family Therapy approved supervisor.
- (2) An American Association for Marriage and Family Therapy supervisor candidate.
- (3) A supervisor who:
  - (A) has possession of a master’s degree or higher in a mental health field;
  - (B) has five (5) years of post-master’s professional practice experience; and
  - (C) is supervising within their scope of experience and training.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-4-5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507, eff Jul 1, 1999; filed Oct 1, 2003, 9:28 a.m.: 27 IR 518)*

SECTION 3. 839 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

**839 IAC 1-5-1 Educational requirements for mental health counselors**

**Authority:** IC 25-23.6-2-8

**Affected:** IC 25-23.6-8.5

Sec. 1. (a) As used in IC 25-23.6-8.5-1, “master’s degree in an area related to mental health counseling” means a degree earned in one (1) of the following programs:

- (1) Clinical social work.
- (2) Psychology.
- (3) Human services.
- (4) Human development.
- (5) Family relations.
- (6) Counseling.
- (7) Programs accredited by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or the Council on Rehabilitation Education (CORE).

(b) An applicant for licensure as a mental health counselor with a graduate degree not listed in subsection (a), or an applicant asserting that his or her program is equivalent to a program in counseling whose content areas are listed in IC 25-23.6-8.5-3, must provide the board with the following information:

- (1) Evidence that their degree program and any additional course work are equivalent to the criteria for a graduate degree in counseling as set forth in this section.
- (2) An official college transcript.

- (3) Appropriate certifications or affidavits from university officials.
- (4) Any additional supporting documentation as requested by the board.

(c) As used in IC 25-23.6-8.5-2, “regional accrediting body” means a college or university that was accredited prior to or within two (2) years of the time of the applicant’s graduation by one (1) of the following:

- (1) New England Association of Schools and Colleges.
- (2) Middle States Association of Colleges and Schools.
- (3) North Central Association of Colleges and Schools.
- (4) Northwest Association of Schools and Colleges.
- (5) Southern Association of Schools and Colleges.
- (6) Western Association of Schools and Colleges.

(d) An applicant for licensure as a mental health counselor under IC 25-23.6-8.5 must show successful completion of a degree curriculum that shall encompass a minimum of forty-eight (48) semester hours or seventy-two (72) quarter hours of graduate study for the master’s degree or a minimum of ninety-six (96) semester hours or one hundred forty-four (144) quarter hours of graduate study for the doctoral degree. If the course titles as stated on the transcript do not clearly reflect the course work content areas as listed in IC 25-23.6-8.5-3, the applicant must document the course or combination of courses in which the material was covered. Further, the applicant for licensure shall document a minimum of sixty (60) **semester** hours or **ninety (90) quarter hours** of graduate credit in mental health counseling or a related field. Only graduate level courses are acceptable for establishing equivalency. The board will not accept course work counted or credited toward an undergraduate degree.

(e) The following criteria shall be used to identify a master’s or doctoral program in counseling or an area related to mental health counseling:

- (1) The program, wherever it may be housed, shall be clearly identified as a counseling program in pertinent catalogs and brochures and shall specify the program’s intent to educate and train counselors.
- (2) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.
- (3) The program shall have an identifiable mental health professional responsible for the program.
- (4) The program shall have an integrated, organized sequence of study that follows the CACREP standards.
- (5) The program shall have an identifiable body of students who are matriculated in that program for a degree.
- (6) The program shall include a supervised practicum and internship.
- (7) The degree program may or may not include an advanced internship. However, the advanced internship must be conducted in a setting focused on mental health counseling

and/or mental health services under the auspices of an approved graduate counseling program.

(f) As used in IC 25-23.6-8.5-3, “practicum” means a distinctly defined supervised curricular experience intended to enable the student to develop basic counseling skills and to integrate professional knowledge and skills appropriate to the student’s program emphasis. The practicum shall be a minimum of one hundred (100) clock hours and include the following:

- (1) A minimum of forty (40) hours of direct service with clients so that experience can be gained in individual and group interactions; at least one-fourth (¼) of these hours should be in group work.
- (2) A minimum of one (1) hour per week of individual supervision, over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member, using audiotape, videotape, and/or direct observation.
- (3) A minimum of one and one-half (1½) hours per week of group supervision with other students in similar practica over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member.
- (4) An evaluation of the student’s performance throughout the practicum, including a formal evaluation at the completion of the practicum.

(g) As used in IC 25-23.6-8.5-3, “internship” means a distinctly defined, supervised curricular experience intended to enable the student to refine and to enhance basic counseling skills, to develop more advanced counseling skills, and to integrate professional knowledge and skills appropriate to the student’s initial postgraduation professional placement. A supervised internship of six hundred (600) clock hours, that is begun after successful completion of the student’s practicum, includes the following:

- (1) A minimum of two hundred forty (240) hours of direct service with clients appropriate to the program of study.
- (2) A minimum of one (1) hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor.
- (3) A minimum of one and one-half (1½) hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor.
- (4) The opportunity for the student to become familiar with a variety of professional activities other than direct service.
- (5) The opportunity for the student to develop audiotapes and/or videotapes of the student’s interactions with clients appropriate for use in supervision.
- (6) The opportunity for the student to gain supervised experience in the use of a variety of professional resources, such as:
  - (A) assessment instruments;
  - (B) computers;
  - (C) print and nonprint media;

- (D) professional literature;
- (E) research; and
- (F) information and referral to appropriate providers.

(7) A formal evaluation of the student's performance during the internship, by a program faculty supervisor, in consultation with the site supervisor.

(h) The practicum and internship experiences listed in this section are tutorial forms of instruction. Individual supervision is supervision rendered to one (1) person at a time, and group supervision is supervision rendered to at least two (2) and not more than twelve (12) individuals at one (1) time.

(i) As used in IC 25-23.6-8.5-3, "advanced internship" means a minimum of three hundred (300) clock hours of supervised experience that must be completed in a setting in which the individual is providing mental health services under the direct supervision of a professional as defined in subsection (f): **(m).**

(j) The required practicum, internship, and advanced internship experiences listed in this section must have been primarily in the provision of direct counseling services. This includes knowledge, skill, or experience derived from direct observations of, and participation in, the practice of counseling. **Academic credit for these must appear on the applicant's official graduate transcript.** No course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward these clinical semester hour requirements.

**(k) The required experiences gained through the practicum, internship, and advanced internship may not be taken concurrently, and the academic credit must appear on the applicant's official graduate transcript.**

~~(l)~~ **(l)** As used in IC 25-23.6-8.5-3, "one hundred (100) hours of face-to-face supervision" refers to the entire clinical experience requirement of one thousand (1,000) hours. This includes individual and group supervision. The applicant must document that at least one hundred (100) hours were spent face-to-face with a supervisor during the practicum, internship, and advanced internship. The graduate counseling student may work away from the premises of the educational institution but must be enrolled in a counseling practicum, internship, or advanced internship and must conduct counseling under the auspices of that graduate program.

~~(m)~~ **(m)** As used in IC 25-23.6-8.5-3, "supervised practice experience" means experience gained under supervision provided by:

- (1) a counselor educator;
- (2) a licensed ~~and/or certified~~ master's level or doctoral level:
  - (A) mental health counselor;
  - (B) clinical social worker;
  - (C) marriage and family therapist;
  - (D) a physician who has training in psychiatric medicine;

- (E) psychologist; or
- (F) clinical nurse specialist in psychiatric or mental health nursing; or

(3) another state-regulated mental health professional or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status.

~~(n)~~ **(m)** As used in IC 25-23.6-8.5-4, "three thousand (3,000) hours of post-graduate clinical experience" means experience under approved supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.

~~(n)~~ **(n)** As used in IC 25-23.6-8.5-4, "equivalent supervisor" shall be supervision provided by:

- (1) a licensed and/or certified master's level or doctoral level:
  - (A) clinical social worker;
  - (B) marriage and family therapist;
  - (C) a physician who has training in psychiatric medicine;
  - (D) psychologist; or
  - (E) clinical nurse specialist in psychiatric or mental health nursing; or

(2) another state-regulated mental health professional; or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status: *(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1311; filed Oct 1, 2003, 9:28 a.m.: 27 IR 518)*

SECTION 4. 839 IAC 1-5-1.5 IS ADDED TO READ AS FOLLOWS:

## 839 IAC 1-5-1.5 Experience requirements for mental health counselors

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6-8.5-4

**Sec. 1.5. (a)** As used in IC 25-23.6-8.5-4, "three thousand (3,000) hours of postgraduate clinical experience over a two (2) year period" means experience under approved supervision, acquired over no less than twenty-one (21) months and over no more than forty-eight (48) months, any time subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.

**(b)** As used in IC 25-23.6-8.5-4, "equivalent supervisor" means an individual who is supervising within their scope of experience and training and is any of the following:

- (1) Licensed as a clinical social worker.

- (2) Licensed as a marriage and family therapist.
- (3) Licensed as a physician who has training in psychiatric medicine.
- (4) Licensed as a psychologist.
- (5) Licensed as a clinical nurse specialist in psychiatric or mental health nursing.
- (6) A mental health professional of equivalent status if the supervision was provided in a state where no regulation exists.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1.5; filed Oct 1, 2003, 9:28 a.m.: 27 IR 520)*

*LSA Document #02-270(F)*

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## TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #02-268(F)

### DIGEST

Amends 844 IAC 5-1-1 concerning definitions. Amends 844 IAC 5-1-3 concerning disciplinary action. Adds 844 IAC 5-3 concerning appropriate use of the Internet in medical practice. Adds 844 IAC 5-4 concerning prescribing to persons not seen by the physician. Effective 30 days after filing with the secretary of state.

<b>844 IAC 5-1-1</b>	<b>844 IAC 5-3</b>
<b>844 IAC 5-1-3</b>	<b>844 IAC 5-4</b>

SECTION 1. 844 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

### 844 IAC 5-1-1 Definitions

**Authority:** IC 25-22.5-2-7

**Affected:** IC 16-18-2-199; IC 16-42-19-5; IC 25-1-9; IC 25-10; IC 25-13; IC 25-14; IC 25-20; IC 25-20.5-1-7; IC 25-22.5-6-2.1; IC 25-23; IC 25-23.5; IC 25-23.6; IC 25-24; IC 25-26-13-17; IC 25-27; IC 25-27.5; IC 25-29; IC 25-33; IC 25-34.5; IC 25-35.6; IC 35-48-1-9; IC 35-48-2

Sec. 1. For purposes of the standards of professional conduct and competent practice of medicine, this article and IC 25-1-9, the following definitions apply:

- (a) "Professional incompetence" may include, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reason-

able care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality.

(1) "Addict" means a person who is physiologically and/or psychologically dependent upon a drug that is classified as a narcotic, controlled substance, or dangerous drug.

(2) "Classified as a narcotic" means any substance that is designated as a controlled substance under IC 35-48-1 or IC 35-48-2, or so classified in any subsequent amendment or revision of said statutes.

(3) "Controlled substance" has the same meaning set forth in IC 35-48-1-9.

(4) "Dangerous drug" means any substance that is designated as a controlled substance under IC 35-48-1 or IC 35-48-2, or so classified in any subsequent amendment or revision of said statute.

(5) "General health information site" means a noninteractive Internet site that is accessible by anyone with access to the Internet and intended to provide general, user nonspecific information or advice about maintaining health or the treatment of an acute or chronic illness, health condition, or disease state.

(6) "Habitue" means a person who:

- (A) is physiologically and/or psychologically dependent upon any narcotic drug classified as a narcotic, dangerous drug, or controlled substance under Indiana law; or
- (B) consumes, on a regular basis and without any medically justifiable purpose, a narcotic drug classified as a narcotic, dangerous drug, or controlled substance under Indiana law, whether or not such person has developed a physiological or psychological dependence upon such substance.

(7) "Institutional setting" means any health care facility whose primary purpose is to provide a physical environment for patients to obtain health care services, except those places where practitioners, as defined by IC 16-42-19-5, who are duly licensed, engage in private practice and pharmacies licensed under IC 25-26-13-17.

(8) "Internet medical practice site" means a patient-specific Internet site, access to which is limited to licensed physicians, associated medical personnel, and patients.

(9) "Internet site" means an electronic source of health information content, commerce, connectivity, and/or service delivery.

(10) "Legend drug" has the meaning set forth in IC 16-18-2-199.

(11) "Passive tracking mechanism" means a persistent electronic file used to track Internet site navigation, which allows the Internet site to record and retain user-specific navigation information whenever the user accesses the Internet site. Examples include:

- (A) cookies;
- (B) clear.gifs; or
- (C) Web bugs.

(12) “Personal health information” means any information, whether oral or recorded in any form or medium, that:

(A) is created or received by a physician or other health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(B) relates to the:

- (i) past, present, or future physical or mental health or condition of an individual;
- (ii) provision of health care to an individual; or
- (iii) past, present, or future payment for the provision of health care to an individual.

(13) “Physician-patient e-mail” means computer-based communication between physicians or associated medical personnel and patients within a professional relationship in which the physician has taken on an explicit measure of responsibility for the patient’s care.

(14) “Practitioner” means a person who holds an unlimited license to practice medicine or osteopathic medicine in Indiana or a limited license or permit as may be issued by the board.

(15) “Professional incompetence” may include, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality.

(16) “Specific professional health care provider” means any person who holds a specific license to practice in an area of health care in Indiana, including, but not limited to, the following persons:

- (A) Any chiropractor licensed under IC 25-10.
- (B) Any dental hygienist licensed under IC 25-13.
- (C) Any dentist licensed under IC 25-14.
- (D) Any hearing aid dealer licensed under IC 25-20.
- (E) Any nurse licensed under IC 25-23.
- (F) Any optometrist licensed under IC 25-24.
- (G) Any pharmacist licensed under IC 25-26.
- (H) Any physical therapist licensed under IC 25-27.
- (I) Any podiatrist licensed under IC 25-29.
- (J) Any psychologist licensed under IC 25-33.
- (K) Any speech pathologist or audiologist licensed under IC 25-35.6.
- (L) Any respiratory care practitioner certified under IC 25-34.5.
- (M) Any occupational therapist certified under IC 25-23.5.
- (N) Any clinical social worker, marriage and family therapist, or mental health counselor licensed under IC 25-23.6.
- (O) Any physician assistant certified under IC 25-27.5.
- (P) Any hypnotist certified under IC 25-20.5-1-7.

(d) For purposes of clarifying the terminology used in IC 25-

22.5-6-2.1(b)(7); and for purposes of the standards of professional conduct and competent practice of medicine, the following definitions apply:

(1) “Addict” means a person who is physiologically and/or psychologically dependent upon a drug which is classified as a narcotic, controlled substance or dangerous drug.

(2) “Habitue” means a person who is physiologically and/or psychologically dependent upon any narcotic, drug classified as a narcotic, dangerous drug or controlled substance under Indiana law; or a person who consumes on a regular basis, and without any medically justifiable purpose, a narcotic drug classified as a narcotic, dangerous drug or controlled substance under Indiana law; whether or not such person has developed a physiological or psychological dependence upon such substance.

(3) “Classified as a narcotic” means any substance which is designated as a controlled substance under IC 35-48-1, or IC 35-48-2, or so classified in any subsequent amendment or revision of said statutes.

(4) “Dangerous drug” means any substance which is designated as a controlled substance under IC 35-48-1, or IC 35-48-2, or so classified in any subsequent amendment or revision of said statute.

(Medical Licensing Board of Indiana; 844 IAC 5-1-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1522; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 1, 2003, 9:32 a.m.: 27 IR 521)

SECTION 2. 844 IAC 5-1-3 IS AMENDED TO READ AS FOLLOWS:

## 844 IAC 5-1-3 Disciplinary action

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9

Sec. 3. Failure to comply with ~~section 1 of this rule, and 844 IAC 5-2 article~~ may result in disciplinary proceedings against the offending practitioners. Further, all practitioners licensed in Indiana shall be responsible for having knowledge of the standards of conduct and practice established by statute and ~~regulation rule~~ pursuant to IC 25-22.5-2-7. (Medical Licensing Board of Indiana; 844 IAC 5-1-3; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1526; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325; filed Oct 1, 2003, 9:32 a.m.: 27 IR 521)

SECTION 3. 844 IAC 5-3 IS ADDED TO READ AS FOLLOWS:

## Rule 3. Appropriate Use of the Internet in Medical Practice

### 844 IAC 5-3-1 General provisions

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5

Sec. 1. A practitioner shall comply with this article when utilizing the Internet in the delivery of patient care. (Medi-

*cal Licensing Board of Indiana; 844 IAC 5-3-1; filed Oct 1, 2003, 9:32 a.m.: 27 IR 522)*

**844 IAC 5-3-2 Evaluation of the patient**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5

Sec. 2. A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to the treatment recommended or provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise. (*Medical Licensing Board of Indiana; 844 IAC 5-3-2; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523*)

**844 IAC 5-3-3 Treatment**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5

Sec. 3. Treatment, including issuing a prescription, based solely on an on-line questionnaire or consultation is prohibited. (*Medical Licensing Board of Indiana; 844 IAC 5-3-3; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523*)

**844 IAC 5-3-4 Electronic communications**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5

Sec. 4. (a) Written policies and procedures must be maintained by the physician for the use of patient-physician electronic mail. Such policies and procedures must address the following:

- (1) Privacy.
- (2) Health care personnel (in addition to the physician addressee) who will process messages.
- (3) Hours of operation.
- (4) Types of transactions that will be permitted electronically.
- (5) Required patient information to be included in the communication, such as patient name, identification number, and type of transaction.
- (6) Archival and retrieval of patient medical data.
- (7) Quality oversight mechanisms.
- (8) Protocol to be followed in emergency situations.

(b) Policies and procedures must be periodically evaluated for currency and maintained in an accessible and readily available manner for review.

(c) Sufficient security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology, that is, password protected, encrypted electronic prescriptions, or other reliable authentication techniques.

(d) Patient-physician e-mail pertinent to the ongoing care of the patient, as well as other patient-related electronic communications, must be maintained as part of, and integrated into, the patient's medical record, whether that record is paper or electronic.

(e) Turnaround time shall be established for patient-physician e-mail and medical practice sites must clearly indicate alternative form or forms of communication for urgent matters.

(f) E-mail systems must be configured to include an automatic reply to acknowledge message delivery and that messages have been read. Patients must be encouraged to confirm that they have received and read messages. (*Medical Licensing Board of Indiana; 844 IAC 5-3-4; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523*)

**844 IAC 5-3-5 Informed consent**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5

Sec. 5. A written agreement must be employed documenting patient informed consent for the use of patient-physician e-mail. The agreement must be discussed with and signed by the patient and included in the medical record. The agreement must include the following terms:

- (1) Types of transmissions that will be permitted, such as:
  - (A) prescription refills;
  - (B) appointment scheduling; and
  - (C) patient education.
- (2) Fees, if any, that will be assessed for on-line consultations or other electronic communication.
- (3) Under what circumstances alternate forms of communication or office visits must be utilized.
- (4) A statement that physician-patient e-mail is not to be used in emergency situations.
- (5) Instructions on what steps the patient should take in an emergency situation.
- (6) Security measures, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy.
- (7) Hold harmless clause for information lost due to technical failures.
- (8) Requirement for express patient consent to forward patient-identifiable information to a third party.
- (9) Patient's failure to comply with the agreement may result in physician terminating the e-mail relationship.

(*Medical Licensing Board of Indiana; 844 IAC 5-3-5; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523*)

**844 IAC 5-3-6 Medical records**

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5

**Sec. 6. (a)** The medical record must include written or electronic copies of all patient-related electronic communications, including the following:

- (1) Patient-physician e-mail.
- (2) Prescriptions.
- (3) Laboratory and test results.
- (4) Evaluations and consultations.
- (5) Records of past care.
- (6) Instructions.

Informed consent agreements related to the use of e-mail shall also be filed in the medical record.

(b) Patient medical records must remain current and accessible for review and be maintained in compliance with applicable state and federal requirements. (*Medical Licensing Board of Indiana; 844 IAC 5-3-6; filed Oct 1, 2003, 9:32 a.m.: 27 IR 523*)

#### **844 IAC 5-3-7 Disclosure**

Authority: IC 25-22.5-2-7  
Affected: IC 25-1-9; IC 25-22.5

**Sec. 7. (a)** An interactive Internet medical practice site is a practice location and requires a defined physician-patient relationship.

(b) Internet medical practice sites must clearly disclose the following:

- (1) The owner of the site.
- (2) The specific services provided.
- (3) The office address and contact information for the medical practice.
- (4) Licensure and qualifications of the physician or physicians and associated health care providers.
- (5) Fees for on-line consultation and services and how payment is to be made.
- (6) Financial interests in any information, products, or services.
- (7) Appropriate uses and limitations of the site, including providing health advice and emergency health situations.
- (8) Uses and response times for e-mails, electronic messages, and other communications transmitted via the site.
- (9) To whom patient health information may be disclosed and for what purpose.
- (10) Rights of patients with respect to patient health information.
- (11) Information collected and any passive tracking mechanisms utilized.

(*Medical Licensing Board of Indiana; 844 IAC 5-3-7; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524*)

#### **844 IAC 5-3-8 Accountability**

Authority: IC 25-22.5-2-7  
Affected: IC 25-1-9; IC 25-22.5

**Sec. 8.** Medical practice sites must provide patients a clear mechanism to do the following:

- (1) Access, supplement, and amend patient-provided personal health information.
- (2) Provide feedback regarding the site and the quality of information and services.
- (3) Register complaints, including information regarding filing a complaint with the consumer protection division of the office of the attorney general.

(*Medical Licensing Board of Indiana; 844 IAC 5-3-8; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524*)

#### **844 IAC 5-3-9 Advertising or promotion of goods or products**

Authority: IC 25-22.5-2-7  
Affected: IC 25-1-9; IC 25-22.5

**Sec. 9.** Advertising or promotion of goods or products from which the physician receives direct remuneration, benefits, or incentives is prohibited unless the physician discloses that the physician receives direct remuneration, benefits, or incentives from the sale of the goods or products. (*Medical Licensing Board of Indiana; 844 IAC 5-3-9; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524*)

#### **844 IAC 5-3-10 Links**

Authority: IC 25-22.5-2-7  
Affected: IC 25-1-9; IC 25-22.5

**Sec. 10.** Practitioner Internet sites may provide links to general health information sites to enhance patient education; however, the physician shall not receive direct remuneration, benefits, or incentives from providing such links or from the services or products marketed by such links unless the physician discloses that the physician receives direct remuneration, benefits, or incentives from providing such links or from the services or products marketed by such links. (*Medical Licensing Board of Indiana; 844 IAC 5-3-10; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524*)

SECTION 4. 844 IAC 5-4 IS ADDED TO READ AS FOLLOWS:

#### **Rule 4. Prescribing to Persons Not Seen by the Physician**

##### **844 IAC 5-4-1 General provisions**

Authority: IC 25-22.5-2-7  
Affected: IC 25-1-9; IC 25-22.5-1-2; IC 25-23-1-19.4

**Sec. 1. (a)** Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with standard care arrangements, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.

(b) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced



practice nurses with prescriptive authority practicing in accordance with the requirements of IC 25-23-1-19.4 and 848 IAC 5, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any legend drug that is not a controlled substance to a person who the physician has never personally physically examined and diagnosed unless the physician is providing care in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient's use of the drug or drugs to be provided.

(c) A physician shall not advertise or offer, or permit the physician's name or certificate to be used in an advertisement or offer, to provide any legend drug in a manner that would violate subsection (a) or (b).

(d) Subsections (a) and (b) do not apply to or prohibit the following:

- (1) The provision of drugs to a person who is admitted as an inpatient to or is a resident of an institutional facility.
- (2) The provision of controlled substances or legend drugs by a physician to a person who is a patient of a colleague of the physician, if the drugs are provided pursuant to an on-call or cross-coverage arrangement between the physicians.
- (3) The provision of controlled substances or legend drugs by emergency medical squad personnel, nurses, or other appropriately trained and licensed individuals as permitted by IC 25-22.5-1-2.
- (4) The provision of controlled substances or drugs by an advanced practice nurse with prescriptive authority practicing in accordance with a standard care arrangement that meets the requirements of IC 25-23-1-19.4 and 848 IAC 5.

(Medical Licensing Board of Indiana; 844 IAC 5-4-1; filed Oct 1, 2003, 9:32 a.m.: 27 IR 524; errata filed Oct 8, 2003, 1:45 p.m.: 27 IR 538)

LSA Document #02-268(F)

Notice of Intent Published: 26 IR 66

Proposed Rule Published: March 1, 2003; 26 IR 2116

Hearing Held: March 27, 2003

Approved by Attorney General: September 24, 2003

Approved by Governor: September 30, 2003

Filed with Secretary of State: October 1, 2003, 9:32 a.m.

Incorporated Documents Filed with Secretary of State: None

## TITLE 845 BOARD OF PODIATRIC MEDICINE

LSA Document #02-341(F)

### DIGEST

Adds 845 IAC 1-5-2.1 concerning reporting of continuing

education credit. Repeals 845 IAC 1-5-2. Effective 30 days after filing with the secretary of state.

### 845 IAC 1-5-2

#### 845 IAC 1-5-2.1

SECTION 1. 845 IAC 1-5-2.1 IS ADDED TO READ AS FOLLOWS:

#### 845 IAC 1-5-2.1 Reporting continuing education credit; audit

Authority: IC 25-29-2-11; IC 25-1-4-3

Affected: IC 25-29-6-4

Sec. 2.1. (a) The licensee shall provide the board with a sworn statement signed by the licensee that the licensee has fulfilled the continuing education requirements required by the board.

(b) The licensee shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The licensee shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

(c) Every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the licensees required to take continuing education courses. (Board of Podiatric Medicine; 845 IAC 1-5-2.1; filed Oct 6, 2003, 4:45 p.m.: 27 IR 525)

SECTION 2. 845 IAC 1-5-2 IS REPEALED.

LSA Document #02-341(F)

Notice of Intent Published: 26 IR 1115

Proposed Rule Published: May 1, 2003; 26 IR 2682

Hearing Held: June 13, 2003

Approved by Attorney General: September 19, 2003

Approved by Governor: October 3, 2003

Filed with Secretary of State: October 6, 2003, 4:45 p.m.

Incorporated Documents Filed with Secretary of State: None

## TITLE 845 BOARD OF PODIATRIC MEDICINE

LSA Document #03-46(F)

### DIGEST

Amends 845 IAC 1-3-1 concerning licensure by endorsement. Amends 845 IAC 1-3-2 concerning licensure by examination. Adds 845 IAC 1-3-3 concerning the definition for progressive graduate podiatric medical training. Amends 845 IAC 1-4.1-1 concerning mandatory renewal. Amends 845 IAC 1-4.1-2 concerning notice for mandatory renewal. Amends 845 IAC 1-4.1-7 concerning inactive status. Amends 845 IAC 1-5-1

concerning continuing education hours required. Amends 845 IAC 1-5-3 concerning approval of continuing education programs. Repeals 845 IAC 1-4.1-4. Effective 30 days after filing with the secretary of state.

<b>845 IAC 1-3-1</b>	<b>845 IAC 1-4.1-4</b>
<b>845 IAC 1-3-2</b>	<b>845 IAC 1-4.1-7</b>
<b>845 IAC 1-3-3</b>	<b>845 IAC 1-5-1</b>
<b>845 IAC 1-4.1-1</b>	<b>845 IAC 1-5-3</b>
<b>845 IAC 1-4.1-2</b>	

SECTION 1. 845 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

**845 IAC 1-3-1 Licensure by endorsement**

**Authority:** IC 25-29-2-11

**Affected:** IC 25-29-4; IC 25-29-5-1

Sec. 1. (a) The board may issue a license by endorsement to an applicant who:

- (1) submits an application upon oath or affirmation in proper form;
- (2) submits the fee specified in 845 IAC 1-6-8;
- (3) presents satisfactory evidence that he or she has not been the subject of a disciplinary action by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was not able to practice podiatric medicine without endangering the public;
- (4) presents satisfactory evidence that he or she does not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently;
- (5) is a graduate of a college or school of podiatric medicine approved by the Council on Podiatric Medical Education;
- (6) submits a certified copy of a current license in good standing in any state, territory, or possession of the United States;
- (7) submits examination scores from the state from which the applicant is endorsing and presents satisfactory evidence that the examination is equivalent to the examination given under IC 25-29-4;
- (8) submits official notice from the National Board of Podiatry Examiners that the applicant has passed all areas of the examination given by the National Board of Podiatry Examiners;
- (9) submits a statement from the board in each state where the applicant is licensed, or has been licensed, certifying whether his or her license has been the subject of any final or pending disciplinary action;
- (10) submits proof of being in the practice of podiatric medicine for five (5) years in another state;
- (11) submits evidence of proper medical malpractice insurance;
- (12) submits proof of ~~at least twelve (12) months completion~~ **of a progressive graduate podiatric medical education training program that is at least twelve (12) months in length and** meets the requirements of the Council on Podiatric Medical

Education; and

(13) meets all other minimum requirements specified in IC 25-29-5.

(b) According to IC 25-29-5-1(b)(2), if ten (10) years have elapsed since passing a medical licensing examination, the board may require an applicant to submit to the examination approved by the board. (*Board of Podiatric Medicine; 845 IAC 1-3-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1530; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2724; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1281; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 526*) **NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-3-1) to the Board of Podiatric Medicine (845 IAC 1-3-1) by P.L.33-1993, SECTION 76, effective July 1, 1993.**

SECTION 2. 845 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

**845 IAC 1-3-2 Licensure by examination**

**Authority:** IC 25-29-2-11

**Affected:** IC 25-29-3; IC 25-29-4

Sec. 2. (a) The board may issue a license by examination to an applicant who:

- (1) submits an application upon oath or affirmation in proper form;
- (2) submits the fee specified in 845 IAC 1-6-8;
- (3) presents satisfactory evidence that he or she has not been the subject of a disciplinary action by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was not able to practice podiatric medicine without endangering the public;
- (4) presents satisfactory evidence that the applicant does not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently;
- (5) is a graduate of a college or school of podiatric medicine approved by the Council on Podiatric Medical Education;
- (6) submits official transcripts from the National Board of Podiatry Examiners certifying applicant's passing scores in all areas of the National Board of Podiatry Examiners examination;
- (7) successfully completes, under IC 25-29-4, an examination provided by the board;
- (8) submits proof of proper medical malpractice insurance within thirty (30) days of licensure;
- (9) submits proof of completion of ~~at least twelve (12)~~ **months of a progressive graduate podiatric medical education training program that is at least twelve (12) months in length and** meets the requirements of the Council on Podiatric Medical Education; and
- (10) meets all other minimum requirements specified in IC 25-29-3.

(b) An applicant who fails the examination given by the committee may be reexamined at least once within six (6)

months of any such failure or denial. A candidate who has not passed every section of the examination may retake the examination on a regularly scheduled examination date. If a candidate has failed more than one (1) section of the examination or if a candidate fails any section three (3) times, the committee shall reexamine the candidate on all sections of the examination. If a candidate has failed only one (1) section of the examination but retakes the remaining failed section(s) of the examination on its next regularly scheduled date, the committee shall give the candidate credit for the section(s) which the candidate previously passed. Otherwise, the committee may not give credit to a candidate who passes less than all of the sections of the examination.

(c) An applicant who has failed the examination provided by the committee three (3) times shall not be allowed to retake the examination until such time as the applicant provides evidence of an additional one (1) year of postgraduate training in a program approved by the committee.

(d) The deadline for making any application for the examination provided by the committee shall be sixty (60) days prior to the examination date, except that where such dates are Saturday, Sunday, or a legal holiday, the deadline shall be the next business day immediately following such date. (*Board of Podiatric Medicine; 845 IAC 1-3-2; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1530; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2725; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1282; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 526*) NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-3-2) to the Board of Podiatric Medicine (845 IAC 1-3-2) by P.L.33-1993, SECTION 76, effective July 1, 1993.

SECTION 3. 845 IAC 1-3-3 IS ADDED TO READ AS FOLLOWS:

**845 IAC 1-3-3 Progressive graduate podiatric medical training defined**

Authority: IC 25-29-2-11

Affected: IC 25-29-3-1; IC 25-29-3-2; IC 25-29-5-1

Sec. 3. (a) As used in IC 25-29-3-1(4), "satisfactorily completed at least twelve (12) months of progressive graduate podiatric medical training" means completion of an established residency program that is no less than twelve (12) months in duration.

(b) An applicant who has enrolled in a twenty-four (24) month residency program must complete the entire residency program before becoming eligible for licensure under IC 25-29-3-1 and IC 25-29-5-1. (*Board of Podiatric Medicine; 845 IAC 1-3-3; filed Oct 6, 2003, 4:45 p.m.: 27 IR 527*)

SECTION 4. 845 IAC 1-4.1-1 IS AMENDED TO READ AS FOLLOWS:

**845 IAC 1-4.1-1 Mandatory renewal; time**

Authority: IC 25-29-2-11

Affected: IC 25-29-6

Sec. 1. Every podiatrist holding a license issued by the board shall renew such license with the board every ~~four (4)~~ **two (2)** years. (*Board of Podiatric Medicine; 845 IAC 1-4.1-1; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 527*)

SECTION 5. 845 IAC 1-4.1-2 IS AMENDED TO READ AS FOLLOWS:

**845 IAC 1-4.1-2 Mandatory renewal; notice**

Authority: IC 25-29-2-11

Affected: IC 25-29-6

Sec. 2. On or before April 30 every ~~four (4)~~ **two (2)** years, the board, or its duly authorized agent, shall notify each licensee that the licensee is required to renew with the board. The board, or its agent, shall furnish a licensee a form to be completed for renewal. (*Board of Podiatric Medicine; 845 IAC 1-4.1-2; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 527*)

SECTION 6. 845 IAC 1-4.1-7 IS AMENDED TO READ AS FOLLOWS:

**845 IAC 1-4.1-7 Inactive status**

Authority: IC 25-29-2-11

Affected: IC 25-29-6

Sec. 7. Any podiatrist who has retired from practice and wants to retain his or her license may do so for half of the usual renewal fee as required by ~~845 IAC 1-6-8~~, **845 IAC 1-6-9**, provided that he or she does not maintain an office for the practice of podiatric medicine and does not charge for any podiatric medical services that he or she might render. A podiatrist whose license is inactive may submit a written request to the board of podiatric medicine to reinstate his or her license by paying the full renewal fee. (*Board of Podiatric Medicine; 845 IAC 1-4.1-7; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 527*)

SECTION 7. 845 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

**845 IAC 1-5-1 Credit hours required**

Authority: IC 25-29-2-11

Affected: IC 25-29-6-4

Sec. 1. (a) ~~Participation in an annual average of fifteen (15)~~ **A licensee who renews a license as a podiatrist shall complete no less than thirty (30) hours of continuing podiatric**

medical education in courses or programs approved by the board are required for licensure **any of the approved sponsors found in 845 IAC 1-5-3 [section 3 of this rule] in each two (2) year renewal period.**

(b) A podiatrist is not required to complete continuing education requirements for the year in which the initial license is issued.

(c) Continuing podiatric medical education acquired in any area other than podiatric medicine will not be accepted.

(d) Continuing education credit units or clock hours must be obtained within the renewal period and may not be carried over from one (1) licensure period to another.

(e) The continuing education requirement shall not be increased or decreased until this section is duly amended and all licensees are notified in writing at the date of their license renewal that the subsequent renewal will require an increased or decreased number of hours. (*Board of Podiatric Medicine; 845 IAC 1-5-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1531; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2725; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 527*) **NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-5-1) to the Board of Podiatric Medicine (845 IAC 1-5-1) by P.L.33-1993, SECTION 76, effective July 1, 1993.**

SECTION 8. 845 IAC 1-5-3 IS AMENDED TO READ AS FOLLOWS:

#### **845 IAC 1-5-3 Approval of continuing education programs**

Authority: IC 25-29-2-11

Affected: IC 25-29-6-4

Sec. 3. (a) The following criteria shall be used in evaluation of approval of continuing podiatric medical education:

(1) The continuing education program shall have a statement of objectives which the program should achieve for its participants.

(2) The sponsor of continuing education programs shall provide adequate administration, including a responsible person to coordinate and administer the program, and shall provide for the maintenance of proper records.

(3) Sponsors of continuing education programs shall provide adequate funding for the educational programs undertaken.

(4) The curriculum of a continuing education program shall be thoughtfully planned and designed to explore in considerable depth one (1) subject or a closely related group of subjects.

(5) The continuing education program shall have qualified faculty members who have demonstrated competence in the subject areas.

(6) The continuing education program shall be held in

adequate facilities that allow for an effective program.

(7) Continuing education programs shall employ a variety of educational methods and teaching aids that enhance the learning opportunities.

(8) Appropriate methods of evaluation shall be devised and used to measure the program's effectiveness.

(9) The sponsor of the continuing education program shall provide to the participants a meaningful record of attendance stating the continuing education units involved.

(b) Programs for continuing podiatric medical education may be approved by the board provided the sponsoring organization, or the licensee who attended, has submitted the proper form no later than thirty (30) days after presentation of the program and submits the fee for evaluation as provided in 845 IAC 1-6-8.

(c) The sponsor of the program is responsible for monitoring attendance in such manner that verification of attendance throughout the entire lecture can be reliably assured.

**To receive credit for continuing education programs, the program must be sponsored, accredited, or approved by any of the following organizations:**

(1) American Association of Podiatric Physicians and Surgeons.

(2) American Medical Association (programs related to podiatric medicine).

(3) American Society of Podiatric Dermatology.

(4) American Society of Podiatric Medicine.

(5) Council on Podiatric Medical Education.

(6) A national, regional, state, district, or local organization that operates as an affiliated entity under the approval of any organizations listed in subdivisions (1) through (5).

(7) Any of the colleges of podiatric medicine accredited by the Council on Podiatric Medical Education.

(8) A federal, state, or local government agency that coordinates or presents continuing education programs related to podiatric medicine.

(*Board of Podiatric Medicine; 845 IAC 1-5-3; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1531; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2726; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1284; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823; filed Oct 6, 2003, 4:45 p.m.: 27 IR 528*) **NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-5-3) to the Board of Podiatric Medicine (845 IAC 1-5-3) by P.L.33-1993, SECTION 76, effective July 1, 1993.**

SECTION 9. 845 IAC 1-4.1-4 IS REPEALED.

LSA Document #03-46(F)

Notice of Intent Published: 26 IR 1964

Proposed Rule Published: May 1, 2003; 26 IR 2683

Hearing Held: June 13, 2003

Approved by Attorney General: September 19, 2003

*Approved by Governor: October 3, 2003*  
*Filed with Secretary of State: October 6, 2003, 4:45 p.m.*  
*Incorporated Documents Filed with Secretary of State: None*

## TITLE 845 BOARD OF PODIATRIC MEDICINE

LSA Document #03-47(F)

### DIGEST

Adds 845 IAC 1-6-9 concerning fees. Repeals 845 IAC 1-6-8. Effective 30 days after filing with the secretary of state.

#### **845 IAC 1-6-8** **845 IAC 1-6-9**

SECTION 1. 845 IAC 1-6-9 IS ADDED TO READ AS FOLLOWS:

#### **845 IAC 1-6-9 Licensure fees**

Authority: IC 25-1-8-2; IC 25-29-2-11  
 Affected: IC 25-29-1-3; IC 25-29-1-5

**Sec. 9. (a) A candidate for examination shall purchase the examination directly from the examination service.**

**(b) The application/issuance fee for a license to practice, as a doctor of podiatric medicine, by examination is one hundred fifty dollars (\$150).**

**(c) The application/issuance fee for a license to practice, as a doctor of podiatric medicine, by endorsement is one hundred fifty dollars (\$150).**

**(d) The fee for verification of a license to another state or jurisdiction is ten dollars (\$10).**

**(e) The fee for a duplicate wall certificate is ten dollars (\$10).**

**(f) The fee for a temporary permit or limited license is fifty dollars (\$50).**

**(g) The fee for renewal of the license to practice is one hundred dollars (\$100) every two (2) years.**

**(h) The fee for renewal of the license that is in inactive status is fifty dollars (\$50) every two (2) years.**

**(i) The fees are subject to change in accordance with the health professions bureau fee schedule.**

**(j) All application fees are nonrefundable.** (*Board of Podiatric Medicine; 845 IAC 1-6-9; filed Oct 6, 2003, 5:00 p.m.: 27 IR 529*)

SECTION 2. 845 IAC 1-6-8 IS REPEALED.

LSA Document #03-47(F)

Notice of Intent Published: 26 IR 1964

Proposed Rule Published: May 1, 2003; 26 IR 2686

Hearing Held: June 13, 2003

Approved by Attorney General: September 19, 2003

Approved by Governor: October 3, 2003

Filed with Secretary of State: October 6, 2003, 5:00 p.m.

Incorporated Documents Filed with Secretary of State: None

## TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #03-23(F)

### DIGEST

Amends 876 IAC 3-3-3 to require that the 15 hours of required prelicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Amends 876 IAC 3-3-4 to require that the 15 hours of required prelicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Amends 876 IAC 3-3-5 to require that the 15 hours of required prelicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Amends 876 IAC 3-4-8 to require that the 15 hours of required prelicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Adds 876 IAC 3-5-6.1 to require real estate appraiser continuing education course providers teaching the seven hours of required continuing education in Uniform Standards of Professional Appraisal Practice to provide to each of its students a current copy of Uniform Standards of Professional Appraisal Practice and to require real estate appraiser continuing education course providers teaching the four hours of required continuing education in the statutes and administrative rules governing appraisers to provide to each of its students a current copy of the Indiana appraiser license law booklet. Effective January 1, 2004.

**876 IAC 3-3-3**  
**876 IAC 3-3-4**  
**876 IAC 3-3-5**

**876 IAC 3-4-8**  
**876 IAC 3-5-6.1**

SECTION 1. 876 IAC 3-3-3 IS AMENDED TO READ AS FOLLOWS:

**876 IAC 3-3-3 Educational requirements for Indiana licensed residential appraiser**

**Authority:** IC 25-34.1-3-8

**Affected:** IC 25-34.1

Sec. 3. (a) This section establishes the educational requirements for an Indiana licensed residential appraiser.

(b) The minimum prerequisite to sit for an Indiana licensed residential appraiser examination is ninety (90) classroom hours of courses with specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken and successfully completed before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the ninety (90) classroom hour educational requirements. Applicants shall demonstrate that their education involved coverage of the following topics, with particular emphasis on the appraisal of one (1) to four (4) unit residential properties:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.

- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including gross rent multiplier analysis.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) Minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Applied residential property valuation	15
Small income producing property (two (2) to four (4) residential)	15
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	15
<b>TOTAL</b>	<b>90</b>

**(l) For a course to meet the fifteen (15) hours Uniform Standards of Professional Appraisal Practice (USPAP) requirement under subsection (k) after December 31, 2003, the instructor must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to have been a state certified residential or certified general real estate appraiser.**

**(m) Notwithstanding subsection (l), the fifteen (15) hours of USPAP course will meet the requirements under subsection (k) if the course was taken prior to January 1, 2004. (Indiana Real Estate Commission; 876 IAC 3-3-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 738; filed Dec 8, 1993, 4:00 p.m.: 17 IR 772; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2114; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1758, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed Sep 30, 2003, 11:30 a.m.: 27 IR 530, eff Jan 1, 2004)**

**SECTION 2. 876 IAC 3-3-4 IS AMENDED TO READ AS FOLLOWS:**

**876 IAC 3-3-4 Educational requirements for Indiana certified residential appraiser**

**Authority:** IC 25-34.1-3-8

**Affected:** IC 25-34.1

Sec. 4. (a) This section establishes the educational requirements for an Indiana certified residential appraiser.

(b) The minimum prerequisite to sit for the Indiana certified residential appraiser examination is one hundred thirty-five (135) classroom hours of specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the one hundred thirty-five (135) classroom hour education requirement. Applicants shall demonstrate that their education involved coverage of the following topics with particular emphasis on the appraisal of one (1) to four (4) unit residential properties:

- (1) Influences on real estate value.

- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including the following:
  - (A) Gross rent multiplier analysis.
  - (B) Estimation of income and expenses.
  - (C) Operating expense ratios.
  - (D) Direct capitalization.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) The minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Applied residential property valuation	30
Basic income capitalization	40
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	20
<b>TOTAL</b>	<b>135</b>

**(l) For a course to meet the fifteen (15) hours of Uniform Standards of Professional Appraisal Practice (USPAP) requirement under subsection (k) after December 31, 2003, the instructor must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to have been a state certified residential or certified general real estate appraiser.**

**(m) Notwithstanding subsection (l), the fifteen (15) hours of USPAP course will meet the requirements under subsection (k) if the course was taken prior to January 1, 2004.** (*Indiana Real Estate Commission; 876 IAC 3-3-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 739; filed Dec 8, 1993, 4:00 p.m.: 17 IR 773; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2115; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1759, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed Sep 30, 2003, 11:30 a.m.: 27 IR 531, eff Jan 1, 2004*)

SECTION 3. 876 IAC 3-3-5 IS AMENDED TO READ AS FOLLOWS:

## 876 IAC 3-3-5 Educational requirements for Indiana certified general appraiser

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 5. (a) This section establishes the educational requirements for an Indiana certified general appraiser.

(b) The prerequisite to sit for the Indiana certified general appraiser examination is one hundred eighty (180) classroom hours with specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the Indiana board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the following one hundred eighty (180) classroom hour education requirement:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.

- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including the following:
  - (A) Gross rent multiplier analysis.
  - (B) Estimation of income and expenses.
  - (C) Operating expense ratios.
  - (D) Direct capitalization.
  - (E) Yield capitalization.
  - (F) Risk analysis.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) The minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Basic income capitalization (which consists of the topics contained in subsection (j)(13)(A) through (j)(13)(D))	40
Advanced income property valuation (which consists of the topics contained in <del>subsection</del> <b>subsections</b> [sic., subsection] (j)(13)(E) and (j)(13)(F))	55
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	40
<b>TOTAL</b>	<b>180</b>

**(l) For a course to meet the fifteen (15) hours Uniform Standards of Professional Appraisal Practice (USPAP) requirement under subsection (k) after December 31, 2003, the instructor must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to have been a state certified residential or certified general real estate appraiser.**

**(m) Notwithstanding subsection (l), the fifteen (15) hours of USPAP course will meet the requirements under subsection (k) if the course was taken prior to January 1, 2004. (Indiana Real Estate Commission; 876 IAC 3-3-5; filed Sep 24, 1992, 9:00 a.m.: 16 IR 740; filed Dec 8, 1993, 4:00 p.m.: 17 IR 774; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1760, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule**



document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed Sep 30, 2003, 11:30 a.m.: 27 IR 532, eff Jan 1, 2004)

SECTION 4. 876 IAC 3-4-8 IS AMENDED TO READ AS FOLLOWS:

**876 IAC 3-4-8 Instructors; requirements**

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 8. (a) Each instructor used by an approved real estate appraiser course provider must possess at least one (1) of the following minimum requirements:

- (1) Has a bachelor's degree with a major or minor in real estate from an accredited college or university.
- (2) Has a bachelor's degree from an accredited college or university and a minimum of two (2) years experience in real estate appraising.
- (3) Has an Indiana real estate appraiser license or certificate and a minimum of five (5) years experience as a real estate appraiser.
- (4) Has two (2) years experience as a qualified instructor or professor in the business, finance, or economics department of an accredited college or university.

(b) Each instructor must be:

- (1) a licensed or certified appraiser in Indiana or another state; or
- (2) a member of the faculty at an accredited college or university;

and, if only licensed or certified, may not teach courses beyond the scope of their license.

(c) In addition to meeting the requirements in subsections (a) and (b), an instructor for the fifteen (15) hours of Uniform Standards of Professional Appraisal Practice (USPAP) course required [sic.] 876 IAC 3-3-3(k), 876 IAC 3-3-4(k), and 876 IAC 3-3-5(k) must be:

- (1) an Appraiser Qualification Board certified USPAP instructor; and
- (2) a state certified residential or certified general real estate appraiser.

However, if the course is taught by two (2) or more instructors, only one (1) is required to be a state certified residential or certified general real estate appraiser. (Indiana Real Estate Commission; 876 IAC 3-4-8; filed Dec 8, 1993, 4:00 p.m.: 17 IR 778; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed Sep 30, 2003, 11:30 a.m.: 27 IR 533, eff Jan 1, 2004; errata filed Oct 8, 2003, 1:45 p.m.: 27 IR 538)

SECTION 5. 876 IAC 3-5-6.1 IS ADDED TO READ AS FOLLOWS:

**876 IAC 3-5-6.1 Required instructional materials**

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 6.1. (a) For the four (4) hours of the statutes and administrative rules concerning appraisers course required by section 1.5(a)(2) of this rule, a real estate appraiser continuing education provider must provide to each of its students a current copy of the Indiana appraiser license law booklet.

(b) For the seven (7) hours of Uniform Standards of Professional Appraisal Practice (USPAP) course required by section 1.5(a)(1) of this rule, a real estate appraiser continuing education provider must provide to each of its students a current copy of the USPAP. (Indiana Real Estate Commission; 876 IAC 3-5-6.1; filed Sep 30, 2003, 11:30 a.m.: 27 IR 533)

SECTION 6. SECTIONS 1 through 5 of this document take effect January 1, 2004.

LSA Document #03-23(F)

Notice of Intent Published: 26 IR 1597

Proposed Rule Published: July 1, 2003; 26 IR 3414

Hearing Held: July 24, 2003

Approved by Attorney General: September 19, 2003

Approved by Governor: September 26, 2003

Filed with Secretary of State: September 30, 2003, 11:30 a.m.

Incorporated Documents Filed with Secretary of State: None

**TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

LSA Document #03-53(F)

**DIGEST**

Adds 880 IAC 1-2.1 concerning definitions; educational requirements for SLP aide I and II; application for registration as an SLP aide I or II; reporting changes in the supervision of an SLP Aide I or II; renewing a registration as an SLP aide I or II; prohibited professional activities; permitted professional activities; supervision of SLP aides I and II; responsibilities of supervisors of SLP aides I and II; and registration of SLP aides previously registered under 880 IAC 1-2. Repeals 880 IAC 1-2. Effective 30 days after filing with the secretary of state.

**880 IAC 1-2**

**880 IAC 1-2.1-1**

SECTION 1. 880 IAC 1-2.1 IS ADDED TO READ AS FOLLOWS:

## Rule 2.1. Aides

### 880 IAC 1-2.1-1 Definitions

Authority: IC 25-25.6-2-2

Affected: IC 25-35.6-1-2

Sec. 1. The following definitions apply throughout this rule:

- (1) "Aide" means a person employed as support personnel under the direction and authority of the supervising licensed speech-language pathologist. This rule applies to all support personnel when providing direct client services in the area of speech-language pathology intervention.
- (2) "Board" means the speech-language pathology and audiology board.
- (3) "Bureau" means the health professions bureau.
- (4) "Direct supervision" of an SLP aide I and an SLP aide II means on-site, in-view observation and guidance by the supervising speech-language pathologist while an assigned therapeutic activity is being performed.
- (5) "SLP aide I" means a speech-language pathology aide I.
- (6) "SLP aide II" means a speech-language pathology aide II.
- (7) "Supervisor", when referring to a speech-language pathology aide, means a person who holds a current Indiana license as a speech-language pathologist and has been approved by the board to supervise an aide as provided by IC 25-35.6-1-2(g).

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-1; filed Oct 6, 2003, 5:15 p.m.: 27 IR 534)

### 880 IAC 1-2.1-2 Educational requirements for SLP aide I

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 2. The minimum educational requirement for an SLP aide I shall be a high school degree or equivalent. (Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-2; filed Oct 6, 2003, 5:15 p.m.: 27 IR 534)

### 880 IAC 1-2.1-3 Educational requirements for SLP aide II

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 3. (a) The minimum educational requirement for an SLP aide II is an associate degree or its equivalent from an accredited institution in the area for which the applicant is requesting to be registered.

(b) As used in this section, "equivalent" means having completed the following:

- (1) A minimum of a sixty (60) semester credit hours in a program of study that includes general education and the specific knowledge and skills for a speech-language

pathology assistant.

(2) A minimum of twenty-four (24) credit hours of the sixty (60) semester hours required must be completed in general education. The general education curriculum shall include, but is not be *[sic.]* limited to, the following:

- (A) Oral and written communication.
- (B) Mathematics.
- (C) Computer applications.
- (D) Social sciences.
- (E) Natural sciences.

(3) A minimum of twenty-four (24) credit hours of the sixty (60) semester credit hours required must be completed in technical content areas. Technical content course work provides students with knowledge and skills to assume the job responsibilities and core technical skills for the speech-language pathology assistant and must include the following:

- (A) Instruction about normal processes of communication.
- (B) Instruction targeting the practices and methods of service delivery, which are specific to speech-language pathology assistants.
- (C) Instruction regarding the treatment of communication disorders.
- (D) Instruction targeting the following workplace behavior and skills:
  - (i) Working with clients or patients in a supportive manner.
  - (ii) Following supervisor's instructions.
  - (iii) Maintaining confidentiality.
  - (iv) Communicating with oral and written forms. and
  - (v) Following established health and safety precautions.

(E) Clinical observation.

(F) A minimum of one hundred (100) clock hours of supervised field experience that provides the applicant with appropriate experience for learning speech-language pathology assistant-specific job responsibilities and speech-language pathology assistant-specific workplace behaviors of the speech-language pathology assistant.

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-3; filed Oct 6, 2003, 5:15 p.m.: 27 IR 534)

### 880 IAC 1-2.1-4 Application for registration

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 4. (a) The application for approval of an SLP aide I or SLP aide II must be made on a form provided by the bureau and submitted to the board by the supervisor, under whose direct supervision the SLP aide I or SLP aide II will work, with all documentation as requested.

(b) The application must contain the following information:

- (1) The supervisor's name, address, phone number, and current Indiana license number.
- (2) The name and location of where services will be performed.
- (3) A detailed description of the responsibilities assigned to the SLP aide I or SLP aide II.
- (4) A certified statement from the supervisor that the SLP aide I and SLP aide II will be supervised as required by IC 25-35.6-1-2 and this rule.
- (5) A certified statement from the SLP aide I or SLP aide II that he or she may not perform any activity as specified in section 7 of this rule.
- (6) A certified statement that the SLP aide I or SLP aide II may perform the tasks as specified in section 8 of this rule if delegated by the supervisor.
- (7) An application fee as specified in section 5 of this rule.
- (8) Official transcripts from an educational institution:
  - (A) SLP aide I: Proof of a high school degree or equivalent.
  - (B) SLP aide II: Official transcript from an educational institution recognized by the board certifying that the applicant possesses an associate' [sic., associate's] degree or its equivalent from an accredited institution in the area for which the applicant is requesting to be registered.
- (9) Any other information as required by the board.

(c) When an application has been approved by the board, a certificate of registration will be issued by the bureau.

(d) A SLP aide I and SLP aide II may not begin work before his or her application has been approved by the board. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-4; filed Oct 6, 2003, 5:15 p.m.: 27 IR 534*)

#### 880 IAC 1-2.1-5 Report change of information

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 5. The supervisor must report any change in activities or supervision at the time the change occurs by submitting a new application and fee as specified in section 4 of this rule within fourteen (14) days. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-5; filed Oct 6, 2003, 5:15 p.m.: 27 IR 535*)

#### 880 IAC 1-2.1-6 Renewal of registration

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 6. (a) A registration issued under section 2 of this rule expires on December 31 of each year. A supervisor must renew the registration by submitting a renewal form provided by the bureau and a fee as specified in 880 IAC 1-1-5.

(b) In order to avoid any interruption of work activity, a

registration must be renewed prior to December 31 of each year.

(c) Information submitted with the renewal form shall include the following:

- (1) The nature and extent of the functions performed by the aide during the preceding year.
- (2) The nature and extent of the training completed by the aide during the preceding year.
- (3) Any other information required by the board.

(d) The supervisor must report any change in information required by subsection (a) to the board at the time the change occurs by submitting a new application and fee as specified in 880 IAC 1-1-5.

(e) An SLP aide I and SLP aide II may not continue working after his or her registration has expired. Any such continuation will constitute a violation of this section.

(f) If a supervisor does not renew the SLP aide I or SLP aide II registration on or before December 31, the registration becomes invalid. The supervisor must submit a new application and fee as specified in section 4 of this rule. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-6; filed Oct 6, 2003, 5:15 p.m.: 27 IR 535*)

#### 880 IAC 1-2.1-7 Activities prohibited by the SLP aide I and SLP aide II

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 7. An SLP aide I and/or SLP aide II may not perform any of the following activities:

- (1) Standardized or nonstandardized diagnostic tests, formal or informal evaluations, or interpret test results.
- (2) May not participate in parent conferences, case conferences, or any interdisciplinary team without the presence of the supervisor or other licensed speech-language pathologist designated by the supervisor.
- (3) May not provide patient/client or family counseling.
- (4) May not write, develop, or modify a patient's or client's individualized treatment plan in any way.
- (5) May not assist with a patient or client without following the individualized treatment plans prepared by the supervisor or without access to supervision.
- (6) May not sign any formal documents, for example, treatment plans, reimbursement forms, or reports. However, the SLP aide I and/or SLP aide II may sign or initial informal treatment notes for review and cosignature by the supervisor if specifically asked to do so by the supervisor.
- (7) May not select patients or clients for services.
- (8) May not discharge a patient or client from services.
- (9) May not disclose clinical or confidential information either orally or in writing to anyone other than the

supervisor.

(10) May not make referrals for additional service outside the scope of the intervention setting.

(11) May not communicate with the patient, client, family, or others regarding any aspect of the patient or client status or service without the specific consent of the supervisor.

(12) May not counsel or consult with the patient, client, family, or others regarding the patient or client status or service.

(13) May not represent himself or herself as a speech-language pathologist.

*(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-7; filed Oct 6, 2003, 5:15 p.m.: 27 IR 535)*

#### **880 IAC 1-2.1-8 Tasks that may be delegated to the SLP aide I and SLP aide II**

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 8. The following tasks may be delegated to an SLP aide I and/or SLP aide II if the tasks have been planned by the supervisor and the SLP aide I and/or SLP aide II has been provided with adequate training to perform the task competently:

(1) Assist the supervisor with speech-language and hearing screenings (without interpretation).

(2) Follow documented treatment plans or protocols developed by the supervisor.

(3) Document patient or client performance, for example:  
(A) tallying data for the speech-language pathologist to use; and

(B) preparing charts, records, and graphs;  
and report this information to the supervising speech-language pathologists.

(4) Assist the supervisor during assessment of patients or clients.

(5) Assist with informal documentation as directed by the supervisor.

(6) Assist with clerical duties, such as preparing materials and scheduling activities, as directed by the supervisor.

(7) Perform checks and maintenance of equipment.

(8) Support the supervisor in research projects, in-service training, and public relations programs.

(9) Assist with departmental operations (scheduling, record keeping, and safety and maintenance of supplies and equipment).

(10) Correct data for quality improvement.

(11) Exhibit compliance with regulations, reimbursement requirements, and SLP aide I and SLP aide II job responsibilities.

*(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-8; filed Oct 6, 2003, 5:15 p.m.: 27 IR 536)*

#### **880 IAC 1-2.1-9 Supervisors; responsibilities**

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 9. (a) Prior to utilizing an aide, the supervisor shall carefully delineate the role and tasks of the SLP aide I and/or SLP aide II, including the following:

(1) Specific lines of responsibility and authority.

(2) Assurance that the SLP aide I and/or SLP aide II is responsible only to the supervisor in all patient/client activities. The supervisor must assess individual client needs when deciding the appropriateness of a support personnel service delivery model.

(b) When an aide assists in providing treatment, the supervisor of the SLP aide I and/or SLP aide II shall do the following:

(1) The supervisor of the SLP aide I shall provide direct supervision a minimum of twenty percent (20%) weekly for the first ninety (90) days of work and ten percent (10%) weekly after the initial work period. The supervisor must be physically present within the same building as the SLP aide I whenever direct client care is provided. The supervisor must directly provide a minimum of thirty-three percent (33%) of the patient's or client's treatment weekly.

(2) The supervisor of the SLP aide II shall provide direct supervision a minimum of twenty percent (20%) weekly for the first ninety (90) days of work and ten percent (10%) weekly after the initial work period. Supervision days and times should be alternated to ensure that all individuals receive direct contact with the supervisor at least once every two (2) weeks. At no time should an SLP aide II perform tasks when a supervisor cannot be reached by personal contact, telephone, pager, or other immediate means.

(3) The amount of supervision may be adjusted depending on the competency of the SLP aide I or SLP aide II, the needs of the patients or clients served, and the nature of the assigned tasks; however, the minimum standard must be maintained. The supervisor must determine supervision needs. Indirect supervision activities may include, but are not limited to, record review, phone conferences, or audio/video tape review.

(4) Determine the responsibilities assigned to the SLP aide I and/or SLP Aide II based upon the educational level, training, and experience of the aide.

(5) Evaluate each patient or client prior to treatment.

(6) Outline and direct the specific program for the clinical management of each client assigned to the SLP aide I and/or SLP aide II.

(7) Every five (5) working days, review all data and documentation on clients seen for treatment by the SLP aide I and/or SLP aide II.

(8) Ensure that, at the termination of services, the case is

reviewed by the speech-language pathologists responsible for the client.

(c) The supervisor shall not permit an SLP aide I and/or SLP aide II to make decisions regarding the diagnosis, management, or future disposition of clients.

(d) The supervisor must officially designate an SLP aide I and/or SLP aide II, as such, on all clinical records.

(e) The supervisor must be present when the SLP aide I and/or SLP aide II provides direct client treatment outside the designated practice setting.

(f) The supervisor may designate a licensed speech-language pathologist to supervise a SLP aide I and/or SLP aide II under his or her supervision during vacation periods or illness, but for no longer than a thirty (30) day period.

(g) Within ten (10) days after the termination of the supervision of an SLP aide I and SLP aide II, the supervisor shall notify the board, in writing, of the termination and the date of the termination and may designate a licensee to serve as an interim supervisor for a period not to exceed thirty (30) days upon approval of the board. An interim supervisor is not required to pay a fee for the thirty (30) day period.

(h) A supervisor may not supervise more than three (3) aides at one (1) time.

(i) A supervisor must be a licensed speech-language pathologist for a minimum of two (2) years prior to registering and supervising an SLP aide I and/or SLP aide II. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-9; filed Oct 6, 2003, 5:15 p.m.: 27 IR 536*)

**880 IAC 1-2.1-10 SLP aides previously registered under 880 IAC 1-2**

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

**Sec. 10. (a) SLP aides previously registered under 880 IAC 1-2, which meet the educational requirements of 880 IAC 1-2.1-2 [section 2 of this rule], shall be registered as an SLP aide I without the necessity of filing an additional application under 880 IAC 1-2.1-4 [section 4 of this rule].**

**(b) SLP aides previously registered under 880 IAC 1-2, which meet the educational requirements of 880 IAC 1-2.1-3 [section 3 of this rule], shall be registered as an SLP aide II without the necessity of filing an additional application under 880 IAC 1-2.1-4 [section 4 of this rule].** (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-10; filed Oct 6, 2003, 5:15 p.m.: 27 IR 537*)

SECTION 2. 880 IAC 1-2 IS REPEALED.

*LSA Document #03-53(F)*

*Notice of Intent Published: 26 IR 2396*

*Proposed Rule Published: July 1, 2003; 26 IR 3419*

*Hearing Held: August 5, 2003*

*Approved by Attorney General: September 19, 2003*

*Approved by Governor: October 3, 2003*

*Filed with Secretary of State: October 6, 2003, 5:15 p.m.*

*Incorporated Documents Filed with Secretary of State: None*

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**TITLE 307 INDIANA BOARD OF REGISTRATION  
FOR SOIL SCIENTISTS**

LSA Document #03-32(AC)

Under IC 4-22-2-38, corrects the following clerical error in LSA Document #03-32(F), printed at 27 IR 53:

In 307 IAC 1-3-3(a)(2), on page 5 of the original document (27 IR 56), delete “section 3 of this rule” and insert “section 4 of this rule”.

*Filed with Secretary of State: October 10, 2003, 1:30 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.*

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**TITLE 515 PROFESSIONAL STANDARDS BOARD**

LSA Document #03-10(PC)

Under IC 4-22-8-4(c), corrects the following typographical, clerical, or spelling errors in LSA Document #03-10(F), printed at 27 IR 166:

- (1) In 515 IAC 8-1-3(a)(2), at 27 IR 167, after “content standards,” delete “which” and insert “that”.
- (2) In 515 IAC 8-1-5(a)(2), at 27 IR 167, after “content standards,” delete “which” and insert “that”.

*Retroactively effective to the same date and time as LSA Document #03-10(F).*

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**TITLE 844 MEDICAL LICENSING BOARD OF  
INDIANA**

LSA Document #02-268(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-268(F), printed at 27 IR 521:

- (1) In 844 IAC 5-4-1(a), on page 7 of the original document (27 IR 524), after “as described in”, delete “subsections (d) and (e)” and insert “subsection (d)”.
- (2) In 844 IAC 5-4-1(b), on page 7 of the original document (27 IR 525), after “IC 25-23-1-19.4 and”, delete “this article” and insert “848 IAC 5”.
- (3) In 844 IAC 5-4-1(b), on page 7 of the original document (27 IR 525), after “as described in”, delete “subsections (d) and (e)” and insert “subsection (d)”.
- (4) In 844 IAC 5-4-1(d)(4), on page 7 of the original document (27 IR 525), after “IC 25-23-1-19.4 and”, delete “this article” and insert “848 IAC 5”.

*Filed with Secretary of State: October 8, 2003, 1:45 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 #02-268(F) and may be found at 27 IR 521, as corrected.*

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**TITLE 876 INDIANA REAL ESTATE  
COMMISSION**

LSA Document #03-23(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #03-23(F), printed at 27 IR 529:

In 876 IAC 3-4-8(c), on page 7 of the original document (27 IR 533), delete “sections 3(k), 4(k), and 5(k) of this rule” and insert “876 IAC 3-3-3(k), 876 IAC 3-3-4(k), and 876 IAC 3-3-5(k)”.

*Filed with Secretary of State: October 8, 2003, 1:45 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 #03-23(F) and may be found at 27 IR 529, as corrected.*

**TITLE 405 OFFICE OF THE SECRETARY OF  
FAMILY AND SOCIAL SERVICES**

LSA Document #03-66

Under IC 4-22-2-40, LSA Document #03-66, printed at 26 IR  
3381, is recalled.

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**TITLE 410 INDIANA STATE DEPARTMENT OF  
HEALTH**

LSA Document #03-19

Under IC 4-22-2-40, LSA Document #03-19, printed at 26 IR  
3385, is recalled.

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**Notice of Withdrawal**

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**TITLE 170 INDIANA UTILITY REGULATORY  
COMMISSION**

LSA Document #02-260

Under IC 4-22-2-41, LSA Document #02-260, printed at 26  
IR 64, is withdrawn.

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**TITLE 610 DEPARTMENT OF LABOR**

LSA Document #03-250

Under IC 4-22-2-41, LSA Document #03-250, printed at 27  
IR 210, is withdrawn.

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**TITLE 50 DEPARTMENT OF LOCAL  
GOVERNMENT FINANCE**

LSA Document #03-268(E)

**DIGEST**

Temporarily provides appeal procedures for the Department of Local Government Finance, Cole-Layer-Trumble, and the taxpayers of Lake County, Indiana, to follow during the informal appeal process that may be initiated subsequent to taxpayers receiving notice of their 2002 general reassessment. Authority: HEA 1535, P.L.235-2003; IC 4-22-2-37.1. Effective October 6, 2003.

**SECTION 1.** These rules are intended to achieve efficiency and fairness in the administrative proceedings conducted by Cole-Layer-Trumble on behalf of the Indiana department of local government finance. The procedural requirements established by this rule shall only apply to proceedings governed by IC 6-1.1-4-33, for which the department of local government finance is the ultimate authority.

**SECTION 2.** Throughout this document, the following words have the following meaning unless the context indicates otherwise:

- (1) "Assessment date" means March 1, 2002.
- (2) "Assessed value" equals 100% of true tax value assigned to a property.
- (3) "Board" means the Indiana board of tax review as defined in IC 6-1.5.
- (4) "Contractor" means the appraisal firm the department entered into a contract with under IC 6-1.1-4-33, or Cole-Layer-Trumble. The contractor will serve as an authorized representative of the department of local government finance.
- (5) "County" means Lake County, Indiana.
- (6) "Day" means calendar day including Saturday, Sunday, and any holiday. If a deadline falls on a Saturday, Sunday, or holiday, the next business day will be considered the due date.
- (7) "Department" means the department of local government finance.
- (8) "Disclosure statement" is the statement a taxpayer must provide the professional appraiser if a certified tax representative is given authority by the taxpayer to represent the taxpayer in an informal hearing. A copy of the disclosure statement may be located on the state prescribed Power of Attorney Form or in 50 IAC 15-5-5(b).
- (9) "Final assessment decision" means a department action as prescribed in IC 6-1.1-4-33(g).
- (10) "Formal appeal" means the appeal a taxpayer may initiate under IC 6-1.1-4-34 to be conducted by the board. A formal appeal may be initiated within thirty (30) days of the department's issuance of a final assessment decision.

(11) "Informal hearing" means the process a taxpayer must request within forty-five (45) days from the date the notice is issued. To initiate this process, the taxpayer must telephone the contractor at the telephone number listed on the taxpayer's notice by the prescribed deadline and schedule a date and time to discuss the taxpayer's assessed value.

(12) "Notice" means notice of property tax assessment or Form 11 for Lake County. A taxpayer has forty-five (45) days from the date the notice is issued to initiate an informal hearing.

(13) "Professional appraiser" means the employee designated by the contractor to conduct an informal hearing.

(14) "Recommendation" means the contractor's report to the department following the informal hearing. All recommendations must be submitted to the department for review. The department may base its final assessment decision on the contractor's recommendation and the information submitted by the taxpayer or the taxpayer's authorized representative.

(15) "True tax value" is the market value in use of a property for its current use, as defined in the 2002 Indiana Real Estate Manual. True tax value may be thought of as the ask price of property by its owner. True tax value is established by using fair market data measuring property wealth, but it is not based strictly on fair market value.

(16) "Taxpayer" means any person or entity designated as a person under IC 6-1.1-1-10 and who owns or leases real property in Lake County, Indiana. This includes person liable for taxes under IC 6-1.1-2-4.

(17) "Tax representative" is a person as defined in 50 IAC 15-5-1(3). A tax representative may participate in informal hearings on behalf of a taxpayer if the tax representative is properly certified under 50 IAC 15-5-2.

**SECTION 3.** All informal hearings will be conducted by a professional appraiser who shall:

- (1) conduct a fair and impartial review of the taxpayer's assessed value;
- (2) adjudicate all issues necessary for resolution of the matter;
- (3) maintain accurate and complete records; and
- (4) avoid delay in providing the department a recommendation.

**SECTION 4.** The contractor shall have the authority to do the following:

- (1) Issue department prescribed notices of assessment to taxpayers. The notice shall include:
  - (A) the assessed value for assessment year 2002;
  - (B) a date the notice is issued by the contractor;
  - (C) a telephone number for the taxpayer to call to initiate an informal hearing;

(D) a forty-five (45) day deadline date the taxpayer has to initiate an informal hearing;

(E) the address for the contractor's office and the site for informal hearings;

(F) an explanation of how the assessed value relates to true tax value; and

(G) any additional information the department deems pertinent.

(2) Schedule informal hearings initiated by the taxpayer in a timely manner.

(3) Designate and assign professional appraisers to conduct informal hearings.

(4) Determine the proper recommendation to provide the department in relation to each informal hearing.

(5) Issue department-prescribed final assessment decisions. The final assessment decision of the department shall include:

(A) the assessed value as of the assessment date;

(B) the reason for a change in assessed value, if one occurred, and whether the change was as a result of the informal hearing;

(C) the amount of either an increase or decrease in assessed value; and

(D) instructions for initiating a formal appeal with the board.

Notice of the decision shall be sent to the taxpayer, the county auditor, the county assessor, and the township assessor.

(6) Represent the department of local government finance in appeals initiated under IC 6-1.1-4-34.

SECTION 5. The professional appraiser shall have the authority and responsibility to do the following:

(1) Conduct an informal hearing in accordance with IC 6-1.1-4-33.

(2) Discuss the specifics of the taxpayer's reassessment.

(3) Explain to the taxpayer how the contractor determined the assessed value.

(4) Provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment.

(5) Note and consider any objections of the taxpayer.

(6) Note and consider all errors alleged by the taxpayer.

(7) Explain the contractor's assessment to any taxpayer who initiates an informal hearing. The assessment must reflect the true tax value of the property and the professional appraiser may use the following documents to explain the basis of the value:

(A) taxpayer's property record card;

(B) sales disclosure forms used in determining the assessed value and neighborhood factor;

(C) property record cards of other properties; and

(D) any additional documentation the professional appraiser deems relevant.

(8) Evaluate the evidence presented by the taxpayer or

the taxpayer representative and determine whether it is relevant and probative under 50 IAC 2.3.

(9) Educate the taxpayer of their appeal rights and the assessment process.

SECTION 6. The taxpayer may initiate an informal hearing with the contractor within forty-five (45) days from the date the notice is issued. The taxpayer shall initiate this procedure by calling the telephone number listed on the notice during the prescribed time periods. If the taxpayer contacts the department, the department shall refer the call to the contractor and instruct the contractor to schedule an informal hearing if the contact to the department was timely. The taxpayer must initiate an informal hearing and provide the contractor or department with the following information:

(1) taxpayer name;

(2) proof of identity if requested;

(3) proof of ownership if requested;

(4) parcel or key number;

(5) the 2002 assessed valuation;

(6) address of affected property;

(7) a telephone number the contractor may use as a contact number;

(8) the address to which to send all notices and decisions;

(9) a statement of the particular issue the taxpayer wishes to dispute; and

(10) evidence or documentation supporting the taxpayer's contentions.

SECTION 7. (a) If the taxpayer has retained the services of a tax representative, a properly executed power of attorney form and disclosure statement must be presented to the professional appraiser during the informal hearing.

(b) The taxpayer must present evidence to support a proper assessment. Documents that may be considered relevant evidence include, but are not limited to:

(1) documents reflecting sales of comparable properties;

(2) recent appraisals;

(3) repair estimates;

(4) documents reflecting market value of comparable properties;

(5) closing statements;

(6) photos relating to the condition of the improvement; and

(7) any other pertinent representations of true tax value.

(c) The taxpayer must be able to provide the professional appraiser a copy of all evidence they wish to submit, including photographs.

SECTION 8. The contractor must provide the department a recommendation of assessed value subsequent to the taxpayer initiating an informal appeal. The contractor's recommendation must include whether or not a change in assessed value is warranted, identify and address any

**objection made by the taxpayer, address any errors alleged by the taxpayer, and note any procedural error that occurred during the process.**

**SECTION 9. In order for the taxpayer to appeal under IC 6-1.1-4-34, the taxpayer must participate in an informal hearing and receive a final decision of value from the department prior to filing a petition for review with the county assessor not less than thirty (30) days after the department issues their decision.**

**SECTION 10. If the department fails to provide the taxpayer a final assessment determination within two hundred seventy (270) days of sending the Form 11, the taxpayer may appeal their assessment to the Indiana board of tax review by filing a petition with the county assessor.**

**SECTION 11. Informal hearings will be held in a centralized office: 833 W. Lincoln Highway, Suite B20, Schererville, Indiana 46375. If the taxpayer has generalized questions or concerns, the taxpayer may call 219-864-8770.**

**SECTION 12. SECTIONS 1 through 11 of this document expire on the earliest of the following:**

- (1) The expiration date of the document under IC 4-22-2-37.1; or**
- (2) December 31, 2005.**

*LSA Document #03-268(E)*

*Filed with Secretary of State: October 6, 2003, 9:45 a.m.*

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## **TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

LSA Document #03-267(E)

### **DIGEST**

Temporarily amends 170 IAC 7-1.2-10 concerning telephone utilities extension of facilities by removing the requirements for new real estate developments. Authority: IC 4-22-2-37.1. The original emergency document, LSA Document #03-192, printed at 26 IR 3659, effective August 8, 2003, expires October 7, 2003. Effective October 8, 2003.

**SECTION 1. (170 IAC 7-1.2-10) (a)** Each LEC shall include in its tariffs filed with the commission a statement of its standard extension policy, setting forth the terms and conditions under which its facilities will be extended to provide service to customer applicants located within the LEC's certificated service territory. The LEC's policies for service extensions shall conform to construction charges for extension of facilities required to provide local service and will not apply to facilities located on public rights-of-way, except where:

- (1) unusual costs, as defined in tariffs or otherwise determined by the commission, are involved in the establishment of service;
- (2) the installation is for a temporary or semipermanent purpose; or
- (3) the facilities cannot be used for other general telephone purposes if service to the customer applicant is discontinued.

(b) Provided the type of facilities and method of installation are the type normally used by the LEC to provide the requested service, construction charges for facilities to be located on private rights-of-way in order to satisfy an *[sic, a]* customer applicant's request for local service shall not apply to the following:

- (1) The first one-tenth (0.1) of a mile for business service.
- (2) The first two-tenths (0.2) of a mile for residential service.

If a customer applicant requests a type of facility or method of installation that differs from the norm, the LEC shall charge the customer applicant for the difference in cost between the two (2) types of construction. The customer applicant shall also be responsible for providing necessary private rights-of-way if construction is required in areas where the right of eminent domain does not exist. The provision of any facilities beyond the first one-tenth (0.1) of a mile for business service and two-tenths (0.2) of a mile for residential service shall be charged to the customer applicant at cost.

(c) Requirements for new real estate developments are as follows:

- (1) If a developer requests the installation of telephone facilities for a new real estate development, the developer shall have the property:

- (A) cleared of trees, tree stumps, paving, and other obstructions necessary for installation of the telephone facilities;
- (B) staked to show property lines and final grade; and
- (C) graded to within six (6) inches of final grade;

all at no charge to the LEC. ~~The LEC shall also have the right to require a deposit from the developer to cover the full cost of constructing the requested facilities in accordance with applicable rules, regulations, and tariffs approved by the commission. The LEC shall refund the deposit to the developer on a pro rata basis as customers connect to the newly extended facilities. Such refunds shall be paid to the developer on a quarterly basis or at longer intervals if the developer and the LEC so agree. If refunds are returned quarterly, no interest shall be paid. If refunds are returned annually, the refundable portion of the deposit shall bear interest at the rate of six percent (6%) per annum from the date the first customer is connected to the newly extended facilities.~~

- (2) Any amount that is still owed to the LEC under this subsection or subsection (a) or (b) may be withheld when the deposit is returned to the developer.

- (3) Any portion of the deposit that has not been refunded five (5) years from the date that the LEC is first ready to render service from the extension may be retained by the LEC as

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liquidated damages.

(4) When customers request pole attachments to avoid new construction costs, the LEC may charge the customer all expenses and rental charges associated with the attachments.

(5) Except as provided in filed tariffs, the ownership of all facilities constructed, as herein provided, shall be vested in the LEC.

(6) Except as provided in this subsection, no portion of the expense assessed against the customer shall be subject to later refund.

(d) Nothing in this rule shall be construed as prohibiting any LEC from establishing an extension policy more favorable to customers than that contained herein, as long as no discrimination is practiced between customers under the same or substantially the same circumstances and conditions.

*LSA Document #03-267(E)*

*Filed with Secretary of State: October 3, 2003, 3:45 p.m.*

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-242(E)

#### DIGEST

With the final adoption and approval in LSA Document #03-24(F) of amendments to 312 IAC 5-2-47 defining "waters of concurrent jurisdiction" and to 312 IAC 5-13-2 that governs children wearing personal flotation devices on waters of concurrent jurisdiction, LSA Document #03-28(E) that governs children wearing personal flotation devices on waters of concurrent jurisdiction, as a temporary rule, is repealed. Effective August 22, 2003.

SECTION 1. LSA DOCUMENT #03-028(E) [*sic.*, #03-28(E)] IS REPEALED.

SECTION 2. **SECTION 1 of this document takes effect August 22, 2003.**

*LSA Document #03-242(E)*

*Filed with Secretary of State: August 14, 2003, 9:30 a.m.*

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-243(E)

#### DIGEST

With final adoption and approval in LSA Document #02-318(F) of amendments to 312 IAC 9-6 that regulates fish, LSA Document #02-330(E) that governs the regulation of exotic

nuisance species of fish, as a temporary rule, is repealed. Effective August 22, 2003.

SECTION 1. LSA DOCUMENT #02-330(E) IS REPEALED.

SECTION 2. **SECTION 1 of this document takes effect August 22, 2003.**

*LSA Document #03-243(E)*

*Filed with Secretary of State: August 14, 2003, 9:30 a.m.*

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### TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-265(E)

#### DIGEST

Temporarily amends 405 IAC 2-8-1 to change the definition of "estate" for Medicaid estate recovery purposes. Temporarily amends 405 IAC 2-8-1.1 to change the estate recovery exemption for jointly owned real property. Makes numerous changes to 405 IAC 2-10 concerning liens against the real property of Medicaid recipients in order to conform to P.L.224-2003, SECTIONS 71 through 80. Temporarily adds a provision setting out a procedure for voiding a lien in order to conform to P.L.224-2003, SECTIONS 71 through 80. Temporarily adds a provision exempting property disregarded under the Indiana Long Term Care Insurance Program from lien placement and enforcement. Authority: IC 4-22-2-37.1(a)(20); IC 12-8-1-12(c). Effective September 30, 2003.

SECTION 1. (405 IAC 2-8-1) (a) Upon the death of a Medicaid recipient fifty-five (55) years of age or older, the office of Medicaid policy and planning (office) shall seek recovery from the recipient's estate for medical assistance paid on behalf of the recipient after the recipient became fifty-five (55) years of age or older. Recovery shall be made for benefits provided prior to October 1, 1993, only if the recipient was sixty-five (65) years of age or older at the time the benefits were provided.

(b) As used in this SECTION, "estate", with respect to a deceased recipient, shall include all of the following:

(1) All real and personal property and other assets included within the recipient's estate as defined for purposes of state probate law.

(2) Any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002; and

(3) Any real or personal property conveyed through a nonprobate transfer. As used in this SECTION, "nonprobate

transfer” means a valid transfer, effective at death, by a transferor who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

- (A) use the property for the benefit of the transferor; or
- (B) apply the property to discharge claims against the transferor’s probate estate.

The term does not include a transfer of a survivorship interest in a tenancy by the entireties real estate ~~transfer of a life insurance policy or annuity~~; or payment of the death proceeds of a life insurance policy. ~~or annuity~~.

(c) If the recipient is survived by a spouse, recovery shall be made after the death of the surviving spouse. Only those assets that are included in the recipient’s estate as defined in subsection (b) are subject to recovery.

(d) If the recipient is survived by a child, no recovery shall be made while the child is either:

- (1) under twenty-one (21) years of age; or
- (2) blind or disabled as defined in 42 U.S.C. 1382c.

(e) A claim may not be enforced against the following assets:

- (1) Personal effects, ornaments, or keepsakes of the deceased.
- (2) Assets of an individual who purchases a long term care insurance policy that are disregarded pursuant to IC 12-15-39.6-10.
- (3) Nonprobate assets that were determined exempt or unavailable for purposes of the decedent’s Medicaid eligibility prior to May 1, 2002.
- (4) Assets that the decedent transferred through a nonprobate transfer prior to May 1, 2002.

(f) The office may waive the application of this SECTION in cases of undue hardship pursuant to section 2 of this rule [405 IAC 2-8-2].

SECTION 2. (405 IAC 2-8-1.1) (a) This SECTION applies only to real property owned by the individual at the time of death that was conveyed to the individual’s survivor through joint tenancy with right of survivorship.

(b) The office may enforce its claim against property described in subsection (a) only to the extent that the value of the recipient’s combined total interest in all real property described in subsection (a) subject to the claim exceeds ~~one hundred twenty-five~~ **seventy-five** thousand dollars ~~(\$125,000)~~. **(\$75,000)**.

(c) This SECTION expires January 1, 2008.

SECTION 3. (405 IAC 2-10-3) (a) When the office in accordance with 42 U.S.C. 1396p determines that a Medicaid recipient who resides in a medical institution cannot reasonably be expected to be discharged and return home, the office may attach a lien on the Medicaid recipient’s real property subject to

the provisions of this rule [405 IAC 2-10] and IC 12-15-8.5.

(b) The office may not obtain a lien on the recipient’s home if any of the following people lawfully reside in the home of the institutionalized recipient:

- (1) The recipient’s spouse.
- (2) The recipient’s child who is less than twenty-one (21) years of age, blind, or disabled as defined in 42 U.S.C. 1382c.
- (3) The recipient’s sibling who:
  - (A) was residing in the recipient’s home for a period of at least one (1) year immediately before the recipient’s institutionalization; and
  - (B) has an ownership interest in the home.
- (4) The recipient’s parent.
- ~~(5) An individual, other than a paid caregiver, who:~~
  - ~~(A) was continuously residing in the recipient’s home for a period of at least two (2) years immediately prior to the date of the recipient’s institutionalization; and~~
  - ~~(B) establishes to the satisfaction of the office that the person provided care to the recipient enabling the recipient to reside in his or her home, delaying institutionalization.~~

SECTION 4. (405 IAC 2-10-7) (a) From the date on which the notice of lien is recorded in the office of the county recorder, the notice of lien:

- (1) constitutes due notice of a lien against the recipient or recipient’s estate for any amount then recoverable and any amounts that become recoverable under this article [405 IAC 2]; and
- (2) gives a specific lien in favor of the office on the Medicaid recipient’s interest in the real property.

(b) The lien continues from the date of filing until the lien:

- (1) is satisfied;
- (2) is released; or
- (3) expires.

The lien automatically expires unless the office commences a foreclosure action not later than ~~nine (9) months~~ **two (2) years** after the Medicaid recipient’s death.

SECTION 5. (405 IAC 2-10-8) (a) The office may not enforce a lien on the recipient’s home under this rule [405 IAC 2-10] if the following individuals are lawfully residing in the recipient’s home and have resided there on a continuous basis since the recipient’s date of admission to the medical institution:

- (1) The recipient’s child of any age who:
  - (A) resided in the recipient’s home for at least twenty-four (24) months before the recipient was institutionalized; and
  - (B) establishes to the satisfaction of the office that he or she provided care to the recipient that enabled the recipient to reside in his or her home, delaying institutionalization.
- (2) The recipient’s sibling, who has resided in the recipient’s home for a period of at least one (1) year immediately before the date of the recipient’s admission to the medical institution.

(b) The office may not enforce a lien on the real property of

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the recipient under this rule [405 IAC 2-10] as long as the recipient is survived by any of the following:

- (1) Recipient's spouse.
- (2) Recipient's child who is less than twenty-one (21) years of age, blind, or disabled as defined in this rule [405 IAC 2-10].
- ~~(3) The recipient's parent.~~

(c) If there is no condition present in subsection (a) or (b), the office, or its designee, may bring a proceeding in foreclosure on the lien or to make arbitration of the amount due on the lien as follows:

- (1) If the real property or recipient's interest is sold during the lifetime of the recipient.
- (2) Upon the death of the recipient.

SECTION 6. (405 IAC 2-10-9) (a) The office shall release a lien obtained under this rule [405 IAC 2-10] within ten (10) business days after the county office of family and children receives notice that the recipient is no longer institutionalized and is living in his or her home.

(b) A lien obtained under this rule [405 IAC 2-10] is subordinate to the ~~subsequent~~ security interest of a financial institution as defined in IC 12-15-8.5 that loans money to the recipient, provided that the recipient is able to establish to the satisfaction of the office that the funds were used for any of the following purposes:

- ~~(1) The payment of taxes, insurance, maintenance, and repairs in order to preserve and maintain the recipient's real property.~~
- ~~(2) Operating capital for the operation of the recipient's farm, the recipient's business, or the recipient's real property that is income-producing.~~
- ~~(3) The payment of medical, dental, or optical expenses incurred by:~~
  - ~~(A) the recipient;~~
  - ~~(B) the recipient's spouse;~~
  - ~~(C) the recipient's dependent parent; or~~
  - ~~(D) a child less than twenty-one (21) years of age or who is blind or disabled.~~
- ~~(4) The reasonable costs and expenses for the support, maintenance, comfort, and education of the recipient's spouse, a dependent parent, or a child who is less than twenty-one (21) years of age or who is blind or disabled.~~

(c) If the real property subject to the lien is sold, the office shall release its lien at the closing and the lien shall attach to the net proceeds of the sale.

SECTION 7. (a) **A lien under 405 IAC 2-10 is void if both of the following occur:**

- (1) The owner of property subject to a lien under this chapter or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.**

**(2) The office fails to file an action to foreclose the lien in the county where the property is located not later than thirty (30) days after receiving the notice. However, this SECTION does not prevent the claim from being collected as other claims are collected by law.**

**(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:**

- (1) The facts of the notice.**
- (2) That more than thirty (30) days have passed since the notice was received by the office.**
- (3) That no action for foreclosure of the lien is pending.**
- (4) That no unsatisfied judgment has been rendered on the lien.**

**(c) The recorder shall:**

- (1) record the affidavit of service in the miscellaneous record book of the recorder's office; and**
- (2) certify on the face of the record any lien that is fully released.**

**When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien.**

SECTION 8. **Real property that is disregarded for eligibility purposes in connection with the purchase and use of a qualified long term care insurance policy pursuant to IC 12-15-39.6-10 is exempt from lien placement and enforcement.**

SECTION 9. **405 IAC 2-10-10 IS TEMPORARILY REPEALED.**

SECTION 10. **This document expires December 29, 2003.**

*LSA Document #03-265(E)*

*Filed with Secretary of State: September 30, 2003, 2:15 p.m.*

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### TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-266(E)

#### DIGEST

Temporarily amends 405 IAC 2-3-1.1 regarding the Medicaid penalty for transfers of assets for less than fair market value. Authority: IC 4-22-2-37.1(a)(20); IC 12-8-1-12(c). Effective September 30, 2003.

SECTION 1. (405 IAC 2-3-1.1) (a) The following definitions apply throughout this SECTION:

(1) "Assets" includes all income and resources of the applicant or recipient, and of the applicant's or recipient's spouse, including any income or resources which the applicant or recipient or the applicant's or recipient's spouse is entitled to receive but does not receive because of action:

(A) by the applicant or recipient or the applicant's or recipient's spouse;

(B) by a person, including, but not limited to, a court or administrative body, with legal authority to act in place of or on behalf of the applicant or recipient or the applicant's or recipient's spouse; or

(C) by a person, including, but not limited to, a court or administrative body, acting at the direction or upon the request of the applicant or recipient or the applicant's or recipient's spouse.

The term includes assets that an individual is entitled to receive but does not receive because of failure to take action, subject to subsection (i) [*sic.*, subsection (j)].

(2) "Individual" means an applicant or recipient of Medicaid.

(3) "Institutionalized individual" means an applicant or recipient who is:

(A) an inpatient in a nursing facility;

(B) an inpatient in a medical institution for whom payment is made based on a level of care provided in a nursing facility; or

(C) who is receiving home and community-based waiver services.

(4) "Net income" means the income produced by real property after deducting allowable expenses of ownership.

Allowable and nonallowable expenses are as follows:

(A) The following are allowable expenses of ownership if the owner is responsible for the expenses:

(i) Property taxes.

(ii) Interest payments.

(iii) Repairs and maintenance.

(iv) Advertising expenses.

(v) Lawn care.

(vi) Property insurance.

(vii) Trash removal expenses.

(viii) Snow removal expenses.

(ix) Utilities.

(x) Any other expenses of ownership allowed by the Supplemental Security Income program.

(B) The following are not allowable expenses of ownership:

(i) Depreciation.

(ii) Payments on mortgage principal.

(iii) Personal expenses of the owner.

(iv) Mortgage insurance.

(v) Capital expenditures.

(5) "Noninstitutionalized individual" means an applicant or recipient receiving any of the services described in subsection (e).

(6) "Qualified long term care insurance policy" has the meaning in 760 IAC 2-20-30.

(7) "Uncompensated value" means the difference between the fair market value of the asset and the value of the consideration received by the applicant or recipient in return for transferring the asset.

(b) A transfer of assets includes any cash, liquid asset, or property that is transferred, sold, given away, or otherwise disposed of as follows:

(1) Transfer includes any total or partial divestiture of control or access, including, but not limited to, any of the following:

(A) Converting an asset from individual to joint ownership.

(B) Relinquishing or limiting the applicant's or recipient's right to liquidate or sell the asset.

(C) Disposing of a portion or a partial interest in the asset while retaining an interest.

(D) Transferring the right to receive income or a stream of income, including, but not limited to, income produced by real property.

(E) Renting or leasing real property.

(F) Waiving the right to receive a distribution from a decedent's estate, or failing to take action to receive a distribution that the individual is entitled to receive by law, subject to subsection (i) [*sic.*, subsection (j)].

(2) If an applicant or recipient relinquishes ownership or control over a portion of an asset, but retains ownership, control, or an interest in the remaining portion, the portion relinquished is considered transferred.

(3) A transfer of the applicant's or recipient's assets completed by the applicant's or recipient's power of attorney or legal guardian is considered a transfer by the applicant or recipient.

(4) For purposes of this SECTION, in the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of the asset, shall be considered transferred by the applicant or recipient when any action is taken, either by the applicant or recipient or by any other person, that reduces or eliminates the applicant's or recipient's ownership or control of the asset.

(5) This SECTION applies without regard to the exclusion of the home described in 42 U.S.C. 1382b(a)(1).

**(6) This SECTION applies without regard to the exclusion of income-producing property described in 405 IAC 2-3-15. The transfer of income-producing property is subject to penalty under subsections (h) and (l).**

(c) If an applicant or recipient of Medicaid, or the spouse of an applicant or recipient, disposes of assets for less than fair market value on or after the look-back date specified in this subsection, the applicant or recipient is ineligible for medical assistance for services described in subsections (d) through (e), for a period beginning on the first day of the first month ~~during~~ ~~or~~ after which assets have been transferred for less than fair market value, and which does not occur in any other periods of ineligibility under this SECTION. **If the transfer took place**

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**prior to July 1, 2003, the penalty period begins in the month of the transfer.** The ineligibility period is equal to the number of months specified in subsection (f) [*sic.*, subsection (g)]. The look-back date is determined as follows:

- (1) In the case of transfers that do not involve a trust, the look-back date is determined as follows:
  - (A) For an institutionalized individual, the look-back date is thirty-six (36) months before the first date as of which the individual both:
    - (i) is an institutionalized individual; and
    - (ii) has applied for medical assistance.
  - (B) For a noninstitutionalized individual, the look-back date is thirty-six (36) months before the later of:
    - (i) the date on which the individual applies for medical assistance; or
    - (ii) the date on which the individual disposes of assets for less than fair market value.
- (2) In the case of transfers which involve payments from a trust or portions of a trust that are treated as assets disposed of by an applicant or recipient under section 22(b)(3) or 22(c)(2) of this rule [405 IAC 2-3-22(b)(3) or 405 IAC 2-3-22(c)(2)], the look-back date is determined as follows:
  - (A) For an institutionalized individual, the look-back date is sixty (60) months before the first date as of which the individual both:
    - (i) is an institutionalized individual; and
    - (ii) has applied for medical assistance.
  - (B) For a noninstitutionalized individual, the look-back date is sixty (60) months before the later of:
    - (i) the date on which the individual applies for medical assistance; or
    - (ii) the date on which the individual disposes of assets for less than fair market value.
- (d) During the penalty period, an institutionalized individual is ineligible for medical assistance for the following services:
  - (1) Nursing facility services.
  - (2) A level of care in any institution equivalent to that of nursing facility services.
  - (3) Home or community-based waiver services.
- (e) During the penalty period, a noninstitutionalized individual is ineligible for the following services:
  - (1) Home health care services.
  - (2) Home and community care services for functionally disabled elderly individuals.
  - (3) Personal care services as defined in 42 U.S.C. 1396a(a)(24).
  - (4) Any other long term care services, including, but not limited to, the services listed in subsection (d).
- (f) If an individual is ineligible for medical assistance for services under this SECTION, expenses for those services are not allowable medical expenses in calculating an individual's nursing home liability for any month of Medicaid**

**eligibility.**

**(g)** The number of months of ineligibility shall be equal to the total, cumulative uncompensated value of all assets transferred by the individual, or the individual's spouse, on or after the look-back date specified in subsection (c), divided by the average monthly cost to a private patient of nursing facility services in the geographic area which includes the county where the individual resides at the time of application. As used in this subsection, "geographic area" means the region identified in Section 2640.10.35.20 of the Family and Social Services Administration Program Policy Manual for Cash Assistance, Food Stamps, and Health Coverage. **For transfers taking place on or after July 1, 2003, in determining the total, cumulative uncompensated value of assets transferred, transfers made in consecutive months are added together. The penalty period begins with the month following the first month that the total amount transferred exceeds the monthly private pay rate.**

**(h)** This subsection applies to the transfer of a stream of income, including, but not limited to, the transfer of the income generated by income-producing real property. **The transfer of income-producing real property is a transfer of a stream of income if the transferor does not retain the right to receive the income generated by the property or any other resource. When a transferred asset produces or is capable of producing income, the transfer of that asset is a transfer of income as well as a transfer of the underlying resource. The value of the income is added to the value of the underlying resource in determining the uncompensated value of the transfer.** The uncompensated value of income transferred is determined by calculating the greater of:

- (1) the fair market value; or
- (2) the actual amount;

of total net income that the property or other source of income is **expected to produce capable of producing** during the lifetime of the transferor, based on life expectancy tables published by the office, and subtracting the income, if any, that the transferor will receive from the property or other source of income after the transfer.

**(i)** When an individual accepts a rental payment that is less than the fair market rental value for income-producing property, the uncompensated value of the transfer is determined by:

- (1) calculating the difference between the fair market rental value and the amount of rent accepted; and
- (2) multiplying the difference by the person's life expectancy based on life expectancy tables published by the office.

**(j)** This subsection applies to a transfer of assets that results from failure to take action to receive assets to which one is entitled to receive by law. No penalty will be imposed if any of the following circumstances applies:

- (1) The applicant or recipient, or the individual with legal



authority to act on behalf of the applicant or recipient, is unaware of his or her right to receive assets or becomes aware of the right to receive assets after the deadline for taking action has passed. If the office notifies the applicant or recipient of his or her right to receive assets prior to the deadline for taking action, the individual will be presumed to be aware of his or her right to receive assets unless subdivision (2) applies.

(2) A physician states that the applicant or recipient is not capable of taking action to receive the assets, and there is no guardian or other individual with the authority to act on the applicant's or recipient's behalf.

(3) The expenses of collecting the assets would exceed the value of the assets.

(4) In the case of a surviving spouse who fails to take a statutory share of a deceased spouse's estate, no penalty will be imposed if the deceased spouse has made other equivalent arrangements to provide for a spouse's needs. "Other equivalent arrangements" includes, but is not limited to, a trust established for the benefit of the surviving spouse.

(~~j~~) **(k)** An applicant or recipient shall not be ineligible for medical assistance under this SECTION if any of the following apply:

(1) The assets transferred were a home, and title to the home was transferred to any of the following persons:

(A) The spouse of the applicant or recipient.

(B) A child of the applicant or recipient who:

(i) is under twenty-one (21) years of age; or

(ii) is blind or disabled as defined in 42 U.S.C. 1382c.

(C) A sibling of the applicant or recipient who has an equity interest in the home and who was residing in the applicant's or recipient's home for a period of at least one (1) year immediately before the date the applicant or recipient becomes an institutionalized individual.

(D) A son or daughter of the applicant or recipient, other than a child described in clause (B), who was residing in the applicant's or recipient's home for a period of at least two (2) years immediately before the date the applicant or recipient becomes an institutionalized individual and who the office determines has provided care to the applicant or recipient which permitted the applicant or recipient to reside at home rather than in an institution or facility.

(2) The assets were transferred to the applicant's or recipient's spouse or to another for the sole benefit of the applicant's or recipient's spouse.

(3) The assets were transferred from the applicant's or recipient's spouse to another for the sole benefit of the applicant's or recipient's spouse.

(4) The assets were transferred to:

(A) the applicant's or recipient's child who is disabled or blind as defined in 42 U.S.C. 1382c; or

(B) to a trust, including a trust described in section 22(i) of this rule [405 IAC 2-3-22(i)], established solely for the benefit of the applicant's or recipient's child who is

disabled or blind as defined in 42 U.S.C. 1382c.

(5) The assets were transferred to a trust, including a trust described in section 22(i) of this rule [405 IAC 2-3-22(i)], established solely for the benefit of an individual under sixty-five (65) years of age who is disabled as defined in 42 U.S.C. 1382c.

(6) The assets transferred are disregarded for eligibility purposes through the use of a qualified long term care insurance policy pursuant to IC 12-15-39.6. If an asset is disregarded through the use of a qualified long term care insurance policy, that asset and any income generated by that asset may be transferred without penalty.

(7) A satisfactory showing is made to the office, in accordance with standards specified under 42 U.S.C. 1396p(c)(2)(C) by the Secretary of Health and Human Services, that:

(A) the applicant or recipient intended to dispose of the assets at fair market value or for other valuable consideration;

(B) the assets were transferred exclusively for a purpose other than to qualify for medical assistance; or

(C) all assets transferred for less than fair market value have been returned to the applicant or recipient.

(8) The office may waive the application of this SECTION in cases of undue hardship, but only to the extent required by standards specified under 42 U.S.C. 1396p(c)(2)(D) by the Secretary of Health and Human Services.

**(I) For transfers of income-producing real property on and after July 1, 2003, six thousand dollars (\$6,000) of the equity value can be transferred without penalty if the transferred property produces at least three hundred sixty dollars (\$360) a year in income. This six thousand dollars (\$6,000) exemption is a single, one-time exemption that applies to the total value of all income-producing real property transferred by the applicant during the applicant's lifetime. If the property does not produce at least three hundred sixty dollars (\$360) per year in income, the entire equity is the uncompensated value.**

(~~k~~) **(m)** In the case of a transfer by the spouse of an applicant or recipient which results in a period of ineligibility for medical assistance, the office shall apportion the period of ineligibility, or any portion of that period, between the applicant or recipient and the applicant's or recipient's spouse, if the spouse otherwise becomes eligible for medical assistance, as specified in regulations promulgated under 42 U.S.C. 1396p(c)(4) by the Secretary of Health and Human Services.

**SECTION 2. This document expires December 29, 2003.**

*LSA Document #03-266(E)*

*Filed with Secretary of State: September 30, 2003, 2:15 p.m.*

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## Notice of Rule Adoption

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### **TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES**

LSA Document #03-66

Under IC 12-8-3-4.4, LSA Document #03-66, printed at 26 IR 3381, which amends 405 IAC 5-3-13 and 405 IAC 5-21-7 to require prior authorization for Medicaid reimbursement of assertive community treatment intensive case management services. Amends 405 IAC 5-21-1 to define terms associated with assertive community treatment. Adds 405 IAC 5-21-8 to provide for assertive community treatment intensive case management service for certain Medicaid recipients with serious mental illness. The rule which was adopted on August 7, 2003, and recalled on September 16, 2003, is a different version than the proposed rule which was published in the Indiana Register on July 1, 2003.

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**TITLE 326 AIR POLLUTION CONTROL BOARD**

LSA Document #01-249

The Air Pollution Control Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #01-249, printed at 24 IR 4012, has been changed. The changed Notice of Public Hearing appears below:

**Notice of Public Hearing**

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on **December 3, 2003** at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Room C, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 2-6, Emission Reporting.*

*The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.*

*Additional information regarding this action may be obtained from Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027, press 0, and ask for extension 3-5697 (in Indiana). If the date of this hearing is changed it will be noticed in the Change of Notice section of the Indiana Register. Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015*

*Indianapolis, Indiana 46206-6015  
or call (317) 233-0855, TDD (317) 232-6565. Speech and hearing impaired callers also 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 at the Office of Air Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East, Indianapolis, Indiana and are open for public inspection.*

Janet McCabe  
Assistant Commissioner  
Office of Air Quality

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**TITLE 550 BOARD OF TRUSTEES OF THE  
INDIANA STATE TEACHERS' RETIREMENT  
FUND**

LSA Document #03-155

The Board of Trustees of the Indiana State Teachers' Retirement Fund gives notice that the date of the public hearing

for LSA Document #03-155, printed at 26 IR 3944, has been changed. The changed Notice of Public Hearing appears below:

**Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on **November 24, 2003** at 1:00 p.m., at the Board of Trustees of the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana the Board of Trustees of the Indiana State Teachers' Retirement Fund will hold a public hearing on proposed amendments regarding counting vacation time payments as compensation. Send written comments to: Thomas N. Davidson, General Counsel, Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana 46204. Copies of these rules are now on file at the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Dr. William E. Christopher  
Executive Director  
Board of Trustees of the Indiana State Teachers'  
Retirement Fund

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**TITLE 675 FIRE PREVENTION AND BUILDING  
SAFETY COMMISSION**

LSA Document #03-48

The Fire Prevention and Building Safety Commission hereby gives notice that the date of the **second** public hearing for LSA Document #03-48, printed at 26 IR 2693, has been changed. The changed Notice of Public Hearing appears below:

**Notice of Public Hearing**

*Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on **December 2, 2003**, at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana, the Fire Prevention and Building Safety Commission will hold a public hearing to readopt rules. Requests for any part of this readoption to be adopted separately from the readoption rules must be made in writing within 30 days of this publication. Send written comments to: John Weesner, Department of Fire and Building Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204. Copies of these rules are now on file at the Department of Fire and Building Services, Indiana Government Center-South, 402 West Washington Street, Room W246 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Patrick R. Ralston  
Secretary  
Fire Prevention and Building Safety Commission

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## Notice of Intent to Adopt a Rule

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-269

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

**OVERVIEW:** Adds 312 IAC 12.5-1 concerning the boat excise tax. Would authorize the operator of a sailboat to display excise tax decals on the mast or boom if they are not clearly visible, as otherwise required to be affixed under IC 6-6-11-24(2), while the boat is underway. Questions or comments may be directed to slucas@dnr.state.in.us or by telephone at 317-233-3322. Statutory authority: IC 6-6-11-24.

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #03-275

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

**OVERVIEW:** Amends rules regulating comprehensive and residential care health facilities to add a definition of cognitive. Amends 410 IAC 16.2-3.1 and 410 IAC 16.2-5 to require additional in-service educational requirements of facility personnel, to require designation of and specify qualifications for a director of an Alzheimer's/dementia special care unit, to require facility to provide resident a copy of the Alzheimer's/dementia care unit disclosure form, and to clarify rules under resident behavior and facility practices, health services, and resident's rights. Written comments may be submitted to the Indiana State Department of Health, Health Care Regulatory Services Commission, 2 North Meridian Street #5A, Indianapolis, Indiana 46204. Statutory authority: IC 16-28-1-7; IC 16-28-1-12.

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #03-276

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 410 IAC 6-12 to add fees for plan review and construction permits. Written comments may be submitted to the Indiana State Department of Health, Health Care Regulatory Services Commission, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority for this proposal is provided under IC 16-19-3-4; IC 16-19-3-5; IC 16-19-5-1.

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### TITLE 414 HOSPITAL COUNCIL

LSA Document #03-277

Under IC 4-22-2-23, the Hospital Council intends to adopt a rule concerning the following:

**OVERVIEW:** Rules setting licensing and renewal fees for entities operating hospitals or ambulatory outpatient surgery centers. Written comments may be submitted to the Indiana Hospital Council, Attn: Indiana State Department of Health, Health Care Regulatory Services Commission, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-21-2-12; IC 16-21-2-14.

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### TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #03-278

Under IC 4-22-2-23, the Fire Prevention and Building Safety Commission intends to adopt a rule concerning the following:

**OVERVIEW:** To make a substantive change to the General Administrative Rules, 675 IAC 12, so that portions of Class 1 structures that are classified as A, B, E, and M occupancies may be used for residential purposes for limited periods of time. Public comments are invited and may be directed to the Department of Fire and Building Services, Attention: Technical Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204 or by e-mail at jweesner@sema.state.in.us. Statutory authority: IC 22-13-2-2; IC 22-13-2-13.

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### TITLE 816 BOARD OF BARBER EXAMINERS

LSA Document #03-271

Under IC 4-22-2-23, the Board of Barber Examiners intends to adopt a rule concerning the following:

**OVERVIEW:** The Board of Barber Examiners intends to establish fees for barber and barber instructor licensure. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, 302 West Washington Street, Room E034, Indianapolis, IN 46204-2700 or via e-mail at pla12@pla.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-7-5-14; IC 25-7-5-15; IC 25-7-11-5.

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## Notice of Intent to Adopt a Rule

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### **TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS**

LSA Document #03-272

Under IC 4-22-2-23, the State Board of Cosmetology Examiners intends to adopt a rule concerning the following:

**OVERVIEW:** The State Board of Cosmetology Examiners intends to establish licensure fees for master cosmetology, cosmetology, cosmetology instructor, esthetician, esthetics instructor, electrologist, electrologist instructor, manicurist, and shampoo operator. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, 302 West Washington Street, Room E034, Indianapolis, IN 46204-2700 or via e-mail at [pla12@pla.state.in.us](mailto:pla12@pla.state.in.us). Statutory authority: IC 25-1-8-2; IC 25-1-8-5; IC 25-8-3-23.

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### **TITLE 858 CONTROLLED SUBSTANCES ADVISORY COMMITTEE**

LSA Document #03-281

Under IC 4-22-2-23, the Controlled Substances Advisory Committee intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 858 IAC 2-1 to revise the electronic prescription monitoring program. Questions or comments concerning the proposed rules may be directed to: Health Professions Bureau, ATTENTION: Board Director, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204-2700 or by electronic mail at [jbolin@hpb.state.in.us](mailto:jbolin@hpb.state.in.us). Statutory authority: IC 35-48-7-12.

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### **TITLE 872 INDIANA BOARD OF ACCOUNTANCY**

LSA Document #03-270

Under IC 4-22-2-23, the Indiana Board of Accountancy intends to adopt a rule concerning the following:

**OVERVIEW:** Establish the requirements and procedures for a quality review program for CPA and PA firms. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Board Director, 302 West Washington Street, Room E034, Indianapolis, Indiana 46204-2700 or by electronic mail at [pla11@pla.state.in.us](mailto:pla11@pla.state.in.us). Statutory authority: IC 25-2.1-2-15; IC 25-2.1-5-8; IC 25-2.1-5-9.

### **TITLE 876 INDIANA REAL ESTATE COMMISSION**

LSA Document #03-273

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

**OVERVIEW:** This rule makes changes regarding the licensure of appraisers. Amends 876 IAC 3-2-7 to revise the fee schedule for the application for the issuance of a permit for temporary practice. Require approval of continuing education courses. Establish the criteria for approval of continuing education courses. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Commission Director, 302 West Washington Street, Room E012, Indianapolis, IN 46204-2700 or via e-mail at [pla9@pla.state.in.us](mailto:pla9@pla.state.in.us). Statutory authority: IC 25-1-8-2; IC 25-34.1-2-5; IC 25-34.1-3-8; IC 25-34.1-3-9.

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### **TITLE 876 INDIANA REAL ESTATE COMMISSION**

LSA Document #03-274

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: Commission Director, 302 West Washington Street, Room E012, Indianapolis, IN 46204-2700 or via e-mail at [pla9@pla.state.in.us](mailto:pla9@pla.state.in.us). Statutory authority: IC 25-34.1-2-5; IC 25-34.1-9-21.

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### **TITLE 905 ALCOHOL AND TOBACCO COMMISSION**

LSA Document #03-279

Under IC 4-22-2-23, the Alcohol and Tobacco Commission intends to adopt a rule concerning the following:

**OVERVIEW:** Adds 905 IAC 1-46 to establish rules regulat-

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## Notice of Intent to Adopt a Rule

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ing the placement of tobacco sales certificates issued pursuant to IC 7.1-3-18.5, et seq. This rule would also provide penalties for noncompliance. Questions concerning the proposed rule may be directed to Mark C. Webb, Executive Secretary, at 232-2472. Statutory authority: IC 7.1-3-18.5-4.

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### TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #03-280

Under IC 4-22-2-23, the Alcohol and Tobacco Commission intends to adopt a rule concerning the following:

**OVERVIEW:** Adds 905 IAC 1-47 to establish rules defining a municipal riverfront development project under IC 7.1-3-20-16. Questions concerning the proposed rule may be directed to Mark C. Webb, Executive Secretary, at 232-2472. Statutory authority: IC 7.1-2-3-7.

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**TITLE 52 INDIANA BOARD OF TAX REVIEW**

**Proposed Rule**  
LSA Document #03-259

**DIGEST**

Adds 52 IAC 4 to establish procedures to govern proceedings before the Indiana board of tax review with respect to appeals for the 2002 assessment year in Lake County. Effective 30 days after filing with the secretary of state.

**52 IAC 4**

SECTION 1. 52 IAC 4 IS ADDED TO READ AS FOLLOWS:

**ARTICLE 4. ASSESSMENT APPEALS IN LAKE COUNTY**

**Rule 1. Purpose and Applicability**

**52 IAC 4-1-1 Purpose**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 1. The purpose of this article is to establish procedures to govern administrative proceedings before the board arising from appeals of assessments of real property in Lake County for the March 1, 2002, assessment date. The definitive procedures, procedural requirements, and evidentiary controls established by this article are deemed essential to assure that the administrative appeals before the board are conducted in the most uniform and objective manner possible. (*Indiana Board of Tax Review; 52 IAC 4-1-1*)

**52 IAC 4-1-2 Applicability**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-32; IC 6-1.1-4-33; IC 6-1.1-15

Sec. 2. (a) The provisions of this article apply to and govern all proceedings before the board that arise from appeals of assessments:

- (1) of real property located in Lake County;
- (2) completed for the March 1, 2002, assessment date; and
- (3) performed by the department of local government finance or the department's authorized contractor pursuant to IC 6-1.1-4-32.

(b) To the extent that they are not inconsistent with this article, the definitions and rules found in 52 IAC 2 also apply to the appeals described in subsection (a). If the rules conflict, the definitions and rules of this article will control. (*Indiana Board of Tax Review; 52 IAC 4-1-2*)

**52 IAC 4-1-3 Jurisdiction of the board**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 3. The board shall conduct an impartial review of an appeal from a final assessment decision under IC 6-1.1-4-33(g) issued by the department. (*Indiana Board of Tax Review; 52 IAC 4-1-3*)

**Rule 2. Definitions**

**52 IAC 4-2-1 Applicability**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Board of Tax Review; 52 IAC 4-2-1*)

**52 IAC 4-2-2 "Appeal petition" defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 2. "Appeal petition", as used in this article, means a petition for review of the final assessment decision issued by the department and filed with the board under IC 6-1.1-4-34 on form 139L or such other form as prescribed by the board. (*Indiana Board of Tax Review; 52 IAC 4-2-2*)

**52 IAC 4-2-3 "Contractor" defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-32; IC 6-1.1-4-33; IC 6-1.1-15

Sec. 3. "Contractor" means the firm that entered into a contract with the department to assess property in the county and to conduct informal hearings concerning assessments of real property in the county under IC 6-1.1-4-32 and IC 6-1.1-4-33, or Cole-Layer-Trumble Company. (*Indiana Board of Tax Review; 52 IAC 4-2-3*)

**52 IAC 4-2-4 "County" defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 4. "County" means Lake County, Indiana. (*Indiana Board of Tax Review; 52 IAC 4-2-4*)

**52 IAC 4-2-5 "Final assessment decision" defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 5. "Final assessment decision" means the final decision issued by the department that serves as notice of the result of the informal hearing under IC 6-1.1-4-33(g). (*Indiana Board of Tax Review; 52 IAC 4-2-5*)

**52 IAC 4-2-6 "Final order" or "final determination" defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 6. "Final order" or "final determination", as used in this article, means any action of the board that is:  
(1) designated as final by the board;

(2) the final step in the administrative process before resort may be made to the judiciary; or

(3) subject to appeal to tax court under IC 6-1.1-4-34(m).  
(*Indiana Board of Tax Review; 52 IAC 4-2-6*)

**52 IAC 4-2-7 “Informal hearing” defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 7. “Informal hearing” means the process described in IC 6-1.1-4-33(b) under which the contractor is required to:

- (1) discuss the specifics of the taxpayer’s reassessment;
- (2) review the taxpayer’s property record card;
- (3) explain to the taxpayer how the reassessment was determined;
- (4) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;
- (5) note and consider objections of the taxpayer;
- (6) consider all errors alleged by the taxpayer; and
- (7) otherwise educate the taxpayer about the taxpayer’s assessment, the reassessment process, and the reassessment appeal process.

(*Indiana Board of Tax Review; 52 IAC 4-2-7*)

**52 IAC 4-2-8 “Notice of reassessment” defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-32; IC 6-1.1-4-33; IC 6-1.1-15

Sec. 8. “Notice of reassessment” means a written notice of the assessed value of real property delivered to the taxpayer by the department pursuant to IC 6-1.1-4-32(f). (*Indiana Board of Tax Review; 52 IAC 4-2-8*)

**52 IAC 4-2-9 “Special master” defined**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 9. “Special master” means a qualified individual, including, but not limited to, an administrative law judge, designated by the board under IC 6-1.1-4-34(e) to conduct evidentiary hearings and prepare reports in accordance with IC 6-1.1-4-34(g). (*Indiana Board of Tax Review; 52 IAC 4-2-9*)

**Rule 3. Filing Appeal Petitions**

**52 IAC 4-3-1 Time and place for filing appeal petition**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 1. (a) An appeal petition must be filed with the county assessor within thirty (30) days after receipt of the final assessment decision from the department.

(b) There is a rebuttable presumption that the final assessment decision is mailed on the date of the final assessment decision. (*Indiana Board of Tax Review; 52 IAC 4-3-1*)

**52 IAC 4-3-2 Prerequisites for filing the appeal petition**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-32; IC 6-1.1-4-33; IC 6-1.1-15

Sec. 2. In order to appeal to the board, the taxpayer must:

- (1) request and participate in an informal hearing with the contractor under IC 6-1.1-4-33 not later than forty-five (45) days after the date the notice of reassessment is sent to the taxpayer under IC 6-1.1-4-32(f);
- (2) receive a final assessment decision from the department under IC 6-1.1-4-33(g); and
- (3) file an appeal petition for review with the county assessor not later than thirty (30) days after receipt of the final assessment decision.

(*Indiana Board of Tax Review; 52 IAC 4-3-2*)

**52 IAC 4-3-3 Failure to receive final assessment decision**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 3. If the petitioner has not received a final assessment decision within two hundred seventy (270) days of receipt of the notice of reassessment, the petitioner may appeal the assessment directly to the board if the petitioner has:

- (1) requested an informal hearing not later than forty-five (45) days after the date of the notice of reassessment is sent to the taxpayer;
- (2) participated in an informal hearing; and
- (3) filed an appeal petition for review with the county assessor:

(A) no earlier than two hundred seventy (270) days after receipt of the notice of reassessment; and

(B) no later than three hundred (300) days after the receipt of the notice of reassessment.

(*Indiana Board of Tax Review; 52 IAC 4-3-3*)

**Rule 4. Hearing Procedures**

**52 IAC 4-4-1 Hearing date**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 1. The hearing shall be scheduled no earlier than thirty (30) days after receipt of the appeal petition unless otherwise agreed by the parties. (*Indiana Board of Tax Review; 52 IAC 4-4-1*)

**52 IAC 4-4-2 Conduct of hearing**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2

Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 2. (a) Hearings will be conducted by a special master, any member of the board, or by the board sitting in its entirety.

(b) All testimony shall be under oath or affirmation.

(c) Hearings will be tape recorded. The recording will



serve as the basis of the official record of the proceeding unless the hearing is transcribed by a court reporter. A party may hire a court reporting service to transcribe the hearing so long as the reporting service is directed to submit an official copy of the transcript to the board at no cost to the board.

(d) The special master may rule on any nonfinal order without the approval of a majority of the board.

(e) In order for a tax representative to participate in the hearing, the tax representative must be certified by the department and follow the rules of 52 IAC 1. (*Indiana Board of Tax Review; 52 IAC 4-4-2*)

#### **52 IAC 4-4-3 Place of hearing**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 3. (a) Hearings held before a special master or by a member of the board acting as a special master shall be held in the county or at such other location as the parties and the designated special master agree.

(b) All hearings by the board sitting in its entirety will be held in the central office unless otherwise agreed to by the board. (*Indiana Board of Tax Review; 52 IAC 4-4-3*)

#### **52 IAC 4-4-4 Informality of proceeding**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 4. (a) The Indiana trial rules and the rules of evidence do not apply to the procedures established by this article. The special master may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(b) Hearsay evidence may be considered if not objected to, but a final determination may not be based solely upon hearsay evidence.

(c) No pretrial discovery shall be required or compelled, except as provided in subsection (e).

(d) No posthearing submissions will be allowed or accepted unless requested by the board.

(e) The parties shall make available to all other parties copies of any documentary evidence and the names and addresses of all witnesses intended to be presented at the hearing at least five (5) days before the hearing. At the commencement of the hearing, the parties shall make available to the presiding special master a copy of all documentary evidence provided to the other parties.

(f) Failure to comply with subsection (e) may serve as

grounds to exclude evidence. (*Indiana Board of Tax Review; 52 IAC 4-4-4*)

#### **52 IAC 4-4-5 Election of formal administrative proceeding**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 5. (a) A petitioner may elect to conduct the hearing in accordance with 52 IAC 2 and may use the applicable discovery methods contained in the Indiana Rules of Trial Procedure, to the extent such rules are consistent with applicable law and the efficient operation of the administrative proceeding, if the property that is subject to the appeal is:

- (1) an unimproved parcel of land with an assessed value in excess of three million dollars (\$3,000,000); or
- (2) a parcel of land, as improved, with an assessed value in excess of three million dollars (\$3,000,000).

(b) A petitioner who elects to conduct the hearing under subsection (a) must:

- (1) file an appeal petition in accordance with IC 6-1.1-4-33 and this article; and
- (2) notify the board in writing of the petitioner's election under this section within ten (10) days of filing the appeal petition.

(*Indiana Board of Tax Review; 52 IAC 4-4-5*)

#### **52 IAC 4-4-6 Continuance of the hearing**

Authority: IC 6-1.1-4-34; IC 6-1.5-6-2  
Affected: IC 6-1.1-4-33; IC 6-1.1-15

Sec. 6. A hearing may be continued only upon a showing of extraordinary circumstances. (*Indiana Board of Tax Review; 52 IAC 4-4-6*)

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on December 3, 2003 at 1:00 p.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room N1058, Indianapolis, Indiana; AND on December 4, 2003, at 1:00 p.m., at the Lake County Government Center, Commissioners Courtroom, 3rd Floor, 2293 North Main Street, Crown Point, Indiana the Indiana Board of Tax Review will hold a public hearing on proposed rules to govern the processing of petitions and the practice and procedures for Lake County appeal proceedings conducted before the Indiana Board of Tax Review pursuant to IC 6-1.1-4-34. Parties interested in participating in either public hearing are encouraged to attend and submit written statements expressing their specific or general concerns, any suggested additions or revisions, and any documentation which may serve to support, clarify, or supplement their concerns, suggestions, or proposed revisions. The Indiana Board of Tax Review also encourages any interested party who has concerns, suggestions, or proposed revisions to contact Michael Dart, Senior Administrative Law Judge, Indiana Board of Tax Review, at (317) 233-*

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## Proposed Rules

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6767. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N1058 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Annette Biesecker  
Chairman  
Indiana Board of Tax Review

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### TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

#### Proposed Rule LSA Document #03-194

#### DIGEST

Amends 170 IAC 7-1.2-10 regarding extension of telephone facilities for new real estate developments. Effective 30 days after filing with the secretary of state.

#### 170 IAC 7-1.2-10

SECTION 1. 170 IAC 7-1.2-10 IS AMENDED TO READ AS FOLLOWS:

#### 170 IAC 7-1.2-10 Extension of facilities

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 10. (a) Each LEC shall include in its tariffs filed with the commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to provide service to customer applicants located within the LEC's certificated service territory. The LEC's policies for service extensions shall conform to construction charges for extension of facilities required to provide local service and will not apply to facilities located on public rights-of-way, except where:

- (1) unusual costs, as defined in tariffs or otherwise determined by the commission, are involved in the establishment of service;
- (2) the installation is for a temporary or semipermanent purpose; or
- (3) the facilities cannot be used for other general telephone purposes if service to the customer applicant is discontinued.

(b) Provided the type of facilities and method of installation are the type normally used by the LEC to provide the requested service, construction charges for facilities to be located on private rights-of-way in order to satisfy ~~an~~ a customer applicant's request for local service shall not apply to the following:

- (1) The first one-tenth (0.1) of a mile for business service.
- (2) The first two-tenths (0.2) of a mile for residential service.

If a customer applicant requests a type of facility or method of installation that differs from the norm, the LEC shall charge the customer applicant for the difference in cost between the two (2) types of construction. The customer applicant shall also be responsible for providing necessary private rights-of-way if construction is required in areas where the right of eminent domain does not exist. The provision of any facilities beyond the first one-tenth (0.1) of a mile for business service and two-tenths (0.2) of a mile for residential service shall be charged to the customer applicant at cost.

(c) Requirements for new real estate developments are as follows:

(1) If a developer requests the installation of telephone facilities for a new real estate development, the developer shall have the property:

- (A) cleared of trees, tree stumps, paving, and other obstructions necessary for installation of the telephone facilities;
  - (B) staked to show property lines and final grade; and
  - (C) graded to within six (6) inches of final grade;
- all at no charge to the LEC.

(2) The LEC shall also have the right to require a deposit from the developer to cover the ~~full~~ cost of constructing the requested facilities in accordance with applicable rules, regulations, and tariffs approved by the commission.

(A) Each LEC shall file with the commission for approval, tariff provisions setting forth the conditions under which it will make line extensions to real estate developments.

(B) Such filing shall include line extension procedures, a specific explanation regarding how deposits will be calculated and how cost support will be presented.

(C) Upon application, each LEC shall provide an information sheet to developers describing line extension procedures and providing cost support as approved in the LEC's tariff on file with the commission.

(D) The LEC shall refund the deposit to the developer on a pro rata basis as ~~customers connect to the newly extended facilities.~~ lots are sold. Such refunds shall be paid to the developer on a quarterly basis or at longer intervals if the developer and the LEC so agree. If refunds are returned quarterly, no interest shall be paid. If refunds are returned annually, the refundable portion of the deposit shall bear interest at the rate of six percent (6%) per annum. ~~from the date the first customer is connected to the newly extended facilities.~~

~~(2)~~ (3) Any amount that is still owed to the LEC under this subsection or subsection (a) or (b) may be withheld when the deposit is returned to the developer.

~~(3)~~ (4) Any portion of the deposit that has not been refunded five (5) years from the date that the LEC is first ready to render service from the extension may be retained by the LEC as liquidated damages, **if less than seventy-five percent (75%) of the lots in the development are sold.**

~~(4)~~ (5) When customers request pole attachments to avoid new construction costs, the LEC may charge the customer all expenses and rental charges associated with the attachments.

~~(5)~~ (6) Except as provided in filed tariffs, the ownership of all facilities constructed, as herein provided, shall be vested in the LEC.

~~(6)~~ (7) Except as provided in this subsection, no portion of the expense assessed against the customer shall be subject to later refund.

(d) Nothing in this rule shall be construed as prohibiting any LEC from establishing an extension policy more favorable to customers than that contained herein, **as long as provided such policy complies with the following requirements:**

(1) No discrimination is practiced between customers. ~~under the same or substantially the same circumstances and conditions.~~

(2) **The policy has been approved and is included in the LEC's tariffs on file with the commission.**

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-10; filed Aug 7, 2002, 10:09 a.m.; 25 IR 4061, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on December 16, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E306, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on proposed amendments to the telephone line extension rule. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E306 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

William D. McCarty  
Commission Chairman  
Indiana Utility Regulatory Commission

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### **TITLE 312 NATURAL RESOURCES COMMISSION**

#### **Proposed Rule** LSA Document #03-213 DIGEST

Adds 312 IAC 18-3-15 to govern the release of a "beneficial organism" or a "pest or pathogen". Adds 312 IAC 18-3-16 to list and regulate kudzu as a pest or pathogen. Adds 312 IAC 18-3-17 to clarify the authority of the division director (also known as the state entomologist) to establish and dissolve technical committees that assist in evaluating issues pertaining to the

release of beneficial organisms or pests or pathogens. Amends 312 IAC 18-5-2 to establish a fee and acreage surcharge for the performance of voluntary certification of florist premises and greenhouses. Effective 30 days after filing with the secretary of state.

**312 IAC 18-3-15**  
**312 IAC 18-3-16**

**312 IAC 18-3-17**  
**312 IAC 18-5-2**

SECTION 1. 312 IAC 18-3-15 IS ADDED TO READ AS FOLLOWS:

#### **312 IAC 18-3-15 Release of a beneficial organism or a pest or pathogen**

Authority: IC 14-10-2-4; IC 14-24-3  
Affected: IC 14-24

**Sec. 15. (a) A person or a federal agency must not release a beneficial organism or a pest or pathogen in Indiana without a permit issued by the division director under this section.**

**(b) Before a permit is issued under this section, a person or a federal agency must demonstrate, to a reasonable certainty, that the release of a beneficial organism or a pest or pathogen would do none of the following:**

- (1) Harm a nontarget plant or animal.**
- (2) Interfere with normal management and production practices in agriculture, horticulture, viticulture, silviculture, nursery production, or greenhouse production.**
- (3) Disturb the ecological stability of an Indiana native organism or its environments.**

**(c) An application for release must be prepared on a commission form and must include each of the following:**

- (1) The current scientific name of the beneficial organism or pest or pathogen, as well as prior synonyms and taxonomic placements.**
- (2) The life stages to be considered for release, including any genetic recombinations.**
- (3) A listing of all known foods or hosts of the beneficial organism or pest or pathogen. The listing must identify the target organism, if applicable. The listing must be documented by published scientific literature with peer review.**
- (4) The known distribution of the beneficial organism or pest or pathogen, including habitat preferences and tolerances. This information must be documented by scientific literature, regulatory survey, or expert testimony.**
- (5) The method of release of the beneficial organism or pest or pathogen.**
- (6) The life cycle of the beneficial organism or pest or pathogen.**
- (7) The place of origin of the beneficial organism or pest**

or pathogen.

(8) The ecological classification of the beneficial organism or pest or pathogen. Examples of an ecological classification include predator, pollinator, parasite, pathogen, hyperparasite, and herbivore.

(9) Documentation of any known pest or predator of the beneficial organism or pest or pathogen.

(10) The number of beneficial organisms or pests or pathogens to be released.

(11) The location of the proposed release.

(12) Clearly readable copies of scientific literature regarding the beneficial organism or pest or pathogen. Any literature supporting and not supporting the applicant's application must be made available to the division.

(13) Upon request by the division director, additional information reasonably necessary to demonstrate compliance with this article and IC 14-24. As a prerequisite to the consideration of a permit, the division director may require information consistent with an environmental assessment under 329 IAC 5-1 or an environmental impact statement under 329 IAC 5-2.

(14) The division director shall respond to the applicant within thirty (30) days with one (1) of the following notifications:

(A) Deny the permit.

(B) Approve the permit.

(C) Approve the permit with conditions.

(D) Request the applicant to provide additional information within a stated period with an explanation that, if information is not provided as requested, the permit would be denied.

(15) If the division director fails to make a timely response under subdivision (14), the applicant may treat the application as denied and seek administrative review.

(d) The division director may establish a listing of organisms that are exempted or that may be released under a general license. The division director shall submit the listing to the commission for its approval.

(e) A person must not sell, barter, offer for sale or distribution, or release a beneficial organism or pest or pathogen without first obtaining a permit from the division.

(f) A person must not mislabel a beneficial organism or pest or pathogen.

(g) A person must not misrepresent data or submit incomplete data that could mislead an investigator or the division director in considering the merits of a permit application. (*Natural Resources Commission; 312 IAC 18-3-15*)

SECTION 2. 312 IAC 18-3-16 IS ADDED TO READ AS FOLLOWS:

### **312 IAC 18-3-16 Control of kudzu (*Pueraria lobata*)**

Authority: IC 14-10-2-4; IC 14-24-3

Affected: IC 14-24

Sec. 16. (a) Kudzu (*Pueraria lobata*) is a pest or pathogen. This section governs the standards for the control of kudzu in Indiana.

(b) A person must not sell, distribute, offer for sale or distribution, give away, barter, or exchange or plant any life stage or reproductive material or recombined genes of kudzu.

(c) The division may enter a property in which kudzu is thought to exist, or in which kudzu has been detected or reported, for the purpose of verifying its presence and the extent to which it has become established.

(d) Data regarding the location, area infested, habitat, and related data about the site may be recorded in a division data base.

(e) A site in which kudzu is found to be established may be monitored.

(f) Any property owner who is known to have kudzu on the owner's property must take efforts to eliminate this species in such a manner as is consistent with federal and state law.

(g) This section shall be construed so as not to conflict with the authority of the Indiana state seed commissioner or with the laws administered by that office in regulating noxious weeds.

(h) The division may regulate a site under section 2 of this rule until it is cleared to prevent further infestations.

(i) This section does not preclude the division director from issuing any permit under this rule for the study of kudzu. (*Natural Resources Commission; 312 IAC 18-3-16*)

SECTION 3. 312 IAC 18-3-17 IS ADDED TO READ AS FOLLOWS:

### **312 IAC 18-3-17 Technical committees**

Authority: IC 14-10-2-4; IC 14-24-3

Affected: IC 14-24

Sec. 17. The division director may convene and use technical committees in evaluating the release into the environment of a beneficial organism or a pest or pathogen. The committee may include any of the following:

(1) The division director or the division director's designee.

(2) Any technical expert.

(3) A representative of a university, college, or private

research institution with expertise in the organism considered.

(4) A representative of an affected industry.

(5) A representative of an affected or participating federal or state agency.

(6) Any other technical representative.

*(Natural Resources Commission; 312 IAC 18-3-17)*

SECTION 4. 312 IAC 18-5-2 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 18-5-2 Florist or greenhouse stock; voluntary certification**

**Authority:** IC 14-10-2-4; IC 14-24-3

**Affected:** IC 14-24

Sec. 2. (a) The owner or operator of a florist or greenhouse may seek a certification as required by **federal law or by another state** for the shipment into ~~that another~~ state of ~~nursery stock plants~~, corms, tubers, field vegetables, or flower seeds. This certificate is not required by IC 14-24.

(b) **The fee for this certification is fifty dollars (\$50) plus three dollars (\$3) per acre or any portion of an acre of inspected plants.** *(Natural Resources Commission; 312 IAC 18-5-2; filed Nov 22, 1996, 3:00 p.m.: 20 IR 954; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546)*

**Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on November 24, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W295 (Oil and Gas Conference Room), Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed rules concerning the release of beneficial organisms, pests, or pathogens, the listing and regulating of kudzu as a pest or pathogen, the authority of the division director (also known as the state entomologist) to establish and dissolve technical committees that assist in evaluating issues pertaining to the release of beneficial organisms or pests or pathogens, and the establishment of a fee and acreage surcharge for the performance of voluntary certification of florist premises and greenhouses. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Michael Kiley  
Chairman  
Natural Resources Commission

**TITLE 511 INDIANA STATE BOARD OF EDUCATION**

**Proposed Rule**  
LSA Document #03-219

**DIGEST**

Amends the definition of "graduation rate" in 511 IAC 6.1-1-2. Adds 511 IAC 6.2-2.5 and amends 511 IAC 6.2-7-8 to bring the school accountability system into alignment with the federal No Child Left Behind Act of 2001 and, effective for the class of students expected to graduate in the 2005-2006 school year, add a definition of "graduation rate". Effective 30 days after filing with the secretary of state.

**511 IAC 6.1-1-2**

**511 IAC 6.2-2.5**

**511 IAC 6.2-7-8**

SECTION 1. 511 IAC 6.1-1-2 IS AMENDED TO READ AS FOLLOWS:

**511 IAC 6.1-1-2 Definitions**

**Authority:** IC 20-1-1-6; IC 20-1-1.2-18

**Affected:** IC 20-1-1.2; IC 20-6.1-8; IC 20-6.1-9; IC 20-10.1-16; IC 20-10.1-17

Sec. 2. (a) The definitions in this section apply throughout this article.

(b) "Academic standards" means the skills and knowledge base expected of students for a particular subject area at a particular grade level.

(c) "Accreditation year" means the year from July 1 to June 30.

(d) "Attendance center" means one (1) or more buildings where the school's program serves pupils who reside in an attendance area.

(e) "Credit" means a minimum of two hundred fifty (250) minutes of instruction per week for one (1) semester, except in the case of basic physical education courses where one (1) school year of instruction is required for one (1) credit.

(f) "Curriculum" means the planned interaction of pupils with instructional content, materials, resources, and processes for evaluating the attainment of educational objectives.

(g) "Department" means the Indiana department of education.

(h) "Dropout" means a student who:

(1) was enrolled in school during the current school year or the previous summer recess; ~~who~~

(2) left the educational system during the current school year or the previous summer recess; ~~who~~

(3) has not graduated from high school; and ~~who~~

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(4) does not meet any of the following exclusionary conditions:

- (1) (A) Death.
- (2) (B) Temporary absence due to suspension or a school excused absence.
- (3) (C) Transfer to a public or nonpublic school.

(i) "Dropout rate" means the number determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students enrolled on October 1 or the date closest to October 1 that school is in session.

STEP TWO: Determine the number of students who drop out of school during the current school year and the previous summer recess.

STEP THREE: Determine the quotient of:

- (A) the amount determined under STEP TWO; divided by
- (B) the amount determined under STEP ONE.

(j) "Fine arts education" means instruction in art, music, and other arts areas that encompass visual, aural, performing, and creative modes of student learning.

(k) "Graduation rate", **for classes of students who graduate prior to the 2005-2006 school year**, means the number determined under STEP THREE of the following formula:

STEP ONE: Determine the dropout rates for grades 9, 10, 11, and 12.

STEP TWO: Determine the remainder of:

- (A) 1.0; minus
- (B) the amount determined under STEP ONE for each of the above four (4) grades.

STEP THREE: Determine the product of the four (4) amounts determined under STEP TWO.

(l) "ISTEP" means Indiana statewide testing for educational progress as established under IC 20-10.1-16, IC 20-10.1-17, and 511 IAC 5-2.

(m) "Laboratory course" means a course in which a minimum of twenty-five percent (25%) of the total instructional time is devoted to laboratory activities. Laboratory activities are those activities in which the pupil personally utilizes appropriate procedures and equipment in accomplishing that learning task.

(n) "Legal standards" means those Indiana statutes and state board rules that apply to school accreditation.

(o) "Level", when used in course titles, means a course that lasts one (1) full school year in grades 9 through 12, except that in the highest level of a sequence a course of shorter duration may be offered.

(p) "Practical arts education" means instruction in the curriculum areas of:

- (1) agricultural science and business;

- (2) business technology education;
- (3) family and consumer sciences; and
- (4) technology education;

of a nonvocational or prevocational nature, which provides learning experiences in consumer knowledge, family living, creative expression, manual skills, technical skills, leisure time interests, and similar areas of practical application to everyday life.

(q) "Principal" means a properly certified person who is assigned as the chief administrative officer of a school.

(r) "School classification" refers to the following school types:

- (1) An elementary school, which includes:

- (A) grade 1, 2, or 3;
- (B) grade 1, 2, or 3 in combination with other grades; or
- (C) any school that has grade 6 as its highest grade.

- (2) A high school, which includes:

- (A) grade 10, 11, or 12; or
- (B) grade 10, 11, or 12 in combination with other grades.

- (3) A middle school or junior high school, which includes any grade or combination of grades that is not defined as an elementary school or a high school.

If a school includes grades kindergarten through 12, the school superintendent shall designate the division of the grades within the school into at least two (2) school classifications.

(s) "School corporation" means any public school corporation established by, and under the laws of, the state of Indiana. The term includes, but is not necessarily limited to, any:

- (1) school city;
- (2) school town;
- (3) school township;
- (4) consolidated school corporation;
- (5) county school corporation;
- (6) metropolitan school district;
- (7) township school corporation;
- (8) united school corporation; or
- (9) community school corporation.

(t) "Semester" means half of a regular school year.

(u) "State board" means the Indiana state board of education.

(v) "Student attendance rate" means the aggregate number of days of attendance for the regular school year divided by the number of aggregate days of enrollment, as determined under 511 IAC 1-3-1(l).

(w) "Superintendent" means the chief administrative officer of a school corporation (generally referred to as the superintendent of schools, except, in the case of township schools, the term refers to the county superintendent of schools).

(x) "Teacher" means a properly certified, licensed person

who is assigned to instruction. (*Indiana State Board of Education*; 511 IAC 6.1-1-2; filed Jan 9, 1989, 11:00 a.m.: 12 IR 1184; filed Jul 18, 1989, 5:00 p.m.: 12 IR 2259; filed Nov 8, 1990, 3:05 p.m.: 14 IR 652; filed Oct 6, 1997, 5:20 p.m.: 21 IR 389; filed May 28, 1998, 4:57 p.m.: 21 IR 3824; filed Feb 20, 2002, 9:43 a.m.: 25 IR 2231)

SECTION 2. 511 IAC 6.2-2.5 IS ADDED TO READ AS FOLLOWS:

**Rule 2.5. Graduation Rate Determination**

**511 IAC 6.2-2.5-1 “Cohort” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 1.** As used in this rule, “cohort” refers to a class of students within a high school who have the same expected graduation year. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-1)

**511 IAC 6.2-2.5-2 “Enrollment” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 2.** As used in this rule, “enrollment” means the total number of students within a grade that is reported to the department annually on:

- (1) October 1; or
- (2) a date specified by the department.

(*Indiana State Board of Education*; 511 IAC 6.2-2.5-2)

**511 IAC 6.2-2.5-3 “Expected graduation year” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 3.** As used in this rule, “expected graduation year” means the reporting year beginning three (3) years after the reporting year in which a student is first considered by a school corporation to have entered grade 9. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-3)

**511 IAC 6.2-2.5-4 “Graduation” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.1-12.1; IC 20-10.1-16; IC 20-10.2

**Sec. 4.** As used in this rule, “graduation” means the successful completion by a student of:

- (1) a sufficient number of academic credits, or the equivalent of academic credits; and
- (2) the graduation examination or waiver process required under IC 20-10.1-16;

resulting in the awarding of a high school diploma or an academic honors diploma. The term does not include the granting of a general educational development diploma under IC 20-10.1-12.1. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-4)

**511 IAC 6.2-2.5-5 “Graduation rate” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 5.** As used in this rule, “graduation rate” means the percentage of students within a cohort who graduate during their expected graduation year. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-5)

**511 IAC 6.2-2.5-6 “Reporting year” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 6.** As used in this rule, “reporting year” refers to the period beginning October 1 of a year and ending September 30 of the following year. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-6)

**511 IAC 6.2-2.5-7 “Retention” defined**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 7.** As used in this rule, “retention” refers to the reclassification by a school corporation of a student that places the student into a cohort that has an expected graduation year after the expected graduation year of the student’s initial cohort. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-7)

**511 IAC 6.2-2.5-8 Determination of graduation rate**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-15; IC 20-10.2

**Sec. 8.** Beginning with the class of students who expect to graduate in the 2005-2006 school year, the department shall determine the graduation rate of high school students under this rule. (*Indiana State Board of Education*; 511 IAC 6.2-2.5-8)

**511 IAC 6.2-2.5-9 Calculation of graduation rate**

Authority: IC 20-10.2-7-1  
Affected: IC 20-8.1-3-34; IC 20-8.1-15; IC 20-10.2

**Sec. 9.** The graduation rate for a cohort in a high school is the percentage determined under STEP SEVEN of the following formula:

**STEP ONE:** Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

**STEP TWO:** Add:

- (A) the number determined under STEP ONE; and
- (B) the number of students who:
  - (i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined; and
  - (ii) have the same expected graduation year as the cohort.

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### STEP THREE: Add:

- (A) the sum determined under STEP TWO; and
- (B) the number of retained students from earlier cohorts who became members of the cohort for whom the graduation rate is being determined.

### STEP FOUR: Add:

- (A) the sum determined under STEP THREE; and
- (B) the number of students who:
  - (i) began the reporting year in a cohort that expects to graduate during a future reporting year; and
  - (ii) graduate during the current reporting year.

### STEP FIVE: Subtract from the sum determined under STEP FOUR the number of students who have left the cohort for any of the following reasons:

- (A) Transfer to another public or nonpublic school.
- (B) Removal by the student's parents under IC 20-8.1-3-34 to provide instruction equivalent to that given in the public schools.
- (C) Withdrawal because of a long term medical condition or death.
- (D) Detention by a law enforcement agency or the department of correction.
- (E) Placement by a court order or the division of family and children.
- (F) Enrollment in a virtual school.
- (G) Graduation before the beginning of the reporting year.
- (H) Students who have attended school in Indiana for less than one (1) year and whose location cannot be determined.
- (I) Students who cannot be located within the boundaries of the school corporation and have been reported to the Indiana clearinghouse for missing and exploited children.

### STEP SIX: Determine the total number of students who have graduated during the current reporting year.

### STEP SEVEN: Divide:

- (A) the number determined under STEP SIX; by
- (B) the remainder determined under STEP FIVE.

(Indiana State Board of Education; 511 IAC 6.2-2.5-9)

SECTION 3. 511 IAC 6.2-7-8, AS ADDED AT 27 IR 165, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

### 511 IAC 6.2-7-8 Other indicators

Authority: IC 20-1-1-6; IC 20-1-1.2-18; IC 20-10.2-7-1  
Affected: IC 20-10.2

Sec. 8. The following other academic indicators are established for the purposes described in section 5 of this rule:

- (1) For high schools, graduation rate, as determined under:
  - (A) 511 IAC 6.1-1-2, for classes of students who graduate prior to the 2005-2006 school year; and
  - (B) 511 IAC 6.2-2.5-9, for classes of students who expect to graduate in the 2005-2006 school year and subsequent school years;

that increases toward a rate of ninety-five percent (95%).

- (2) For elementary and middle schools, attendance rate as determined under 511 IAC 1-3-3, that increases toward a rate of ninety-five percent (95%).

(Indiana State Board of Education; 511 IAC 6.2-7-8; filed Aug 26, 2003, 4:15 p.m.: 27 IR 165)

### Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on December 4, 2003 at 9:00 a.m., at the Department of Education, 151 West Ohio Street, James Whitcomb Riley Conference Room, Indianapolis, Indiana the Indiana State Board of Education will hold a public hearing on proposed amendments to bring the school accountability system into alignment with the federal No Child Left Behind Act of 2001 and, effective for the class of students expected to graduate in the 2005-2006 school year, to amend and add a definition of "graduation rate". Copies of these rules are now on file at 229 State House and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Suellen Reed  
Superintendent of Public Instruction  
Indiana State Board of Education

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## TITLE 610 DEPARTMENT OF LABOR

### Proposed Rule

LSA Document #03-252

### DIGEST

Amends 610 IAC 4-6-23 to comply with amended federal Occupational Safety and Health Administration requirements for recording and reporting fatalities and multiple hospitalization incidents. Effective 30 days after filing with the secretary of state.

### 610 IAC 4-6-23

SECTION 1. 610 IAC 4-6-23, AS ADDED AT 26 IR 367, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### 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)~~ **eight (8)** hours after the death of any employee from a work-related incident or the inpatient hospitalization of ~~five (5)~~ **three (3)** or more employees as a result of a work-related incident, the employer must orally report the fatality ~~or~~ 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)~~ **eight (8)** 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)

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on November 24, 2003 at 10:30 a.m., at the Indiana Government Center-*

*South, 402 West Washington Street, Room W195, Indianapolis, Indiana the Department of Labor will hold a public hearing on on a proposed amendment concerning recording and reporting fatalities and multiple hospitalization incidents. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W195 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Nancy J. Guyott  
Commissioner  
Department of Labor

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## **TITLE 610 DEPARTMENT OF LABOR**

**Proposed Rule**  
LSA Document #03-253

### **DIGEST**

Repeals 610 IAC 4-6-13 to comply with the amended federal Occupational Safety and Health Administration requirements for recording and reporting work-related musculoskeletal disorders. Effective 30 days after filing with the secretary of state.

#### **610 IAC 4-6-13**

SECTION 1. 610 IAC 4-6-13 IS REPEALED.

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on November 25, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W195, Indianapolis, Indiana the Department of Labor will hold a public hearing on on a proposed rule concerning recording and reporting work-related musculoskeletal disorders. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W195 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Nancy J. Guyott  
Commissioner  
Department of Labor

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## **TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS**

**Proposed Rule**  
LSA Document #03-189

### **DIGEST**

Amends 840 IAC 1-1-6 concerning the examination for

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## Proposed Rules

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licensure to practice as a health facility administrator. Effective 30 days after filing with the secretary of state.

### 840 IAC 1-1-6

SECTION 1. 840 IAC 1-1-6 IS AMENDED TO READ AS FOLLOWS:

#### 840 IAC 1-1-6 Examination

Authority: IC 25-19-1-4

Affected: IC 25-19-1-3

Sec. 6. (a) Every applicant for a license as an H.F.A., after meeting the requirements for qualification as set forth in section 4 of this rule, shall pass successfully a written ~~and/or~~ **or** oral examination, **or both**, at the discretion of the board that shall include, but need not be limited to, the following:

- (1) Applicable standards of environmental health and safety.
- (2) Local health and safety regulation.
- (3) General administration.
- (4) Psychology of patient care.
- (5) Principles of medical care.
- (6) Pharmaceutical services and drug handling.
- (7) Personal and social care.
- (8) Therapeutic and supportive care and services in long term care.
- (9) Departmental organization and management.
- (10) Community interrelationships.

(b) Every applicant for an H.F.A. license shall be required to pass the examination for such license with a grade established by the board in accordance with methods and procedures set up by the board.

(c) All applications for the examination must be complete in every respect, including accompanying data and the required fee, at least thirty (30) days prior to the examination for which application is being made. Any applicant whose application does not meet these requirements will not be permitted to take the examination.

(d) An applicant must complete successfully the licensure examination within one (1) calendar year from the time of notification of failure to pass the original exam. If an applicant fails the examination three (3) times, the following requirements must be met before submitting a new application for examination:

- (1) Submit proof of the completion of at least two hundred (200) contact hours of continuing education approved by the board.
- (2) Submit a new application for entry into the administrator-in-training program.
- (3) **Complete the required administrator-in-training program in a minimum of six (6) months and a maximum of twelve (12) months for a minimum total of one thousand forty (1,040) hours and** submit an affidavit of completion of the ~~remedial~~ A.I.T. program.

In addition, the applicant shall meet all other licensing require-

ments in force and effect at the time of reapplication. (*Indiana State Board of Health Facility Administrators; Rule 7; filed May 26, 1978, 9:09 a.m.: 1 IR 246; filed May 18, 1979, 9:02 a.m.: 2 IR 842; filed May 2, 1985, 10:33 a.m.: 8 IR 1148; filed Sep 29, 1987, 2:08 p.m.: 11 IR 794; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2857*)

#### Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on December 4, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Indiana State Board of Health Facility Administrators will hold a public hearing on proposed amendments concerning the examination for licensure to practice as a health facility administrator. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Lisa R. Hayes  
Executive Director  
Health Professions Bureau

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## TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

### Proposed Rule

LSA Document #03-190

#### DIGEST

Amends 840 IAC 1-2-1 concerning continuing education for renewal of licensure to practice as a health facility administrator. Effective 30 days after filing with the secretary of state.

### 840 IAC 1-2-1

SECTION 1. 840 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

#### 840 IAC 1-2-1 Continuing education; credit requirements

Authority: IC 25-19-1-4

Affected: IC 25-19-1

Sec. 1. (a) An H.F.A. who is not currently or previously licensed in another state is not required to complete the continuing education requirements for the two (2) year licensing period in which the license was issued.

(b) An H.F.A. must complete at least forty (40) continuing education hours during the previous two (2) year licensing period.

(c) If an H.F.A. attends an approved program in another state with a mandatory continuing education requirement, the board will accept the approved hours.

(d) Continuing education credit may not be carried over from one (1) biennial licensure renewal period to another.

(e) The forty (40) hours biennial continuing education requirement shall not be increased or decreased unless this section is duly amended and all licensees are notified in writing at the date of license renewal that the following renewal will require an increased or decreased number of hours of continuing education.

(f) The continuing education requirement shall be satisfied by participating in programs that must be conducted by a board approved sponsor.

(g) Continuing education courses offered by accredited colleges **are acceptable** if the course content pertains to the practice of ~~health facility~~ **H.F.** administration.

(h) Accredited college courses related to the practice of ~~health facility~~ **H.F.** administration ~~Proof of completion of the course, including the grade earned and the college credit earned, or a statement from the college that the course was audited, must be submitted with the renewal application.~~ **are acceptable forms of continuing education.** The following conversion will be used for continuing education credit:

(1) One (1) semester hour equals fifteen (15) contact hours.

(2) One (1) quarter hour equals ten (10) contact hours.

*(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-1; filed Jan 5, 1984, 2:33 p.m.: 7 IR 577; filed Sep 29, 1987, 2:08 p.m.: 11 IR 797; filed Feb 14, 1991, 1:30 p.m.: 14 IR 1438; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2859)*

### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on December 4, 2003 at 10:45 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Indiana State Board of Health Facility Administrators will hold a public hearing on proposed amendments concerning continuing education for renewal of licensure to practice as a health facility administrator. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Lisa R. Hayes  
Executive Director  
Health Professions Bureau

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# Indiana Register

**Final Readopted Rules**

Indiana Education Savings Authority . . . . .	570
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## Readopted Rules

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### TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

Final Rule  
LSA Document #03-112(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.

<b>540 IAC 1-1-1</b>	<b>540 IAC 1-4-1</b>
<b>540 IAC 1-1-2</b>	<b>540 IAC 1-4-2</b>
<b>540 IAC 1-1-5</b>	<b>540 IAC 1-8-8</b>
<b>540 IAC 1-1-8</b>	<b>540 IAC 1-10-2</b>
<b>540 IAC 1-1-10</b>	<b>540 IAC 1-11</b>
<b>540 IAC 1-1-15</b>	<b>540 IAC 1-12-1</b>
<b>540 IAC 1-1-18</b>	<b>540 IAC 1-12-3</b>
<b>540 IAC 1-2</b>	<b>540 IAC 1-12-4</b>
<b>540 IAC 1-3-1</b>	

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING  
ARE READOPTED:

540 IAC 1-1-1	Applicability
540 IAC 1-1-2	“Academic period” defined
540 IAC 1-1-5	“Administrative account” defined
540 IAC 1-1-8	“Authority” defined
540 IAC 1-1-10	“Board” defined
540 IAC 1-1-15	“Program administrator” defined
540 IAC 1-1-18	“Trustee” defined
540 IAC 1-2	Program Administrator’s Duties
540 IAC 1-3-1	Eligibility
540 IAC 1-4-1	Eligibility
540 IAC 1-4-2	Number of beneficiaries
540 IAC 1-8-8	Contribution adjustments
540 IAC 1-10-2	Distribution of benefits
540 IAC 1-11	Investment Policies
540 IAC 1-12-1	Separate accounting
540 IAC 1-12-3	Security for a loan
540 IAC 1-12-4	Board policies

*LSA Document #03-112(F)*

*Intent to Readopt Rules Published: June 1, 2003; 26 IR 3146*

*Proposed Readopted Rules Published: August 1, 2003; 26 IR 3754*

*Hearing Held: September 4, 2003*

*Filed with Secretary of State: October 6, 2003, 4:00 p.m.*

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**60 Day Requirement (IC 4-22-2-19)**

**TITLE 50 DEPARTMENT OF LOCAL  
GOVERNMENT FINANCE**

LSA Document #03-6

October 9, 2003

Representative Jerry Denbo, Chair  
Administrative Rules Oversight Committee

**Re: Notice of Delay in Adoption of Rule providing for a uniform approval of both a mileage and per diem allowance rates for any new assessing official or county assessor who attends the required new official training --LSA Document #03-6**

Dear Chairman Denbo:

**Notice of Delay**

This is to notify you that pursuant to IC 4-22-2-19, that the Department of Local Government Finance was unable to begin the rulemaking process within sixty (60) days after the effective date of the statute *[sic.]* that authorizes the rule.

**Reasons for Delay**

This rule will provide a uniform approval for both mileage and per diem allowance rates for any new assessing official or county assessor who attends the required new official training. The per diem rate is to be set by the Department and the mileage rate is to be set by the county. The Department as well as the counties has been focused on the 2002 statewide general reassessment, and the Department's staff has been devoting much of their time and attention to the efficient completion of not only the reassessment but the pay 03 budget year. The Department has recently hired a Director of the Training Division to assist with the formulation and implementation of this rule.

**Expected Date to Begin**

The Department of Local Government Finance has begun the promulgation process to date by publishing its notice of intent to adopt a rule in the Indiana Register in an effort to fulfill its statutory obligation.

Your understanding of these circumstances is greatly appreciated. If you have any further concerns or require additional information, please do not hesitate to contact me at 317-233-4361 or by e-mail, [tshepherd@tcb.state.in.us](mailto:tshepherd@tcb.state.in.us). Thank you.

Sincerely,

Nandita "Toma" Shepherd  
Appeals Manager

Copy to: Sen. Luke Kenley  
Sarah Burkman, Attorney for the Committee  
Chuck Mayfield, Fiscal Analyst for Committee

**365 Day Notice (IC 4-22-2-25)**

**TITLE 50 DEPARTMENT OF LOCAL  
GOVERNMENT FINANCE**

LSA Document #03-6

October 9, 2003

The Honorable Jerry Denbo, Chair  
Administrative Rules Oversight Committee

**Re: Notice of Delay in Adoption of Rule providing for a uniform approval of both a mileage and per diem allowance rates that any new assessing official or county assessor who attends the required new official training -- LSA Document #03-6**

Dear Representative Denbo:

**Notice of Delay**

This is to notify you that pursuant to IC 4-22-2-25, the Department of Local Government Finance has determined that it may not be able to adopt, and obtain the Governor's approval of, the proposed rule providing for both mileage and a per diem allowance for any new assessing official or county assessor attending the required new official training pursuant to Indiana Code §6-1.1-35.2-2 (LSA Document #03-6) within one (1) year of the date of the notice of intent to adopt the rule as published under IC 4-22-2-23.

**Reasons for Delay**

This rule requires the Department of Local Government Finance to prescribe both a mileage and per diem allowance for new assessing official or county assessor. The Department as well as the counties have given all their attention to the 2002 statewide general reassessment trying to complete the process as efficiently as possible. The Department has also been extremely busy with Lake County and have just had the Form 11s sent out for one of the townships last week. Additionally, the Department has been dealing with the counties that have still not submitted their equalization studies.

**Expected Adoption Date**

The Department of Local Government Finance expects to forward a proposed rule to LSA of Document #03-6 in the near future. It is anticipated that we will be able to adopt the rule and obtain the Governor's approval sometime in the middle of 2004.

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## AROC Notices

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Because the stated "expected date" will control the validity of the rule, we present this notice and state that we now expect to adopt and obtain the Governor's approval of the rules governing the mileage and per diem allowance rates for new assessing officials (LSA Doc. #03-6), before June 30, 2004.

Your understanding of these circumstances is greatly appreciated. If you need additional information please do not hesitate to contact me at 233-4361. Thank you.

Sincerely,

Nandita "Toma" Shepherd  
Appeals Manager

Copy to: Sen. Luke Kenley  
Sarah Burkman, Attorney for the Committee  
Chuck Mayfield, Fiscal Analyst for Committee

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**TITLE 326 AIR POLLUTION CONTROL BOARD**

**FIRST NOTICE OF COMMENT PERIOD**

#03-282(APCB)

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING DEARBORN COUNTY SULFUR DIOXIDE EMISSION LIMITATIONS**

**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules to 326 IAC 7-4-13 concerning Dearborn County sulfur dioxide emission limitations. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 326 IAC 7-4-13.

**AUTHORITY:** IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11.

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

**Basic Purpose and Background**

In response to a request from American Electric Power (AEP), IDEM proposes to remove obsolete rule language in the Dearborn County sulfur dioxide (SO<sub>2</sub>) emission limitations in 326 IAC 7-4-13 for Indiana Michigan Power Tanners Creek Station. Specifically, AEP has requested the removal of the requirement that restricts coal delivered to the Tanners Creek Station to not exceed a SO<sub>2</sub> emission rate equivalent to six and six-tenths (6.6) pounds per million British Thermal Units (Btu).

The current SO<sub>2</sub> emission limitations in 326 IAC 7-4-13 are based on air quality modeling conducted in response to a proposed disapproval of the Dearborn County SO<sub>2</sub> state implementation plan (SIP) by U.S. EPA in 1987. The Tanners Creek Station emission limitations include interim requirements that are no longer necessary because the Tanners Creek Station has been limited to an emission limitation of five and twenty-four hundredths (5.24) pounds per million Btu since August 1, 1991. IDEM proposes to remove all obsolete language and emission limitations for Tanners Creek Station.

IDEM proposes to update other information in this section at this time. Three other companies are currently listed in 326 IAC 7-4-13: Schenley Distillers, Inc., Joseph E. Seagram and Sons, Inc., and Diamond Thatcher Glass. Schenley Distillers, Inc. was closed in 1998. The name of Joseph E. Seagram and Sons, Inc. has been changed to Pernod Ricard USA, Seagram Lawrenceburg, and the company has removed one boiler listed in the current rule. The furnaces formerly owned by Diamond Thatcher Glass now belong to Anchor Glass Container Corporation. IDEM proposes to amend the rule language to reflect these changes.

Updating the requirements in 326 IAC 7-4-13 will allow any future Title V permits to include the correct information about the sources.

**Alternatives To Be Considered Within the Rulemaking**

This rulemaking concerns corrections and updates to 326 IAC 7-4-13 concerning sulfur dioxide emission limitations in Dearborn County. There is not a federal law component to the alternatives. The options available in this rulemaking are to:

1. Make changes to update the state rules.
2. Take no action to make the changes to the state rules.

Alternative 1. Make changes to update the state rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Take no action to make the changes to the state rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

**Applicable Federal Law**

Indiana is obligated to have rules approved into the state implementation plan that will protect the National Ambient Air Quality Standards for SO<sub>2</sub> in Dearborn County. The existing emission limitations in 326 IAC 7-4-13 meet this requirement. The amendments to this rule will not cause an increase in SO<sub>2</sub> emissions in the area because no existing limits are being changed in this rulemaking.

**Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. There would be no anticipated fiscal impact as a result of choosing Alternative 1 because the types of amendments to be made are only to update information in the rule and they would not change any requirements for the sources.

Potential Fiscal Impact of Alternative 2. There would be no fiscal impact from Alternative 2 because there would be no rule changes, and there would be no fiscal impact caused by not making rule changes.

**Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6021 (in Indiana).

**STATUTORY AND REGULATORY REQUIREMENTS**

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

**REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#03-282(APCB) Dearborn Co. SO<sub>2</sub> Limitations  
Christine Pedersen  
c/o Rules Section Administrative Assistant  
Rules Section  
Office of Air Quality  
Indiana Department of Environmental Management  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by December 1, 2003.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

Janet G. McCabe  
Assistant Commissioner  
Office of Air Quality

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### **TITLE 326 AIR POLLUTION CONTROL BOARD**

#### **FIRST NOTICE OF COMMENT PERIOD**

#03-283(APCB)

#### **DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING ASBESTOS LICENSING FOR SOLID WASTE FACILITY OPERATORS (WASTE DISPOSAL MANAGERS)**

#### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 326 IAC 18-1 and 326 IAC 18-2 concerning the deletion of training and licensing requirements that apply to solid waste facility operators. The Office of Air Quality is working with the Office of Land Quality to consolidate all training course provider curriculum and landfill management operator licensing requirements to 329 IAC 12. The Office of Land Quality will establish an external work group for interested parties. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 326 IAC 18-1; 326 IAC 18-2.

**AUTHORITY:** IC 13-14-8; IC 13-17-3-12.

#### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

##### **Basic Purpose and Background**

Solid waste facility operators must attend training at an Indiana-approved training course and apply for a license for the handling of asbestos containing waste as required by IC 13-17-6-1 under the Office of Air Quality rules at 326 IAC 18-1 and 326 IAC 18-2. In addition,

the Office of Land Quality requires training and certification for the overall operation of a solid waste facility under the Solid Waste Management Board rules at 329 IAC 12. The Office of Air Quality and the Office of Land Quality are coordinating two (2) concurrent rulemaking actions to streamline requirements by deleting all training and licensing requirements for waste disposal managers from 326 IAC 18-1 and 326 IAC 18-2 and adding these requirements to 329 IAC 12. The extensive training required to receive an asbestos handling license covers skills and knowledge not used or needed by a solid waste facility operator. The landfill operator certification training would be designed to meet the specific needs of a solid waste facility operator.

##### **Alternatives To Be Considered Within the Rulemaking**

###### Alternative 1. Deleting the licensing requirements in 326 IAC 18-1 and 326 IAC 18-2 and adding them to 329 IAC 12.

- Is this alternative an incorporation of federal standards, either by reference or full incorporation? No, the licensing for asbestos management at a waste disposal facility is not a federal requirement.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

###### Alternative 2. Maintaining programs as currently operated with duplicate training and licensing.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, the licensing for asbestos management at a waste disposal facility is not a federal requirement.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

##### **Applicable Federal Law**

There is no applicable federal law regulating asbestos licensing. Licensing at 326 IAC 18-1 and 326 IAC 18-2 is a state-only requirement.

##### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This alternative will result in a cost savings to asbestos licensees of two hundred fifteen dollars (\$215) to seven hundred twenty-five dollars (\$725) per person. The cost of the initial training course for a worker is five hundred seventy dollars (\$570) and for a supervisor is six hundred seventy-five dollars (\$675), plus the fifty dollar (\$50) license fee. Thereafter, the annual refresher course is one hundred sixty-five dollars (\$165) and the license is fifty dollars (\$50). The Office of Land Quality does not charge a fee for the certification of landfill operators, so licensees will no longer have to pay the fifty dollars (\$50) license fee. The training course providers will no longer include this separate training course in their curriculum. Similar requirements and more test questions will be added to the courses for landfill operator certification at 329 IAC 12. There may be increased training course fees associated with the revised landfill operator certification course.

Potential Fiscal Impact of Alternative 2. This alternative would have no fiscal impact since there would be no change to the rules.

##### **Public Participation and Workgroup Information**

An external workgroup will be established to discuss issues involved in this rulemaking. The workgroup will include IDEM staff and a cross-section of stakeholders. If you wish to provide comments to the

workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Lou McFadden, Rules Section, Office of Land Quality at (317) 232-8922 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

#### **STATUTORY AND REGULATORY REQUIREMENTS**

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#03-283(APCB) Asbestos landfill operator licensing  
Suzanne Whitmer  
c/o Rules Section Administrative Assistant  
Rules Section  
Office of Air Quality  
Indiana Department of Environmental Management  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the 10<sup>th</sup> floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by December 4, 2003.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Janet G. McCabe  
Assistant Commissioner  
Office of Air Quality

#### **TITLE 326 AIR POLLUTION CONTROL BOARD**

#### **LEGISLATIVE SERVICES AGENCY OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

#### **ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT**

**PROPOSED RULE:** LSA #01-249 (formerly #97-18)

**DATE PREPARED:** Sep 17, 2003

**STATE AGENCY:** Department of Environmental Management

**DATE RECEIVED:** Aug 13, 2003

**FISCAL ANALYST:** Valerie Ruda

**PHONE NUMBER:** 317-232-9867

**Digest of Proposed Rule:** This rule amends 326 IAC 2-6, Emission Reporting, to add definitions to clarify the requirements, revise existing definitions for clarification and consistency, delete definitions that are no longer needed, change applicability, add reporting parameters, and require the reporting of hazardous air pollutants (HAPs).

**Governmental Entities:** This rule amendment changes emission reporting requirements of entities whose facilities are sources of air pollution over a given threshold. The net aggregate cost of compliance in the first year for all entities is estimated by IDEM to be between \$269,210 and \$480,150 among the 1,470 entities affected by this rule change. The estimated cost to each entity affected by this rule change is dependent on the number of emitting units per source, the number of work hours to complete the reports, and the cost per work hour. The cost for subsequent years is estimated by IDEM to be one-tenth of the first year cost.

The three main changes having a fiscal impact are the following:

1. Adds the sources operating under a Federally Enforceable State Operating Permit (FESOP) that are not currently required to report emissions.
2. Excludes certain small sources, such as source-specific operating agreements, permits by rule, and registrations.
3. Adds certain reportable pollutants known as Hazardous Air Pollutants (HAPs).

IDEM reached its estimated cost of compliance by considering different methodologies from various sources, including, but not limited to: the United States Environmental Protection Agency, Indiana consultants and companies, and a similar fiscal analysis completed by the state of Wisconsin.

**State and Local Impact:** Of the 1,470 entities affected by this rule, 38 are sources owned by either state or local entities. Of this number, 4 (of the 390 total that would be affected by the FESOP provision) would be impacted at an average cost between \$212 and \$376 per source, 4 (of the 304 total that would be affected by the small-source provision) would see a savings estimated to average between \$636 and \$1,129 per source, and 30 (of the 776 total that would be affected by the HAPs provisions) would be impacted at an estimated cost between \$490 and \$872 per source. [See "Regulated Entities" below for further explanation]

**Regulated Entities:** The net aggregate cost of compliance in the first year for all entities is estimated by IDEM to be between \$269,210 and \$480,150 among the 1,470 entities affected by this rule change. The estimated cost to comply with the FESOP provision in the first year is

between \$82,670 and \$146,720 for all 390 sources, or between \$212 and \$376 per source. These sources would be required to report emissions triennially.

The estimated savings due to the small-source exclusion is between \$193,330 and \$343,100 for all 304 sources, or between \$636 and \$1,129 per source.

The estimated cost to comply with the HAPs provision in the first year is between \$379,870 and \$676,530 for all 776 sources, or \$490 and \$872 per source. The incremental cost increase should not be as significant for the many sources that currently report HAPs (approximately 550), or who currently have systems set up to report HAPs, due to other related regulations, as for those sources who would need to install systems. These sources would be required to report HAPs emissions annually.

The cost for complying to the FESOP and HAPs provisions of this rule change in subsequent years is expected to be one-tenth of the first year costs.

**Information Sources:** Janet McCabe, Assistant Commissioner, and Susan Bem, Office of Air Quality, Indiana Department of Environmental Management.

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## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #03-284(APCB)**

#### **DEVELOPMENT OF NEW RULES CONCERNING INCORPORATION BY REFERENCE OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SECONDARY ALUMINUM; PHARMACEUTICALS PRODUCTION; AMINO AND PHENOLIC RESINS; POLYETHER POLYOLS PRODUCTION; SOLVENT EXTRACTION OF VEGETABLE OIL; SEMICONDUCTOR MANUFACTURING; AND REFRACTORY PRODUCTS MANUFACTURING**

#### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules to incorporate by reference the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for secondary aluminum; pharmaceuticals production; amino and phenolic resins; polyether polyols production; solvent extraction of vegetable oil; semiconductor manufacturing; and refractory products manufacturing. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 326 IAC 20-57; 326 IAC 20-58; 326 IAC 20-59; 326 IAC 20-60; 326 IAC 20-61; 326 IAC 20-62; 326 IAC 20-70.

**AUTHORITY:** IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11.

#### **STATUTORY REQUIREMENTS**

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under IC 13-14-9-3 would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

#### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

##### **Basic Purpose and Background**

The 1990 Amendments to the Clean Air Act require the United States Environmental Protection Agency (U.S. EPA) to regulate major sources of hazardous air pollutants (HAPs). A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that has the potential to emit, considering controls, ten (10) tons per year or more of any single hazardous air pollutant or twenty-five (25) tons per year or more of any combination of HAPs. HAPs are listed by U.S. EPA because they are either known or suspected to cause cancer or other serious health effects. There are currently one hundred eighty-eight (188) HAPs listed in the Clean Air Act. On July 16, 1992 (57 FR 311576), U.S. EPA published a list of industrial groups or source categories that emit one (1) or more of the one hundred eighty-eight (188) listed HAPs. The Clean Air Act requires U.S. EPA to develop emission standards, referred to as national emission standards for hazardous air pollutants (NESHAPs), that require the application of air pollution reduction measures based on maximum achievable control technology (MACT) for the listed source categories. The "MACT floor" is the minimum control level allowed for NESHAPs and ensures that the standard is set at a level that assures that all existing major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

IDEM must incorporate the federal requirements into state rules or establish state requirements that are no less stringent than the federal requirements. This rulemaking will incorporate by reference the following NESHAPs:

##### **Secondary Aluminum Production Plants**

Secondary aluminum production plants recover aluminum from secondary sources such as beverage cans, foundry returns, and dross. Examples of processes that release air toxics include aluminum scrap shredding, thermal chip drying, and furnace operations. The type of air toxics released varies widely due to the variety of process operations,

but may include: metals, organic compounds, and acid gases such as hydrogen chloride and chlorine. Health effects may include cancer, respiratory irritation, and damage to the nervous system. Nationwide, U.S. EPA estimates this rule will reduce emissions of air toxics by about twelve thousand four hundred twenty (12,420) tons per year, a reduction of nearly seventy percent (70%) for secondary aluminum production plants. There are thirty-seven (37) potential identified sources in Indiana.

#### **Pharmaceuticals Production**

Pharmaceuticals production includes chemical production operations used to produce drugs and medication. Processes include chemical synthesis, which is deriving a drug's active ingredient; and chemical formulation, which is producing a drug in its final form. Emission points of affected sources include storage tanks, process vents, equipment leaks, wastewater collection and treatment systems, and cooling towers. Air toxics emitted include: methylene chloride, methanol, toluene, and hydrogen chloride. These toxics are known or suspected of causing cancer and other serious health effects. Nationwide, U.S. EPA estimates this rule will reduce emissions of air toxics by about twenty-four thousand (24,000) tons, a reduction of nearly sixty-five percent (65%) for pharmaceuticals production. There are eight (8) potential identified sources in Indiana.

#### **Amino and Phenolic Resins**

Amino and phenolic resins are used in the manufacturing of plywood, particle board, adhesives, wood furniture, and plastic parts. Regulated chemicals used to manufacture amino and phenolic resins include: formaldehyde, phenol, methanol, xylene, and toluene. Formaldehyde, especially, is a probable human carcinogen, and short term exposure may cause respiratory tract effects in humans. Nationwide, U.S. EPA estimates this rule will reduce emissions of a number of air toxics by three hundred sixty-one (361) tons per year, a reduction of fifty-one percent (51%). There are no potential identified sources at this time in Indiana.

#### **Polyether Polyols Production**

Polyether polyols are produced during the chemical production operations used in making lubricants, adhesives, sealants, cosmetics, soaps, and feedstock polymers for urethane production. Emissions of air toxics are produced from different stages of production. Emission points of affected sources include storage tanks, process vents, equipment leaks, and wastewater treatment systems. Processes include emissions from a number of air toxics including ethylene oxide, propylene oxide, toluene, and hexane. Ethylene oxide, for example, is a probable human carcinogen that causes adverse reproductive and developmental effects. Nationwide, U.S. EPA estimates reduction of air toxics by two thousand (2,000) tons annually, a reduction of fifty percent (50%) for polyether polyols production sources. In addition, since many of these chemicals are also volatile organic compounds that contribute to the formation of ozone, this rule will also help to reduce ground-level ozone. There are no potential identified sources at this time in Indiana.

#### **Solvent Extraction for Vegetable Oil Production**

This rule affects facilities that use hexane to extract oil from vegetable seeds. Long term exposure to hexane can cause permanent nerve damage in humans. There are at least eight (8) types of oilseeds used: soybeans, cottonseed, rapeseed (canola), corn germ, sunflower, safflower, peanuts, and flax. The rule restricts plantwide hexane emissions from each affected facility rather than requiring individual controls at each emission point. U.S. EPA expects that the facilities will comply with this rule by upgrading equipment to recover and recycle solvents. Nationwide, U.S. EPA estimates that this rule will reduce emissions of hexane by six thousand eight hundred (6,800) tons per year and ozone forming volatile organic compounds by ten

thousand six hundred (10,600) tons per year. There are four (4) potential identified sources at this time in Indiana.

#### **Semiconductor Manufacturing**

The semiconductor manufacturing industry is a subset of the electronics manufacturing industry that produces integrated circuits. Integrated circuits are used in products such as computers, appliances, radios, and CD players. Air toxics emitted include hydrochloric acid, hydrofluoric acid, glycol ethers, methanol, and xylene. Process vents containing organic air toxics are required to reduce emissions by ninety-eight percent (98%) or to below twenty parts per million by volume (20ppmv), while inorganic process vents are required to reduce emissions by ninety-five percent (95%) or to below four-tenths and two-hundredths parts per million by volume (0.42ppmv). Storage tanks greater than one thousand five hundred (1,500) gallons capacity are required to reduce emissions to the same level of control as inorganic process vents. There are two (2) potential identified sources in Indiana.

#### **Refractory Products Manufacturing**

Refractory products are heat-resistant materials that provide the linings for high-temperature furnaces, reactors, and other process units that include extreme temperatures, corrosion, and abrasion. Air toxics emitted from the manufacture of refractory products include formaldehyde, polycyclic organic matter, phenol, ethylene glycol, and methanol. The rule will also limit the emissions of hydrogen fluoride and hydrochloric acid from new kilns that manufacture clay refractory products and will require the use of natural gas as fuel for existing clay refractory product manufacturers. Nationwide, U.S. EPA estimates a reduction of air toxics by one hundred thirty-seven (137) tons a year, a reduction of fifty percent (50%) from 1996 levels. There are two (2) potential identified sources in Indiana.

#### **Identification of Restrictions and Requirements Not Imposed Under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. Affected entities must comply with the federal rule, and IDEM does not propose to add more stringent requirements.

#### **Public Participation and Workgroup Information**

No workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact Gayla Killough, Rules Development Section, Office of Air Quality at (317) 233-8628 or (800) 451-6021 (in Indiana).

#### **FINDINGS**

The commissioner of IDEM has prepared written findings regarding rulemaking on the incorporation by reference of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for secondary aluminum production plants; pharmaceuticals production; amino and phenolic resins; polyether polyols production; solvent extraction of vegetable oil; semiconductor manufacturing; and refractory products manufacturing. These findings are prepared under IC 13-14-9-7 and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law and also state law to adopt national emission standards for hazardous air pollutants as established by the U.S. EPA.
- (3) The public will benefit from prompt adoption of this rule, because the state will have the legal authority to enforce these national emissions standards for hazardous air pollutants.
- (4) I have determined that under the specific circumstances pertain-

ing to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.

(5) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan  
Commissioner  
Indiana Department of Environmental Management

#### **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:

#03-284(APCB) Group 3 NESHAPS

Gayla Killough

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 Tenth 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 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by December 1, 2003.

Additional information regarding this action may be obtained from Gayla Killough, Rules Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

#### **DRAFT RULE**

SECTION 1. 326 IAC 20-57 IS ADDED TO READ AS FOLLOWS:

##### **Rule 57. Pharmaceuticals Production**

#### **326 IAC 20-57-1 Applicability; incorporation by reference of federal standards**

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

Affected: IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1250\*.**

**(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart GGG\*.**

*\*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 20-57-1)*

SECTION 2. 326 IAC 20-58 IS ADDED TO READ AS FOLLOWS:

##### **Rule 58. Amino and Phenolic Resins**

#### **326 IAC 20-58-1 Applicability; incorporation by reference of federal standards**

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

Affected: IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1400\*.**

**(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart OOO\*.**

*\*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 20-58-1)*

SECTION 3. 326 IAC 20-59 IS ADDED TO READ AS FOLLOWS:

##### **Rule 59. Polyether Polyols Production**

#### **326 IAC 20-59-1 Applicability; incorporation by reference of federal standards**

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

Affected: IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1420\*.**

**(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart PPP\*.**

*\*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 20-59-1)*

SECTION 4. 326 IAC 20-60 IS ADDED TO READ AS FOLLOWS:

##### **Rule 60. Solvent Extraction for Vegetable Oil Production**

#### **326 IAC 20-60-1 Applicability; incorporation by reference of federal standards**

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

Affected: IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.2832\*.**

**(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart GGGG\*.**

*\*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 20-60-1*)

SECTION 5. 326 IAC 20-61 IS ADDED TO READ AS FOLLOWS:

**Rule 61. Semiconductor Manufacturing**

**326 IAC 20-61-1 Applicability; incorporation by reference of federal standards**

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

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.7181\* (68 FR 27925, May 22, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart BBBBB\*, (68 FR 27925, May 22, 2003, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing).

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-61-1*)

SECTION 6. 326 IAC 20-62 IS ADDED TO READ AS FOLLOWS:

**Rule 62. Refractory Products Manufacturing**

**326 IAC 20-62-1 Applicability; incorporation by reference of federal standards**

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

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.9782\* (68 FR 18747, April 16, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart SSSSS\*, (68 FR 18747, April 16, 2003, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing).

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-62-1*)

SECTION 7. 326 IAC 20-70 IS ADDED TO READ AS FOLLOWS:

**Rule 70. Secondary Aluminum**

**326 IAC 20-70-1 Applicability; incorporation by reference of federal standards**

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

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1500\* (67 FR 79815, December 30, 2002).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart RRR\*, (67 FR 79815, December 30, 2002, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum).

\*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 20-70-1*)

**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 January 7, 2004 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 new rules 326 IAC 20-57, 326 IAC 20-58, 326 IAC 20-59, 326 IAC 20-60, 326 IAC 20-61, 326 IAC 20-62, 326 IAC 20-70.

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 new rule. 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 Gayla Killough, Rules Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the 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.

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**TITLE 326 AIR POLLUTION CONTROL BOARD**

**FINDINGS AND DETERMINATION OF THE  
COMMISSIONER PURSUANT TO IC 13-14-9-7  
AND SECOND NOTICE OF COMMENT PERIOD  
#03-285(APCB)**

**DEVELOPMENT OF NEW RULES CONCERNING INCORPORATION BY REFERENCE OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR**

**SURFACE COATING OF LARGE APPLIANCES; SURFACE COATING OF METAL COIL; PAPER AND OTHER WEB COATING; FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS; MUNICIPAL SOLID WASTE LANDFILLS; FRICTION MATERIALS MANUFACTURING FACILITIES; AND POLYVINYL CHLORIDE AND COPOLYMERS PRODUCTION**

**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules to incorporate by reference the national emission standards for hazardous air pollutants (NESHAPs) for surface coating of large appliances; surface coating of metal coil; paper and other web coating; flexible polyurethane foam fabrication operations; municipal solid waste landfills; friction materials manufacturing facilities; and polyvinyl chloride and copolymers production. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 326 IAC 20-63; 326 IAC 20-64; 326 IAC 20-65; 326 IAC 20-66; 326 IAC 20-67; 326 IAC 20-68; 326 IAC 20-69.

**AUTHORITY:** IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11.

**STATUTORY REQUIREMENTS**

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [IC 13-14-9-3]... would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

**Basic Purpose and Background**

The 1990 Amendments to the Clean Air Act (CAA) require the United States Environmental Protection Agency (U.S. EPA) to regulate major sources of hazardous air pollutants (HAP). A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that has the potential to emit as a whole, considering controls, ten (10) tons per year or more of any single HAP or twenty-five (25) tons per year or more of any combination of HAPs. The HAPs, listed in Section 112(b) of the CAA, are either known or suspected to cause cancer or other

serious health effects. On July 16, 1992, U.S. EPA published a list of industrial groups or sources categories that emit one (1) or more of the one hundred eighty-eight (188) listed hazardous air pollutants. (57 FR 31576)

The CAA requires U.S. EPA to develop national emission standards for hazardous air pollutants (NESHAPs) for each source category that require the application of air pollution reduction measures based on maximum achievable control technology (MACT). The MACT floor is the minimum control level that reflects the maximum degree of reduction in emissions of HAP that is achievable. The MACT standards cannot be less stringent than the average emission limitation achieved by the best-performing twelve percent (12%) of existing sources in the category. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

IDEM must incorporate the federal requirements into state rules or establish state requirements that are no less stringent. This rulemaking will incorporate by reference the following NESHAPs:

**Surface Coating of Large Appliances**

On July 23, 2002, the U.S. EPA published a final NESHAP (67 FR 48254) to reduce HAP emissions for large appliance surface coating operations at major sources. Surface coating of large appliances typically emit the following HAPs: glycol ethers, methylene diphenyl diisocyanate, methyl ethyl ketone, toluene, and xylene. These compounds account for over eighty (80) percent of the nationwide HAP emissions from this source category. Large appliances include "white goods" such as ovens, refrigerators, freezers, dishwashers, laundry equipment, trash compactors, water heaters, comfort furnaces, electric heat pumps, and most HVAC equipment. However, not included in the source category are motor vehicle air-conditioning units, heat transfer coils, and large commercial and industrial chillers. A coating operation not included in the source category is the coating of appliance parts that have a wider use beyond large appliances (handles or fasteners). Typically, these facilities are designated as North American Industry Classification System (NAICS) codes 33522, 333312, 333415, and 333319. In Indiana, four (4) sources have been identified that may be subject to the NESHAP.

The final NESHAP requires existing sources to limit emissions to no more than 0.13 kilograms organic HAP per liter of coating solids used (1.1 pounds/gallon) each month. The emission standard for new sources is 0.022 kilograms organic HAP per liter of coating solids used (0.18 pounds/gallon) each month. These limits apply to the total of all coatings, thinners, and cleaning materials used in coating operations at the affected source. There are three compliance options available for meeting the emission limits. The first option is a compliant material option that requires each coating used in the operation meet the limit, and each thinner and cleaning material must contain no organic HAP. The second option is an emission rate without an add-on controls option, where the source averages all of the coatings, thinners, and cleaning materials together to demonstrate that the overall emission rate is in compliance with the applicable limit. The third option is available to coating operations at the source using add-on controls. Under this option, the source must meet operating limits for the capture and control devices and follow work practice standards for material storage, mixing, conveying, and spills. Existing sources subject to the NESHAP must comply by July 23, 2005, and new and reconstructed sources must comply upon startup.

**Surface Coating of Metal Coil**

On June 10, 2002, the U.S. EPA published a final NESHAP (67 FR 39794) to reduce HAP emissions from the surface coating of metal coil at major sources. Technical corrections to the rule were published on March 17, 2003 (68 FR 12590). The key HAP emissions from this



source category are methyl ethyl ketone, glycol ethers, xylenes, toluene, and isophorone. A metal coil coating operation is the application system used to apply an organic coating to the surface of metal coil that is at least 0.15 millimeter (0.006 inch) thick. The majority of sources are designated as NAICS code 332812. In Indiana, nine (9) sources have been identified as potentially subject to the NESHAP.

The final NESHAP gives the options of limiting organic HAP emissions according to one of the following three levels: (1) No more than two percent (2%) of the organic HAP applied; (2) no more than 0.046 kilogram of organic HAP per liter (kg/l) (0.38 pound per gallon (lb/gal)) of solids applied during each 12-month compliance period; or (3) for sources using an oxidizer to control organic HAP emissions, an outlet organic HAP concentration of no greater than twenty (20) parts per million by volume (ppmv) on a dry basis with capture efficiency of one-hundred percent (100%). A source may comply through a pollution prevention approach by applying only coating materials that meet the emission rate limit. Existing sources subject to the regulation must comply by June 10, 2005, and new and reconstructed sources must comply upon startup.

#### **Paper and Other Web Coating**

On December 4, 2002, the U.S. EPA published a final NESHAP (67 FR 72330) to reduce HAP emissions from paper and other web coating operations. The organic HAP emitted from the paper and other web coating process include, toluene, methanol, methyl ethyl ketone, xylenes, phenol, methylene chloride, ethylene glycol, glycol ethers, hexane, methyl isobutyl ketone, cresols and cresylic acid, dimethylformamide, vinyl acetate, formaldehyde, and ethyl benzene. The paper and other web coating source category includes any facility that is located at a major source and is engaged in the coating of paper, plastic, film, metallic foil, and other web surfaces. Web coating refers to the application of a continuous layer of coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station where the continuous web substrate is flexible enough to be wound or unwound as rolls. Affected sources are identified by numerous NAICS codes; common ones are 322221, 322222, and 322299, and 325992. In Indiana, twelve (12) sources have been identified that may be subject to the NESHAP.

The final NESHAP expresses the emission limit in three formats based on whether HAP emissions are measured in terms of mass of organic HAP applied, mass of coating material applied, or mass of coating solids applied. The three HAP emission limits for existing affected sources are: (1) limit emissions to no more than five percent (5%) of the mass of organic HAP applied each month; (2) limit the total mass of organic HAP in the coating materials, or the total mass of organic HAP emitted, to no more than four percent (4%) of the total mass of coating materials applied to the web substrate each month; or (3) limit the total mass of the organic HAP in the coatings, or the total mass of organic HAP emitted, to no more than twenty percent (20%) of the total mass of coating solids applied to web substrates each month. Alternatively, sources using an oxidizer to control organic HAP emissions may choose to operate the oxidizer such that an outlet HAP concentration of no greater than twenty (20) parts per million by volume (ppmv) by compound on a dry basis is achieved. Existing sources subject to the regulation must comply by December 5, 2005, and new and reconstructed sources must comply upon startup.

#### **Flexible Polyurethane Foam Fabrication Operations**

On April 14, 2003, the U.S. EPA published a final NESHAP (68 FR 18062) to reduce HAPs from flexible polyurethane foam fabrication operations at major sources. The primary HAPs that will be controlled by this rule include hydrochloric acid, 2,4-toluene diisocyanate, and

hydrogen cyanide. This rule will also preclude the use of methylene chloride. This source category includes operations engaged in cutting, gluing, and/or laminating pieces of flexible polyurethane foam. There are two subcategories identified in the rule, loop slitter adhesive use and flame lamination. Affected sources are identified by the NAICS code 32615. In Indiana, four (4) sources have been identified as potentially subject to the federal NESHAP.

Sources operating an existing, new, or reconstructed loop slitter are prohibited from using any HAP-based adhesive in the final rule. HAP-based adhesive is defined as adhesives containing more than five percent (5%) HAP by weight. Sources operating an existing flame lamination source are not subject to an emission limitation, although these sources are required to submit an initial notification. Sources operating a new or reconstructed flame lamination source are required to reduce HAP emissions by ninety percent (90%). Existing sources subject to the regulation must comply by April 14, 2004, and new and reconstructed sources must comply upon startup.

#### **Municipal Solid Waste Landfills**

On January 16, 2003, the U.S. EPA published a final NESHAP (68 FR 2227) to reduce HAP emissions from municipal solid waste landfills. Emissions from landfills include numerous HAPs including, but not limited to, vinyl chloride, ethyl benzene, toluene, and benzene. The NESHAP applies to all municipal solid waste landfills that are major sources or are collocated with a major source, and to some landfills that are area sources. Area sources are those that have the potential to emit less than ten (10) tons per year (tpy) of any individual HAP or twenty-five (25) tpy total HAP. To be an affected source, the landfill (conventional landfill or bioreactor) must have accepted waste since November 8, 1987, or have additional capacity for waste disposal. Affected sources are identified by the NAICS codes 924110 and 562212. In Indiana, twelve (12) sources have been identified as potentially subject to the federal rule.

The final NESHAP contains the same requirements as the emission guidelines (EG)/New source performance standards (NSPS) for municipal solid waste landfills (326 IAC 8-8), plus startup, shutdown, and malfunction (SSM) definition and reporting of deviations for out-of-range monitoring parameters. Existing sources subject to this regulation must comply with the additional requirements of the final rule (that are over and above the EG/NSPS) by January 16, 2004, and new and reconstructed sources must comply upon startup.

#### **Friction Material Manufacturing Facilities**

On October 18, 2002, the U.S. EPA published a final NESHAP (67 FR 64498) to reduce HAP emissions from major sources of friction material manufacturing. The key HAP emissions from this source category are n-hexane, toluene, and trichloroethylene. Friction materials manufacturing includes any facility engaged in the manufacture of friction materials such as brake and clutch linings. The NESHAP specifically regulates solvent mixers using a solvent containing one (1) or more HAPs as an ingredient to the friction material composition. Affected sources are identified by the NAICS codes 33634, 327999, and 333613. In Indiana, two (2) sources have been identified as potentially subject to the federal rule.

The final NESHAP requires existing and new large solvent mixers to limit emissions of total organic HAPs to the atmosphere to thirty percent (30%) or less of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a seven (7) day block average. Small solvent mixers will be required to limit emissions of total organic HAP discharged to the atmosphere to fifteen percent (15%) or less of that which would otherwise be emitted in the absence of solvent recovery and/or solvent substitution, based on a seven (7) day block average. Existing sources subject to the regulation must comply by October 18, 2005, and new and reconstructed

sources must comply upon startup.

#### **Polyvinyl Chloride and Copolymers Production**

On July 10, 2002, the U.S. EPA published a final NESHAP (67 FR 45886) to reduce HAPs from polyvinyl chloride (PVC) and copolymers production. The NESHAP requires that PVC and copolymers production facilities, which already must comply with the existing Vinyl Chloride NESHAP, continue to comply with that existing NESHAP. This rule reflects EPA's determination that the HAP control level resulting from compliance with the existing Vinyl Chloride NESHAP already reflects the application of MACT, and thus, meets the requirements of Section 112(d) of the CAA, except for equipment leaks at new sources. For equipment leaks, new sources must comply with the most current technology standards in the Generic MACT (40 CFR part 60, Subpart YY) rule. By requiring compliance with the Vinyl Chloride NESHAP, the U.S. EPA is promoting regulatory consistency and eliminating the costs that would be incurred by enforcing a new set of standards that would likely result in no additional HAP emissions reductions. Affected sources are identified by the NAICS code 325211. No potentially affected sources have been identified in Indiana.

#### **IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. Adoption of national emission standards for hazardous air pollutants fulfills the commitment to adopt rules no less stringent than the federal air toxics program as required by U.S. EPA's approval of Indiana's air toxics delegation request.

#### **Potential Fiscal Impact**

Since the NESHAP is a federal requirement this rulemaking should not result in additional cost to regulated sources beyond the costs associated with the federal rule.

#### **Public Participation and Workgroup Information**

No workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6021 (in Indiana), extension 3-5697.

#### **FINDINGS**

The commissioner of IDEM has prepared written findings regarding rulemaking on incorporation by reference of the national emission standards for hazardous air pollutants (NESHAPs) for surface coating of large appliances; surface coating of metal coil; paper and other web coating; flexible polyurethane foam fabrication operations; municipal solid waste landfills; friction material manufacturing facilities; and polyvinyl chloride and copolymers production. These findings are prepared under IC 13-14-9-7 and are as follows:

- (1) This rule is the direct incorporation by reference of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) The federal rule has already gone through a rigorous public comment process.
- (3) The public will benefit from prompt adoption of this rule, because the state will have the legal authority to enforce these national emissions standards for hazardous air pollutants.
- (4) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (5) The draft rule is hereby incorporated into these findings.

Lori Kaplan  
Commissioner  
Indiana Department of Environmental Management

#### **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 rule. Mailed comments should be addressed to:

#03-285(APCB) NESHAP#4  
Susan Bem  
c/o Rules Development Section Administrative Assistant  
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 Tenth Floor East 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 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed or hand delivered by December 1, 2003.

Additional information regarding this action may be obtained from Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

#### **DRAFT RULE**

SECTION 1. 326 IAC 20-63 IS ADDED TO READ AS FOLLOWS:

##### **Rule 63. Surface Coating of Large Appliances**

##### **326 IAC 20-63-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.4081 (67 FR 48262, July 23, 2002)\*.**

**(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart NNNN (67 FR 48262, July 23, 2002)\*, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Large Appliances.**

*\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 20-63-1)*

SECTION 2. 326 IAC 20-64 IS ADDED TO READ AS FOLLOWS:

##### **Rule 64. Surface Coating of Metal Coil**

##### **326 IAC 20-64-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.5090 (67 FR 39811, June 10, 2002)\*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart SSSS (67 FR 39811, June 10, 2002 and 68 FR 12592, March 17, 2003)\*, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Coil.

\*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 20-64-1*)

SECTION 3. 326 IAC 20-65 IS ADDED TO READ AS FOLLOWS:

**Rule 65. Paper and Other Web Coating**

**326 IAC 20-65-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.3290 (67 FR 72341, December 4, 2002)\*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart JJJJ (67 FR 72341, December 4, 2002)\*, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Coating.

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-65-1*)

SECTION 4. 326 IAC 20-66 IS ADDED TO READ AS FOLLOWS:

**Rule 66. Flexible Polyurethane Foam Fabrication Operations**

**326 IAC 20-66-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.8782 (68 FR 18069, April 14, 2003)\*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart MMMM (68 FR 18069, April 14, 2003)\*, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-66-1*)

SECTION 5. 326 IAC 20-67 IS ADDED TO READ AS FOLLOWS:

**Rule 67. Municipal Solid Waste Landfills**

**326 IAC 20-67-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1935 (68 FR 2238, January 16, 2003)\*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart AAAA (68 FR 2238, January 16, 2003)\*, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-67-1*)

SECTION 6. 326 IAC 20-68 IS ADDED TO READ AS FOLLOWS:

**Rule 68. Friction Material Manufacturing Facilities**

**326 IAC 20-68-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.9485 (67 FR 64506, October 18, 2002)\*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart QQQQ (67 FR 64506, October 18, 2002)\*, National Emission Standards for Hazardous Air Pollutants for Friction Material Manufacturing Facilities.

\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-68-1*)

SECTION 7. 326 IAC 20-69 IS ADDED TO READ AS FOLLOWS:

**Rule 69. Polyvinyl Chloride and Copolymers Production**

**326 IAC 20-69-1 Applicability; incorporation by reference of federal standards**

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## IC 13-14-9 Notices

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Authority: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11  
Affected: IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.211 (67 FR 45891, July 10, 2002)\*.**

**(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart J (67 FR 45891, July 10, 2002)\*, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.**

**\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 20-69-1)**

### **Notice of First Meeting/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 on February 4, 2004 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 new rules 326 IAC 20-63, 326 IAC 20-64, 326 IAC 20-65, 326 IAC 20-66, 326 IAC 20-67, 326 IAC 20-68, and 326 IAC 20-69.*

*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 new rules. 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 Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027, extension 3-5697 (in Indiana).*

*Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: ADA Coordinator*

*Indiana Department of Environmental Management*

*100 North Senate Avenue*

*P.O. Box 6015*

*Indianapolis, Indiana 46206-6015*

*or call (317) 233-0855. (TDD): (317) 233-6565. 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, Tenth Floor East, Indiana Government Center-North, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

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### **TITLE 329 SOLID WASTE MANAGEMENT BOARD**

#### **FIRST NOTICE OF COMMENT PERIOD**

**#03-286(SWMB)**

#### **DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING ASBESTOS CERTIFICATION FOR SOLID WASTE FACILITY OPERATORS**

### **PURPOSE OF NOTICE**

The Indiana Department of Environment Management (IDEM) is soliciting public comment on amendments to rules for certification of solid waste facility operators that would place asbestos certification for solid waste facility operators under the rules promulgated by the Solid Waste Management Board. At this time, these operators must receive certification for managing disposal of asbestos containing material under a training and testing program prescribed by the rules of the Air Pollution Control Board at 326 IAC 18-1 and 326 IAC 18-2. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

The Indiana Department of Environmental Management (IDEM) Office of Air Quality is also initiating rulemaking concurrent to this notice to remove the asbestos certification process for solid waste facility operators from their asbestos certification program.

**CITATIONS AFFECTED:** 329 IAC 12-7; 329 IAC 12-8.

**AUTHORITY:** IC 13-15-10-4; IC 13-19-3-1.

### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

#### **Basic Purpose and Background**

Solid waste facility operators must be certified by IDEM under rules promulgated by the Solid Waste Management Board. To manage disposal of asbestos containing material, solid waste facility operators must also acquire a license from IDEM under rules promulgated by the Air Pollution Control Board. The extensive training required to receive an asbestos handling license covers skills and knowledge not used or needed by a solid waste facility operator. This training includes all aspects of asbestos abatement.

The purpose of this rule amendment is to incorporate the training for managing disposal of asbestos containing material for solid waste operators into the training now required under rules enforced by IDEM's Office of Land Quality. This training would be designed to meet the specific needs of a solid waste facility operator.

#### **Alternatives To Be Considered Within the Rulemaking**

Alternative 1. Deleting the licensing requirements in 326 IAC 18-1 and 326 IAC 18-2 and adding them to 329 IAC 12.

- Is this alternative an incorporation of federal standards, either by reference or full incorporation? No, the licensing for asbestos management at a waste disposal facility is not a federal requirement.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Maintaining programs as currently operated with duplicate training and licensing.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, the licensing for asbestos management at a waste disposal facility is not a federal requirement.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

**Applicable Federal Law**

There is no applicable federal law regarding asbestos licensing. Licensing at 326 IAC 18-1 and 326 IAC 18-2 is a state-only requirement.

**Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. The Office of Land Quality does not charge a fee for the certification of landfill operators. More test questions will be added to the courses for landfill operator certification at 329 IAC 12.

Potential Fiscal Impact of Alternative 2. This alternative would have no fiscal impact since there would be no change to the rules.

**Public Participation and Workgroup Information**

An external workgroup will be established to discuss issues involved in this rulemaking. The workgroup will include IDEM staff and a cross-section of stakeholders. If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Lou McFadden, Rules Section, Office of Land Quality at (317) 232-8922 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

**STATUTORY AND REGULATORY REQUIREMENTS**

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

**REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of this rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#03-286(SWMB) Asbestos Certification

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 11<sup>th</sup> floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45

p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-7995.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by December 4, 2003.

Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).

Bruce Palin

Deputy Assistant Commissioner

Office of Water Quality

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**OFFICE OF THE ATTORNEY GENERAL**

December 27, 2002

**OFFICIAL OPINION 2002-6**

The Honorable Luke Kenley  
The Honorable Dean Young  
The Honorable P. Eric Turner  
Indiana General Assembly  
State House  
Indianapolis, IN 46204

RE: Inventory Tax Deduction – HEA 1001

Dear Senator and Representatives:

This letter responds to your request for an answer to the following questions:

- 1) Do legislative bodies that compose the Grant County Income Tax Council individually take the action by resolution or ordinance?
- 2) Can the Grant County Income Tax Council rescind an ordinance to grant assessed value deduction for inventory prior to January 1, 2003, if the Council determines that the 2002 general reassessment does not support the viability of a personal property assessed value deduction for inventory?
- 3) Can the Grant County Income Tax Council adopt an ordinance granting an assessed valuation deduction for inventory in 2002 that is conditioned on the Council imposing a County Economic Development Income Tax (CEDIT) rate in 2003?

**BRIEF ANSWER**

- 1) Any member of a county income tax council may present an ordinance for passage. To do so, the member must pass a resolution to propose the ordinance to the county income tax council and distribute a copy of the proposed ordinance to the auditor of the county. Any member of a county income tax council may exercise its votes by passing a resolution and transmitting the resolution to the auditor of the county.
- 2) The inventory tax deduction statute at Indiana Code section 6-1.1-12-41(f) presents language that expressly provides, “[a]n ordinance adopted under this section in a particular year applies to each subsequent assessment year ending before January 1, 2006.” It appears to state expressly that the decision to enact the inventory tax deduction may not be rescinded. Because there does not appear to be a general “rescission statute,” it appears that the more specific statute that addresses the inventory tax deduction will control. Therefore, once the inventory tax deduction is adopted, the ability to rescind is lost.
- 3) Article 1, Section 25 of the Indiana Constitution provides that “no law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution.” Because the proposed ordinance would not be effective unless another ordinance is passed, it is likely that this will be seen as a violation of the constitutional principle.

**LEGAL ANALYSIS**

House Enrolled Act 1001 passed in the 2002 legislative session contains a provision that deals with the inventory tax deduction. That deduction cited at Indiana Code section 6-1.1-12-41(f) provides in pertinent part:

An ordinance may be adopted in a county to provide that a deduction applies to the assessed value of inventory located in the county. The deduction is equal to one hundred percent (100%) of the assessed value of inventory located in the county for the appropriate year of assessment. An ordinance adopted under this section in a particular year applies to each subsequent assessment year ending before January 1, 2006.

1) Your initial question appears to ask what the appropriate procedures are for a county income tax council to vote and take action. Indiana counties have created county income tax councils. The powers and duties of such councils are established by statute. The term “acting” is comprised of the powers and duties expressly granted by law that include imposing the county option income tax, rescinding the county option income tax, increasing the homestead credit, and other duties which are put into effect by the council's ordinance. These powers and duties may be exercised by any member of the county income tax council provided they are enacted according to statute. The statutes provide that any member of a county tax council may exercise its votes by passing a resolution

and transmitting the resolution to the auditor of the county. A resolution is necessary for a member of a county income tax council to present an ordinance for passage. See IND. CODE §§ 6-3.5-6-2 (1984)(amended 1994); 6-3.5-6-4 (1984)(amended 1994); 6-3.5-6-5 (1984)(amended 1997).

With respect to the inventory tax deduction, a clear reading of the statutes expressly provides for the passage of that deduction to be done by ordinance. “An ordinance may be adopted....” Ind. Code 6-1.1-12-41(f). Additionally, the home rule statutes, as well as county income tax council statutes expressly provide for the enactment of legislation in that same manner. See IND. CODE § 36-1-3-6(b)(1) and see IND. CODE §§ 6-3.5-6-2, 6-3.5-6-5. Most importantly however, is the express language found in the enabling statute at IND. CODE §§ 6-1.1-12-41(h)(3) that provides, “[t]o adopt an ordinance under subsection (f), a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.” Those statutes point to the proper method of enacting an ordinance to impose the county option income tax.

2) You next ask whether the county may rescind the ordinance once it is adopted. The enabling statute itself is silent on the manner in which a county income tax council may rescind such an ordinance. The statute also specifically states: “An ordinance adopted under this section in a particular year applies to each subsequent assessment year ending before January 1, 2006.” IND. CODE § 6-1.1-12-41(f). The statute therefore expressly contemplates that once an ordinance under this statute is adopted, it stays in place until 2006. Moreover, the law requires the department of local government finance to incorporate the deduction in the personal property return forms before March 1 of that year. Further, the law provides that the township assessor must calculate and provide the deduction if the taxpayer fails to claim it. These provisions also suggest that the Legislature intended the deduction to remain in place once adopted.

Additionally, the county option income tax statutes that expressly provide for the ability to rescind ordinances, grant this authority for certain ordinances, and provide the manner and time frames for the rescission to occur. IND. CODE §§ 6-3.5-6-2 to -12.5. No such language appears in the enabling statute for the inventory tax deduction or in the county option income tax statutes. Therefore, it is likely that the express language of the enabling statute which states that once the decision to grant such a deduction is made it applies to each assessment year ending before January 1, 2006 will control. Moreover, business enterprises drawn to invest in a county as a result of the adoption of the ordinance would likely claim that the county's rescission upset vested reliance interests. Accordingly, this Office strongly recommends that the county not attempt to rescind the ordinance once adopted, unless the General Assembly clarifies the county's ability to rescind the inventory deduction.

3) Your last question deals with the ability to adopt an ordinance granting the inventory tax deduction contingent upon the county income tax council imposing a CEDIT rate in 2003. The question actually brings the Indiana Constitution at Article 1, Section 25 and its interpretation into question. Article 1, Section 25 of the Indiana Constitution provides that “no law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution.” Although the home rule statutes grant local governments great discretion in managing their own affairs, see IND. CODE §§ 36-1-3-1 to -9 (1980), because the delegated powers are derived directly from the state, local governments are still required to enact laws that do not offend constitutional guidelines. See *District of Columbia v. John R. Thompson Co.*, 346 U.S.100 (U.S. 1953) and *Massey v. City of Mishawaka*, 177 Ind. App. 79 (Ind. App. 1978). When it appears that a law is not in full force and effect from the date fixed by the authority of the legislature, and there appears to be another contingency required to make the law effective outside of the language of the proposed legislation itself, the law appears to be an improper delegation of legislative authority, and a violation of the Indiana Constitution. See *Johnson et. al. v. Board of Park Comm'rs of Ft. Wayne et al.*, 174 N.E. 91 (Ind. 1930).

Although it is well settled that the legislature may designate a part or all of a local governing body to make a law effective by signature or vote, a law must in and of itself be in full force and effect by the act of the legislature first. Such vote for as to whether a local unit of government will avail itself of such law is just that a determination as to whether that body will avail themselves of the provisions of the law. It has no application to any of the processes necessary to the proposal becoming a complete law. It is complete legislation and authority in and of itself. However, attempting to enact the inventory tax deduction, contingent upon the CEDIT being passed, appears to create a law that derives its effectiveness from the passage of another law as opposed to authority from the legislative authority of the local governing body.

An ordinance that is thus made contingent upon the passage of another statute or ordinance as a condition subsequent is subject to a constitutional challenge. It is our opinion that, at the least, the language placing the condition upon the effectiveness of the ordinance is not likely to withstand such a constitutional challenge.

### **CONCLUSION**

Based on our research, we conclude that a county income tax council takes action by ordinance. In order for a member of a

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## Attorney General's Opinions

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county income tax council to present an ordinance for passage, they must first pass a resolution. The manner in which that is to be done is found in the county income tax council statute in Indiana Code §§ 6-3.5-6-1 to -12.5.

Without language specifying otherwise, it appears that the enabling statute provides that once the inventory tax deduction statute is passed, the ability to rescind the decision is lost. It additionally appears that the decision will be carried into each subsequent assessment until January 1, 2006.

Lastly, it appears that an ordinance granting an assessed valuation deduction for inventory 2002 conditioned upon the county tax council imposing a CEDIT rate does not meet constitutional scrutiny.

Sincerely,

Stephen Carter  
Attorney General

Tracy L. Richardson  
Deputy Attorney General

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### OFFICE OF THE ATTORNEY GENERAL

January 30, 2003

#### **OFFICIAL OPINION 2003-1**

The Honorable Lawrence M. Borst  
Indiana State Senator  
Indiana State Senate, 430 State House  
Indianapolis, IN 46204-2785

RE: Distribution of County Option Income Tax

Dear Senator Borst:

You have requested an official opinion on the statutory authority regarding distribution of County Option Income Taxes ("COIT") and specifically whether the State Budget Agency or the Indiana Department of Revenue has the statutory authority to intercept a portion of Marion County's COIT distribution to pay a portion of the past-due debt owed by Marion County for the cost of juvenile corrections.

#### **BRIEF ANSWER**

It is our opinion that the Indiana General Assembly has authorized County Option Income Taxes as a funding source solely for counties. The statutes require the Department of Revenue to collect these taxes and distribute them to the counties. Indiana statutes do not authorize the State Budget Agency or the Indiana Department of Revenue to "intercept" County Option Income Tax funds collected by the Indiana Department of Revenue for distribution to counties.

#### **BACKGROUND**

You have sought this opinion based on a December 2, 2002 letter from the State Budget Director to the Marion County Auditor stating, in part:

the State of Indiana has subtracted \$2,525,243 from Marion County's December payment for County Option Income Tax... to pay a portion of the past-due debt owed by Marion County to the State for the cost of juvenile corrections.

#### **RELEVANT STATUTES**

##### **I. COUNTY OPTION INCOME TAX**

Indiana Code Section 6-3.5-6 authorizes counties to adopt a County Option Income Tax, and the Consolidated City of Marion County-Indianapolis has adopted an ordinance authorizing such a tax.



The manner in which the Indiana Department of Revenue must handle the COIT payments it collects from taxpayers is prescribed by Indiana Code Section 6-3.5-6-16:

(a) A special account within the state general fund shall be established for each county that adopts the county option income tax. Any revenue derived from the imposition of the county option income tax by a county shall be deposited in that county's account in the state general fund.

(b) Any income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Any revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

The distribution of COIT revenues to the counties is covered by Indiana Code Section 6-3.5-6-17:

Distribution of revenue to counties. (a) Except as provided in section 2.5 of this chapter<sup>1</sup>, revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the state budget agency, estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding calendar year and ending June 30 of the ensuing calendar year.

(b) Before June 16 of each calendar year, the department, after reviewing the recommendation of the state budget agency, shall estimate and certify to the county auditor of each adopting county the amount of county option income tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 16 of this chapter.

(d) The department may certify an amount less than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year.

(e) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(f) Except as provided in section 2.5 of this chapter, upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(g) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

A "county having a consolidated city" (*i.e.*, Indianapolis-Marion County) is also subject to additional calculations that take into account obligations for qualified economic development tax projects, the county's welfare administration fund, and after December 31, 2002, the county hospital care for the indigent property tax levy and uninsured parents program property tax levy.<sup>2</sup> The General Assembly has set by statute how Marion County's COIT distribution is to be divided among its various civil taxing units.<sup>3</sup>

## II. DEPARTMENT OF REVENUE AUTHORITY

The Indiana Department of Revenue is an "agency of the state of Indiana for purpose of administering, collecting, and enforcing the taxes placed under its authority."<sup>4</sup> The "taxes placed under its authority" are known as "listed taxes"<sup>5</sup>, and include the county option income tax. However, if any statutory provisions relating to the Department of Revenue's authority to impose, collect, or administer listed taxes "conflicts with a provision of the law relating to the listed taxes, the provision of the law relating to the listed taxes controls for the purpose of imposing, collecting, or administering that listed tax."<sup>6</sup>

## III. STATE BUDGET AGENCY AUTHORITY

The powers of the State Budget Agency are described in Indiana Code Section 4-12-1-1:

(a) This chapter shall be known and may be cited as the budget agency law.

(b) Its general purposes and policies may be perceived only from the entire chapter, but among them are four (4) of particular significance, namely:

(1) Vesting in the budget agency duties and functions and rights and powers which make the execution and administration of all appropriations made by law the exclusive prerogative and authority of that agency, and otherwise denying such prerogative and authority to the budget committee.

(2) Designating an officer of the executive department and four (4) members of the general assembly as members of the budget committee through which they may work between regular sessions of the general assembly and cooperatively propose and recommend to the general assembly the appropriations, which appear to be necessary to carry on state government in the succeeding budget period.

(3) Giving the members of the budget committee, who are members of the general assembly, the authority to engage in activities incidental and germane to their legislative powers, including investigations of appropriations made and to be made by law, before and after sessions of the general assembly.

(4) Making the gathering of information, data, and expert opinion, with reference to the revenues of the state from current sources, and with reference to procuring additional revenues to meet appropriations which may be recommended, and making the evaluation of such data and opinion and of appropriations requested by agencies of the state, the concurrent prerogative and authority of the budget committee and the budget agency.

The Budget Agency is authorized to transfer, assign and reassign appropriations, but Indiana Code Section 4-12-1-12(e) limits this authority:

(e) The budget agency may transfer, assign and reassign any appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by IC 21-6.1, made for one specific use or purpose to another use or purpose of the agency of state to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request of and with the consent of the agency of state whose appropriations are involved. Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency. (emphasis added)

We have also reviewed the various provisions of Indiana Code relating to reimbursement to the State by the counties for half of the costs of keeping juvenile offenders in Department of Corrections facilities<sup>7</sup> and find no statutory authority allowing for a set off against funds otherwise payable to a county.

### **ANALYSIS**

Our analysis starts with the fact that the COIT is a purely local tax, imposed by the county fiscal body and not by the State. It is considered a "pass through" tax, collected by the Department of Revenue for the benefit of a county and disbursed back to the county under a statutory framework. By statute COIT payments are held in a special account in the county's name; all income earned on the account is for the benefit of the county; the funds never become part of the State general fund.<sup>8</sup> The fact that taxpayer COIT payments must be submitted to the Department of Revenue does not alter its essential character as a local tax.<sup>9</sup>

The legislature's grant of authority to counties to levy an income tax must be read within the context of Indiana's Home Rule statute<sup>10</sup> and its broad grant of authority to exercise "all the powers that they need for the effective operation of government as to local affairs." The additional legislative authority to levy an income tax upon its citizens and to make these funds available to the counties to fulfill this essential governmental purpose mark these funds as unique from other taxes collected by the Department of Revenue.

Indiana Code Section 6-3.5-6-17 is explicit that the Department of Revenue shall distribute COIT funds to the county that imposed it. To the extent that the funds are collected by the State and kept in a special account within the State general fund as required by Indiana Code Section 6-8.1-3-1, they are deemed allocated and appropriated to the county on whose behalf they were generated.<sup>11</sup>

The Department of Revenue collects these county funds for the county's benefit and use, and in this respect can be seen as having a fiduciary duty to act on behalf of the county as directed by the legislature. The General Assembly has given neither the Department of Revenue nor the Budget Agency the general power to make set offs, garnishments, and interceptions or otherwise allow for the withholding of COIT distributions to counties.

We are also fully aware that Indiana Code Section 4-24-7-4 mandates that a county council appropriate sufficient funds to

cover a county's share of the cost of housing juvenile offenders in state institutions. As the Indiana Court of Appeals so aptly stated in *Etherton v. Wyatt*, "we are cognizant of the need for flexibility by the Budget Agency in dealing with the arduous task of balancing the state budget. However, if the Budget Agency is to reduce a legislative appropriation, it must do so in conformity with the statutory requirements and upon some reasonable basis to support its action."<sup>12</sup> In this regard, *Mass Transportation Authority* seems to suggest a more legally supportable framework in which to achieve an ultimate resolution.<sup>13</sup>

### CONCLUSION

It is our opinion that the Indiana General Assembly has authorized County Option Income Taxes as a funding source solely for counties. The statutes require the Department of Revenue to collect these taxes and distribute them to the counties. Indiana statutes do not authorize the State Budget Agency or the Indiana Department of Revenue to "intercept" County Option Income Tax funds collected by the Indiana Department of Revenue for distribution to counties.

We trust that this response has adequately addressed your inquiry. If we can be of further assistance in this matter, please do not hesitate to contact me.

Sincerely,  
Stephen Carter  
Attorney General

Susan Gard  
Deputy Attorney General

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<sup>1</sup> The underlined language was added by P.L.178-2002 § 61. There is no section 2.5 of IC 6-3.5-6, and we assume that a correct citation will be substituted during technical changes made during the forthcoming legislative session. We have, however, reviewed both P.L.178-2002 and other laws enacted during the 2002 legislative session and found no exceptions for a county's payment obligations to the State for housing of juvenile offenders.

<sup>2</sup> Ind. Code § 6-3.5-6-17.6b (2002). This code section was amended both by P.L.178-2002, SEC. 66 and by P.L.120-2002 SEC. 55. Neither law refers to the other. The differences between the two versions are immaterial for the purpose of this official opinion.

<sup>3</sup> IND. CODE § 6-3.5-6-1 (1998).

<sup>4</sup> Ind. Code § 6-8.1-2-1.

<sup>5</sup> Ind. Code § 6-8.1-1-1.

<sup>6</sup> Ind. Code § 6-8.1-1-6 (1998).

<sup>7</sup> Ind. Code § 11-10-2-3; Ind. Code § 4-24-7.

<sup>8</sup> Ind. Code § 6-3.5-6-16.

<sup>9</sup> Cf. *Lake County Council v. State Board of Tax Commissioners*, 706 N.E.2d 270, 277 n. 12 (Ind. Tax Ct. 1999), *overruled on other grounds*, 730 N.E.2d 680 (Ind. 2000); *State v. Hoovler*, 668 N.E.2d 1229, 1234 (Ind. 1996).

<sup>10</sup> See generally Ind. Code § 36-1-3.

<sup>11</sup> See, e.g., *State ex rel Mass Transportation Authority of Greater Indianapolis v. Indiana Revenue Board*, 253 N.E.2d 725, 734 (Ind. App. 1969), *cert. den.* 400 U.S. 877 (1970) ("[a]n allocation by law is an appropriation of revenues").

<sup>12</sup> *Etherton v. Wyatt*, 293 N.E.2d 43, 51 (Ind. App. 1973).

<sup>13</sup> *Mass Transport Authority*, 253 N.E.2d. at 734.

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### OFFICE OF THE ATTORNEY GENERAL

January 31, 2003

#### **OFFICIAL OPINION 2003-2**

State Representative Daniel A. Dumezich  
State Representative Dan Stevenson  
State of Indiana House of Representatives  
Third Floor State House  
Indianapolis, Indiana 46204

RE: Local Ordinances and State Laws

Dear Representatives Dumezich and Stevenson:

This letter is in response to your request for an opinion on the following questions:

Question 1. May a city or town enact a local ordinance that is similar to an existing state statute in order to capture the revenue generated by any resulting fines levied by the city or town for violations of the local ordinance?

Question 2. Does state law prohibit a city or town from enacting a local ordinance that mirrors an existing state statute in order to capture the revenue generated by any resulting fines levied by the city or town for violations of the local ordinance?

Question 3. Does state law allow or specifically prohibit a city or town from enacting a seat belt ordinance, which is similar to the existing state statute regarding seat belts, in order to allow the city to keep the revenue generated by the levied fines at the local level in lieu of returning those fines to the state?

Question 4. How would such a seat belt ordinance differ from other local ordinances that mirror state law such as fines levied for infractions like speeding?

### **BRIEF ANSWERS**

Questions 1 & 2: The Home Rule Act expressly prohibits local units of government from adopting local ordinances which assign a penalty for an act that constitutes a crime or infraction under state statute. A state statute must be evaluated to determine if the statute deals comprehensively with a subject matter; local ordinances might not be preempted if a state statute does not deal comprehensively with a subject matter and there is room for supplemental local regulation. However, a city or town may not enact a local ordinance where there is an existing state statute dealing comprehensively with the subject matter and local law is considered preempted by state law.

Question 3: The General Assembly has preempted any local initiatives regarding motor vehicle equipment, such as seatbelts, by enacting comprehensive statewide laws regarding such equipment and by withholding any reference to a local unit's specific statutory authority to supplement the state law. Funds collected as judgments for violations of state statutes regarding seat belt violations are required by statute to be deposited into the state general fund.

Question 4: The General Assembly has established uniform and comprehensive state standards for motor vehicle equipment and has withheld from local units any statutory authority to supplement state laws on the matter. Conversely, when enacting state laws regulating the movement of traffic, the legislature contemplated the need for additional local regulations addressing particular local needs, such as speed, and specifically granted local units the statutory authority to supplement state law.

### **ANALYSIS**

#### **1. Local Ordinance Analysis under the Home Rule Act:**

Local ordinances passed by cities and towns must be analyzed in light of Indiana's Home Rule Act ("Act"). The validity of any local ordinance should be evaluated in the context of the legislative intent behind the Home Rule Act and the corresponding history of case law regarding the Act. The Act applies to local units of government, which include counties, municipalities, and townships.<sup>1</sup> Under the Act, a local unit of government is granted broad authority, with few exceptions, to adopt any local law needed "for the effective operation of government as to local affairs."<sup>2</sup>

Under the Home Rule Act, a local unit of government is not precluded from enforcing an ordinance it enacts even if there is no express grant by the legislature permitting a municipality to pass such an ordinance.<sup>3</sup> However, under the Act, certain powers are withheld from local control and a local unit may not exercise power that is expressly denied by the Indiana Constitution or by statute.<sup>4</sup>

The Home Rule Act expressly prohibits local units from adopting a local ordinance designating a penalty for conduct that constitutes a crime or infraction under state statute.<sup>5</sup> Pursuant to state law, a "crime" is defined as a felony or misdemeanor for which a person may be imprisoned, and an "infraction" is defined as a violation of a statute for which a person may be fined, but not imprisoned.<sup>6</sup> The Home Rule Act prohibits local units from assigning a local penalty for conduct which already constitutes a crime or infraction under state law.<sup>7</sup>

However, when a state statute does not deal comprehensively with a subject matter, local regulation might not be considered preempted by state law.<sup>8</sup> One must review the breadth of a statute to determine if it excludes local governance of a subject matter.<sup>9</sup> “When a state statute totally preempts the field, a city may not further legislate therein. If a city attempts to impose regulations in conflict with rights granted or reserved by the Legislature, such ordinances or regulations are invalid.”<sup>10</sup>

## 2. State Statutes Regarding Safety Belt Standards:

Pursuant to state law, occupants of the front seat of an automobile must use a safety belt and also insure that any accompanying children are properly restrained.<sup>11</sup> State law provides that the failure to use a safety belt, or the failure to properly restrain a child passenger, constitutes a Class D infraction.<sup>12</sup> State law prescribes a penalty of up to twenty-five dollars (\$25) for a violation which constitutes a Class D infraction.<sup>13</sup> Circuit, superior, county, city and town courts have jurisdiction over all infractions.<sup>14</sup> Funds collected as judgments for violations of state statutes constituting infractions are required by statute to be deposited into the state general fund.<sup>15</sup>

The state statutes regarding the use of seatbelts are comprehensive statutes and do not authorize or otherwise provide local units of government with an opportunity to pass additional supplemental laws regarding seat belts which address local problems and conditions. Presumably, in passing a statewide comprehensive seat belt law, the legislature took into account the fact that its citizens were highly mobile and thus there was a need for uniform seat belt laws across the state. In addition, the need for safety provided by the uniform state law applies generally to all instances where a vehicle is in movement and no specific situations need to be addressed by local law.

The state statutes regarding penalties for failure to use a safety belt in a vehicle differ from state statutes regarding speed limit use. Statutes regarding safety belt use fall under Article 19 of Title 9 of the Indiana Code, “Motor Vehicle Equipment.” The provisions of the article do not grant statutory authority to local units to adopt additional regulations regarding such equipment. On the other hand, state speed limits are set under Article 21 of Title 9, “Traffic Regulations.” The state traffic regulations are not all-inclusive. Local authorities are given specific statutory authority to adopt additional regulations that do not conflict with or duplicate a state statute, such as regulating the speed of vehicles.<sup>16</sup> Local units of government are also given specific statutory authority to deposit fines assessed for violations of local traffic regulation laws into the general fund of the local unit.<sup>17</sup> Therefore, unlike motor vehicle equipment laws for which the legislature has established uniform and comprehensive state standards, the legislature contemplated the need for additional local regulations addressing particular local concerns when enacting state laws regulating the movement of traffic. In sum, the legislature preempted any local initiatives regarding motor vehicle equipment by enacting comprehensive statewide laws regarding such equipment and withholding any reference to a local unit’s statutory authority to supplement the state law.

## CONCLUSION

It is my opinion that the Home Rule Act prohibits local units of government from adopting any local ordinance that prescribes a penalty for conduct constituting an infraction under any Indiana Code provision regarding seat belt use. At the same time, the state law that requires funds collected as judgments for infraction violations be deposited into the state general fund preempts any local ordinance designating the funds be deposited otherwise.

Sincerely,

Stephen Carter  
Attorney General

Rebecca Walker  
Deputy Attorney General

<sup>1</sup> IND. CODE §§ 36-1-3-1 (1998); 36-1-2-23 (1998).

<sup>2</sup> IND. CODE § [0]36-1-3-2 (1998).

<sup>3</sup> IND. CODE § 36-1-3-4 (1998); *See Beta Steel Corp. v. Porter County, Indiana*, 695 N.E.2d 979, 982 (Ind. Ct. App. 1998).

<sup>4</sup> IND. CODE §§ 36-1-3-5(a)(1) to – 8 (1998).

<sup>5</sup> IND. CODE § 36-1-3-8(a)(8) (1998).

<sup>6</sup> IND. CODE § 33-1-13-1 (1998). Traffic infraction proceedings are considered civil in nature rather than criminal. *Preston v. State*, 735 N.E.2d 330, 332 (Ind. Ct. App. 2000) (*citing Wirgau v. State*, 443 N.E.2d 327, 329-30 (Ind. Ct. App. 1982)).

<sup>7</sup> IND. CODE § 36-1-3-8(a)(8) (1998).

<sup>8</sup> See generally *State v. Town of Roseland*, 383 N.E.2d 1076 (Ind. App. 1979) (holding the town may enact local speeding ordinances and a fine assessed under such an ordinance may be retained locally).

<sup>9</sup> See *DeHart v. Town of Austin, Indiana*, 39 F.3d 718, 723 (7<sup>th</sup> Cir. 1994).

<sup>10</sup> *City of Indianapolis v. Fields*, 506 N.E.2d 1128, 1131 (Ind. Ct. App. 1987) (citing *City of Indianapolis v. Sablica*, 264 Ind. 271, 342 N.E.2d 853, 854 (Ind. 1976); *City of Hammond, Lake County v. NID Corp.*, 435 N.E.2d 42, 47 (Ind. Ct. App. 1982)).

<sup>11</sup> IND. CODE §§ 9-19-10-2 (1998); 9-19-11-2 to – 3 (1998).

<sup>12</sup> IND. CODE §§ 9-19-10-8 (1998); 9-19-11-2 to – 3 (1998).

<sup>13</sup> IND. CODE § 34-28-5-4 (1998).

<sup>14</sup> IND. CODE §§ 33-4-3-11 (1998); 33-5-2-8 (1998); 33-10.1-2-2 to – 7 (1998).

<sup>15</sup> IND. CODE § 34-28-5-5(c) (1998).

<sup>16</sup> IND. CODE §§ 9-21-1-2(a) (2002); 9-21-5-6 (1998).

<sup>17</sup> IND. CODE § 9-21-1-2(b) (2002).

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**OFFICE OF THE ATTORNEY GENERAL**

May 27, 2003

**OFFICIAL OPINION 2003-3**

Department of Local Government Finance  
Beth Henkel, Commissioner  
Indiana Government Center North  
100 North Senate Avenue 1058(B)  
Indianapolis, IN 46204

RE: School corporations unfunded retirement or severance liability

Dear Commissioner Henkel:

This advisory letter responds to your request for an opinion regarding the proper interpretation and construction of recent statutory amendments embodied in P.L. 253-2001 relating to the funding of school corporation retirement or severance plans. The following is our legal analysis of the statutory codification of this public law.

**ANALYSIS**

P.L. 253-2001 was adopted in response to concerns that many local school corporations are contractually obligated to pay severance and retirement benefits to their employees, and that such obligations are presently unfunded liabilities of the individual school corporations. The new law requires certain retirement or severance plans to be funded on an “actuarially sound basis”. In addition, P.L. 253-2001 (as amended by H.E.A. 1088, 113<sup>th</sup> Gen. Assem., 1<sup>st</sup> Reg. Sess., 2003) authorizes a school corporation with unfunded liability to issue bonds for the purpose of reducing the unfunded liabilities, on a one-time basis, on or before December 31, 2004.

The requirement that funding be done on an “actuarially sound basis” is codified at Ind. Code §§ 20-5-64-1 and 20-5-64-2, which provide:

Sec. 1. This chapter applies to a school corporation that:

(1) after June 30, 2001, establishes a retirement or severance plan that will require the school corporation to pay post-retirement or severance benefits to employees of the school corporation; or

(2) includes in a collective bargaining agreement or other contract entered into after June 30, 2001, any provisions to increase:

(A) the benefit; or

(B) the unfunded liability;

under any retirement or severance provisions that will require the school corporation to pay post-retirement or severance benefits to employees of the school corporation.

Ind. Code § 20-5-64-1.

Sec. 2. (a) A school corporation must fund on an actuarially sound basis the post-retirement or severance benefits that will be paid to employees under a plan, an agreement, or a contract described in section 1(1) of this chapter or an increase described in section 1(2) of this chapter.

(b) A school corporation must place the assets used to fund on an actuarially sound basis the post-retirement or severance benefits in a separate fund or account, and the school corporation may not commingle the assets in the separate fund or account with any other assets of the school corporation.

Ind. Code § 20-5-64-2.

The authorization for a school corporation to issue bonds to reduce its existing unfunded contractual liability for retirement or severance payments has been codified at Ind. Code § 20-5-4-1.7, which defines “retirement or severance liability” for which bonds may be issued:

(a) For purposes of this section, “retirement or severance liability” means the payments anticipated to be required to be made to employees of a school corporation upon or after the termination of their employment by the school corporation under an existing or previous employment agreement.

(b) In addition to the purposes set forth in section 1 of this chapter, a school corporation may issue bonds to implement solutions to contractual retirement or severance liability....

....

For purposes of our analysis we have assumed that the school corporation’s retirement or severance plans are “governmental plans” as defined by the Employee Retirement Income Security Act (“ERISA”):

The term “governmental plan” means a plan established or maintained for its employees by... the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

29 U.S.C. § 1002(32). Pursuant to 29 U.S.C. § 1003(b)(1), governmental plans are exempt from ERISA and its detailed requirements relating to funded and unfunded liabilities.

Neither the Indiana Code nor the Indiana Administrative Code defines “unfunded liability.” However, the Indiana Pension Handbook (Indiana Legislative Services Agency, Office of Fiscal and Management Analysis, November 2002) defines “unfunded actuarial liability”, at page 210, as

[t]he unfunded actuarial liability (sometimes called the unfunded liability) of a retirement system at any time in the excess of its actuarial liability as [sic] that time over the value of its cash and investments.

This definition is consistent with the concept of “unfunded liability” used in other jurisdictions<sup>1</sup>. *See, e.g., Dombrowski v. City of Philadelphia*, 245 A.2d 238, 240 (Pa. 1968), (“the amount required to provide retirement benefits for employees covered by the system based upon their service prior to the current year,” for which monies have not been previously set aside or appropriated.)

## **QUESTIONS**

*1. What factors should be considered in determining what is a change in a plan that would trigger the requirement that a benefit be funded on an actuarially sound basis?*

Ind. Code § 20-5-64(1) requires that a retirement or severance plan “*established after June 30, 2001*” be funded on an actuarially sound basis. In this instance, the appropriate focus is on whether an existing plan is amended or whether a new plan is established. The Federal Circuit Court of Appeals and the U.S. Court of Federal Claims have recently addressed this issue in *LTV Steel Company, Inc. v. United States*, 215 F.3d 1275 (Fed. Cir. 2002), *on remand*, 89 A.F.T.R.2d 2002-2733 (Ct. Cl. 2002).

In 1986, LTV Corporation filed for Chapter 11 reorganization and terminated three pension plans having unfunded liabilities in excess of \$2 billion. In 1987, LTV reached an agreement with the Steelworkers union pursuant to which LTV made payments to an Individual Account Trust (“IAT”) [an unqualified plan under 26 U.S.C. § 401] that would fund the difference between what the Pension Benefit Guaranty Corporation (“PBGC”) was paying beneficiaries under the terminated plans and what the beneficiaries would have received had the plans not been terminated. The ultimate issue became whether the benefits paid pursuant to the 1987 IATs were subject to FICA and FUTA taxes, or whether the payments were made “in the case of an agreement in existence on March 24, 1983”, in which case the payments would be tax exempt. The Court of Appeals analysis is particularly helpful:

The 1987 agreements terminated the beneficiaries' rights under the pre-1983 agreements and replaced them with a new and significantly different set of rights under the IAT programs.... Amending an on-going plan, however, is quite different from terminating a plan and resuming the payment of benefits under a new and different plan. *Under ERISA, plans are frequently amended in response to statutory changes, economic conditions and agreements between the parties, and the parties are free to amend plans within broad statutory limits.*

215 F.3d at 1278, 1279 (emphasis added). We find this logic persuasive, and are of the opinion that amendments to plans in existence prior to June 30, 2001 do not necessarily result in the establishment of a "new" plan under Ind. Code § 20-5-64 (1).

However, if an existing plan is amended pursuant to a collective bargaining agreement or other contract after June 30, 2001 so that there is an increase in an existing benefit or a new benefit is added, then the increases must be funded on an actuarially sound basis.

*2. Would provisions providing for payment of accumulated sick pay or severance or retirement or self-insured health care benefits for retirees constitute unfunded liabilities?*

The specific collective bargaining agreement and the applicable retirement plan provide relating to the specific benefit must be analyzed on a case-by-case basis. If these are "payments anticipated to be required to be made to employees of a school corporation upon or after termination" of employment, then they are a "retirement or severance liability" defined in Ind. Code § 20-5-4-1.7(a). As a general proposition, it would seem that retirement benefits (which we assume are monthly cash benefits payable under TIRA), self-insured health care benefits (if the school corporation is required to make payments on behalf of the teacher for continuation of such coverage), and severance pay are each a "retirement or severance liability" under Ind. Code § 20-5-4-1.7(a). *See, e.g., Crawford County Community School Corporation v. Enlow*, 734 N.E.2d 685, 691 (Ind. Ct. App. 2000) holding that a teacher's "eligibility to receive a pension from the Indiana state teachers' retirement fund is a separate issue from his eligibility to receive severance pay under the 1993-1997 collective bargaining agreement" but concluding that under the applicable collective bargaining agreement, the teacher was entitled to severance pay upon his retirement from the school district.

Whether accumulated sick leave is a "retirement or severance liability" is more problematic. Several cases brought under ERISA have held, on a fact-specific basis, that accrued sick leave is not an "employee benefit" but a "payroll practice" paid out of [the employer's] general assets. *See, e.g., McGraw v. FD Services, Inc.*, 811 F. Supp. 222 (D. S.C. 1993); *Abella v. W.A. Foote Memorial Hospital, Inc.*, 740 F.2d 4 (6th Cir. 1984). But, if a teacher is typically entitled to a cash payment for accumulated sick days upon retirement, then such payment would be a "retirement or severance liability" within the meaning of the statute.

*3. If a school corporation has an existing retirement or severance plan as of June 30, 2001, and thereafter enters into a new contract that contains the same retirement or severance plan after June 30, 2001, but costs of the retirement or severance plan have increased, would the new contract be subject to the requirement that the unfunded liabilities be funded on an actuarially sound basis?*

If the new collective bargaining agreement does not contain a provision that increases an existing benefit<sup>2</sup>, or whose effect is not to increase the unfunded liability, then actuarially sound funding would not be required. An increase in the cost of providing a benefit (i.e., an increase in health insurance premiums) would not be considered an increase in the benefit itself. *Cf., Blue Cross of Massachusetts, Inc. v. Commissioner of Insurance*, 465 N.E.2d 252, 255-56 (Mass. 1984). However, any incremental increase in unfunded liability would be subject to the actuarially sound funding requirements.

*4. Is continuation of an automatic escalator clause in a collective bargaining agreement or contract entered into after June 30, 2001 a "change in plan" triggering the requirement that such a liability be funded on an actuarially sound basis? For example, assume a contract sets sick pay based upon the pay for substitute teachers, which may increase over time, and also provides that a teacher, upon severance or retirement, is entitled to payment for accumulated sick days. If that provision were carried forward in a contract entered into after June 30, 2001, would this severance or retirement benefit have to be funded on an actuarially sound basis?*

Funding on an actuarially sound basis is required when a collective bargaining agreement or other contract entered into after June 30, 2001 contains provisions for the increase of (A) a benefit, or (B) the unfunded liability, under any retirement or severance provisions of an existing plan. Ind. Code § 20-5-64-1(2). It is important to note that the statute is written in the disjunctive; either an increase in benefit, or an increase in unfunded liability will trigger the enhanced funding requirements. Furthermore, we cannot conceive of a collective bargaining agreement explicitly providing for an increase in unfunded liability, and interpret subsection (B) as meaning a provision the effect of which will increase unfunded liability under an existing plan.

While the continuation of an automatic escalator clause in a new contract may not be an "increase in benefit", its effect may well be to increase unfunded liability. It is our interpretation that if the post-June 30, 2001 collective bargaining agreement results in a increase in the unfunded liability of an existing plan, that incremental increase would have to be funded on an actuarially sound basis.



*5. Under what circumstances must an actuarial study be performed to determine whether a retirement or severance plan adopted after June 30, 2001, is actuarially sound?*

The statute does not require an actuarial study; it simply mandates that a retirement or severance plan adopted after June 30, 2001 must be funded “on an actuarially-sound basis.”<sup>1</sup> Thus, a defined contribution plan, which “provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participants account,” can never have an “insufficiency of funds in the plan to cover promised benefits... since each beneficiary is entitled to whatever assets are dedicated to his individual account.” *Hughes Aircraft Company v. Jacobson*, 525 U.S. 432, 439 (1999) (internal citations omitted). Consequently, if a defined contribution plan is adopted after June 30, 2001, no actuarial study is needed because the plan is self-funding.

On the other hand, if a retirement plan adopted after June 30, 2001 is not self-funding, then an actuarial study or some other appropriate calculation must be made to ensure that that it is funded on an actuarially sound basis.

*6. If a school corporation has an existing retirement or severance plan as of June 30, 2001, and thereafter enters into a new contract that converts all unfunded liabilities into a plan funded through defined contributions, must the school corporation perform an actuarial study?*

No. As explained in response to Question 5, above, a defined contribution plan is, by definition, actuarially sound.

*7. Some school corporations have an existing Social Security Bridge Program for retirees. Can representatives negotiate a transition to a Section 401(a) or 403(b) defined contribution account without funding the existing benefit in an actuarially sound manner, so long as the future unfunded liability will be less than it is currently?*

A qualified pension plan meeting the statutory requirements of 26 U.S.C. § 401(a) or a qualified annuity plan under 26 U.S.C. § 403(b) are subject to ERISA’s requirements relating to funded liabilities, and are actuarially sound by statutory definition. If there is no unfunded liability under the new plan, and if the effect of the new plan does not increase pre-existing unfunded liability, then Ind. Code § 20-5-64-1 (2) is inapplicable. That code section imposes funding requirements only on liabilities arising after June 30, 2001; it does not address liabilities already existing at that date.

We trust that the foregoing responds to your questions.

Sincerely,

Stephen Carter  
Attorney General

Susan Gard  
Deputy Attorney General

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<sup>1</sup> The term is also defined at 29 U.S.C. § 1002 (29) and (30), but is more specifically tailored to ERISA’s statutory scheme.

<sup>2</sup> We define “benefit” in this situation as the beneficiary’s contractual entitlement.

<sup>3</sup> An “actuarially-sound system contains monies to pay future liabilities”. *City of Natchitoches v. Williams*, 657 So.2d 320, 323 (La. App. 1995).

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**OFFICE OF THE ATTORNEY GENERAL**

May 27, 2003

**OFFICIAL OPINION 2003-4**

Charles Johnson, III, C.P.A.  
State Examiner  
State Board of Accounts  
302 W. Washington St.  
4<sup>th</sup> Floor, Room E148  
Indianapolis, IN 46204-2765

Re: Compensating Firefighters for Substituted Hours

Dear Mr. Johnson:

You requested our opinion on whether it is permissible for a firefighter to receive compensation for hours a volunteer firefighter substituted for that of another firefighter who worked in his place and did not receive compensation. You also requested that our opinion specifically address 29 C.F.R. § 553 ("Application of the Fair Labor Standards Act to Employees of State and Local Governments"), in addition to any other applicable statutes, rules or regulations.

### **BRIEF ANSWER**

It is our opinion that the practice of "Exchange of Work Time" set forth in the Collective Bargaining Agreement, Article 14, ("CBA, Article 14"), between Firefighters Union Local #1348 and the City of Muncie, is not in violation of federal statutes.

### **FACTS**

The audit report of the City of Muncie, filed with the State of Indiana on September 15, 1999, contained an audit result and comment regarding the substitution of working hours by firefighters, with the approval of their superiors. The findings in the audit report indicated that the firefighters had other firefighters ("volunteer firefighters") substitute for them; however, these firefighters did not reciprocate those substituted hours performed by the volunteer firefighters. The firefighters that did not work received compensation for those hours not worked. However, the volunteer firefighters were not compensated for the substituted hours worked.

The audit report also contained information concerning whether paragraph 2 of the CBA, Article 14 is in violation of Indiana statute.

CBA, Article 14, paragraph 2, reads as follows:

All Fire Fighters shall be allowed to exchange working time, subject to the approval of their Lieutenant and/or their Captain and/or Battalion Chief and/or Deputy Chief of DEPARTMENT, and/or Chief and/or Chief of DEPARTMENT provided that the Fire fighter with whom the exchange is made is deemed qualified to perform the duties to be exchanged. No Fire fighter shall receive additional compensation for working out of classification.

Fire fighters shall be limited to a maximum of up to (10) ten exchanges or substitutions, without a requirement to reciprocate the (10) ten exchanges or substitutions per calendar year. This restriction does not affect the right of fire fighters to exchange or substitute fully reciprocated working time.

Under the facts as presented by the State Board of Accounts, we conclude that the contract provisions concerning compensating firefighters for hours not actually worked set forth in paragraph 2 of the CBA, Article 14 between Local #1348 and the City of Muncie are not in violation of federal statutes or regulations.

### **LEGAL ANALYSIS**

Our analysis of the legality of firefighters not reciprocating substituted hours worked by other firefighters and receiving compensation for hours not worked is addressed below in the following manner:

- A. Pursuant to 29 C.F.R. § 553.31, can firefighters have other firefighters work their scheduled shift, but not be required to reciprocate those substituted hours?
- B. Is CBA, Article 14, paragraph 2, specifically provided for by federal statute?

#### **A. Application of 29 CFR § 553.31 to non-reciprocal work by firefighters.**

Your letter indicates that firefighters, with the approval of their superiors, were allowed to have volunteer firefighters work their scheduled shift hours. However, firefighters were not required to reciprocate the work performed by the volunteer firefighters for up to ten (10) exchanges or substitutions per calendar year based upon CBA, Article 14. In addition, those firefighters that did not work were given credit as if they did perform the work and received compensation for hours worked by the volunteer firefighters. The volunteer firefighters received no credit or compensation for the substituted hours worked.

Pursuant to 29 CFR § 553.31(a), which speaks to the Fair Labor Standards Act ("FLSA") exemption set forth at 29 U.S.C. § 207(p)(3), individuals employed in fire protection or law enforcement activities working in the same capacity, may be allowed to

*substitute for one another*, at their own option and with the approval of the public agency (in this case, the fire department), during scheduled work hours. It would appear that firefighters who do not reciprocate those substituted hours violate this regulation. There are three parties affected by the substitution practice at the fire department: the paid firefighters, the volunteer firefighters, and the City of Muncie. However, according to the facts described in your letter, the volunteer firefighters who substitute for the paid firefighters do not appear to be protected by, or have a claim under, the FLSA. 29 U.S.C. § 203(e)(4)(A) states:

The term “employee” does not include any individual who volunteers to perform services for a public agency which is a State, a political subdivision of a State, or an interstate government agency, if—

- i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
- ii) such services are not the same type of services which the individual is employed to perform for such public agency.

With respect to the remaining parties, the FLSA is considered to be remedial social legislation and should be construed liberally in favor of workers whom it was designed to protect. *Klein v. Rush-Presbyterian-St. Luke's Medical Center*, 990 F.2d 279, 282 (7th Cir. 1993). Any exemption from its terms must be narrowly construed. *Id.* In this case, it is the employees who have negotiated something different from what is called for in the FLSA.

29 C.F.R. § 553.31 (“Substitution—section 7(p)(3)”) directly addresses the FLSA exception found at 29 U.S.C. § 207(p)(3), and provides:

(a) Section 7(p)(3) of the FLSA provides that two individuals employed in any occupation by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours in performance of work in the same capacity. The hours worked shall be excluded by the employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation under the Act. Where one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal work schedule for that shift.

(b) The provisions of section 7(p)(3) apply only if employees’ decisions to substitute for one another are made freely and without coercion, direct or implied. An employer may suggest that an employee substitute or “trade time” with another employee working in the same capacity during regularly scheduled hours, but each employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision. An employee’s decision to substitute will be considered to have been made at his/her sole option when it has been made (i) without fear of reprisal or promise of reward by the employer, and (ii) exclusively for the employee’s own convenience.

(c) A public agency which employs individuals who substitute or “trade time” under this subsection is not required to keep a record of the hours of the substitute work.

(d) In order to qualify under section 7(p)(3), an agreement between individuals employed by a public agency to substitute for one another at their own option must be approved by the agency. This requires that the agency be aware of the arrangement prior to the work being done, i.e., the employer must know what work is being done, by whom it is being done, and where and when it is being done. Approval is manifest when the employer is aware of the substitution and indicates approval in whatever manner is customary.

In certain career fields, strict compliance and rigid regulation without any room for flexibility can prove to be a detriment to both employer and employee. Specifically, in a career field such as fire fighting, the firefighters’ work schedules are so unique that they are addressed specifically within the FLSA. For instance, 29 U.S.C. § 207(k) creates an exception to deal specifically with overtime compensation due the firefighters when working something other than a 40 hour week. Furthermore, because of the unorthodox work week, 29 U.S.C. § 207(k) provides that a firefighter with a work period of at least seven days but less than 28 days shall receive overtime compensation for all hours worked in excess of a number bearing the same ratio to the total days worked as 212 hours to 28 days. Thus, the FLSA allows both the employer and the employee the flexibility to find a practical solution in a career field such as fire fighting. Finding a flexible solution means that the parties involved must be able to negotiate.

Nothing in FLSA requires employers to continue to employ or employees to continue to work, except on terms mutually agreeable to both. *Atlantic Co. v. Walling*, 131 F.2d 518 (5th Cir. 1942). Employers and employees are free to make any terms they choose beyond the minimums set out within the FLSA. *Id.* Thus, it would appear that firefighters could have other firefighters work their scheduled shift without reciprocating as long as the employees within the protection of the FLSA freely reached this agreement and the agreement exceeds the statutory minimum protection.

**B. CBA, Article 14, paragraph 2, is specifically provided for by Federal Statute**

FLSA's minimum protections cannot be abridged by any collective bargaining or other contract. *Vadino v. A. Valey Engineers*, 903 F.2d 253 (3d Cir. 1990). The reciprocity requirement in 29 C.F.R. § 553.31(a) is a minimum requirement that the firefighters are free to exceed when negotiating and reaching an agreement. The FLSA was created to protect employees such as the firefighters from being taken advantage of by employers with unfair bargaining power. If the collective bargaining terms freely negotiated exceed the minimum requirement mandated by the FLSA, the firefighters should be allowed to receive the benefits. For example, in a case where the employer and employee contracted with reference to wages in excess of the statutory minimum, the court upheld the contract because it exceeded the statutory minimum and was freely agreed to by both parties. *St. Clair v. Russell & Pugh Lumber Co.*, 51 F. Supp. 47 (D. Idaho 1943).

In the facts described in the letter, the issue revolves around employees being compensated for time at work when they were not there. As a California court of appeals explained in *City of Sacramento v. Public Employees Retirement System*, there is nothing in the FLSA which would prohibit an employer and an employee covered by the FLSA's 40-hour maximum workweek from agreeing to work more or less hours each week as long as the employer compensates the employee with overtime when the employee exceeds the maximum. 280 Cal. Rptr. 847, 852 (Cal. App. 1991). "Since there is no absolute limitation in the Act...on the number of hours that an employee may work in any workweek, he may work as many hours a week as he and his employer see fit, so long as that required overtime compensation is paid him for hours worked in excess of the maximum workweek prescribed..." *Id.* (citing 29 C.F.R. § 778.102).

In a 1996 advisory opinion, the Department of Labor Wage and Hour Administrator determined that a negotiated agreement allowing firefighters to trade scheduled work days and off-duty days did not fall within the provisions of 29 C.F.R. § 553.31. Opinion Letter of the Wage and Hour Administrator Maria Echaveste (FLSA-1318, Jan. 30, 1996). Under that agreement, firefighters were given 12 days per year where they could avoid being locked into working on an off-duty day and could switch or "trade" by voluntarily placing the scheduled work day or off-duty day into a pool for redistribution. Like the provision in CBA, Article 14, paragraph 2, the switching or trading of days was not done in a reciprocal manner where two employees reciprocated substituting for each other. The Administrator determined that the trading of days into a pool was not found to be an issue within the provisions of the FLSA. The provision was found to be necessary to allow firefighters to adapt their work schedules to reduce the average hours worked in a workweek or work period.

As the United States Supreme Court has noted, Congress intended "to achieve a uniform national policy of guaranteeing compensation for all work or employment engaged in by employees covered by the Act. Any custom or contract falling short of that basic policy, like an agreement to pay less than the minimum wage requirements, cannot be utilized to deprive employees of their statutory rights." *Jewell Ridge Coal Corp. v. United Mine Workers*, 325 U.S. 161, 167 (1945). Contracts between employer and employee inconsistent with, and prohibited by, terms of the FLSA are illegal and not binding on the employee. *Chepard v. May*, 71 F. Supp. 389 (S.D.N.Y. 1947). However, the contracts are not considered illegal if the employee the FLSA was designed to protect has agreed to a contract that rewards him or her with benefits that exceed the statutory minimums.

**CONCLUSION**

In conclusion, the practice of firefighters receiving compensation for substituted hours they have not worked is not a violation of federal statutes. The fire fighters are in a unique career field that requires certain flexibility in scheduling and compensating, which is provided for in some areas of the FLSA. Allowing the city and the fire fighters to freely negotiate a collective bargaining agreement that can effectuate the needs of the employer and employees best attains this flexibility. Although the FLSA may override contracts, courts have generally found it makes sense to let private arrangements endure. *Dinges v. Sacred Heart St. Mary's Hospital*, 164 F.3d 1056 (7th Cir. 1999). In this case, it is our opinion that the contract is not in violation of the FLSA if the employee the FLSA was designed to protect has agreed to a contract that rewards him with benefits that exceed the statutory minimums.

Sincerely,

Stephen Carter  
Attorney General

Gregory F. Zoeller  
Deputy Attorney General

**OFFICE OF THE ATTORNEY GENERAL**

June 17, 2003

**OFFICIAL OPINION 2003-5**

The Honorable Tim Berry  
Treasurer of State  
Indianapolis, Indiana 46204

Re: Withdrawal from Principal of Common School Fund

Dear Treasurer Berry:

This letter responds to your request for an advisory opinion on the duties and responsibilities of your office as they relate to the retroactive application of House Enrolled Act 1001, (Public Law 224-2003). In your letter dated May 5, 2003 you stated:

Section 115 [of the Act] directs me to transfer \$25 million out of the Common School Fund, back to the Abandoned Property Fund, and then into the General Fund, even though Article 8 of the Constitution appears to prohibit any transfers out of the Common School Fund for any purpose. Although authorized by HB 1001 to make these transfers, I am reluctant to do so in light of the directives contained in the Constitution without your assurance that the transfers would be lawful.

It is our opinion that to the extent that Section 115(b) of House Enrolled Act 1001, (Public Law 224-2003) requires the Treasurer to diminish the principal of the Common School Fund, it violates Article 8 of the Indiana Constitution.

**FACTUAL BACKGROUND**

According to your letter, on January 30, 2003, the State's Abandoned Property Fund had a balance in excess of \$500,000.00. On that date, the Office of the Treasurer transferred twenty-five million dollars (\$25,000,000) from the Abandoned Property Fund to the Common School Fund. This transfer was authorized by Indiana Code § 32-34-1-34, which provides, in pertinent part:

(b) If the balance of the principal of the abandoned property fund established by [IC 32-34-1-33] exceeds five hundred thousand dollars (\$500,000), the treasurer of state may, and at least once each fiscal year shall, transfer to the common school fund of the state the balance of the principal of the abandoned property fund that exceeds five hundred thousand dollars (\$500,000).

The January transfer was the first and only transfer during the current fiscal year. Subsequently the General Assembly passed, and the Governor signed, the budget bill for the biennium 2003-2005, House Enrolled Act 1001 (Public Law 224-2003). Section 115 provides, in its entirety:

(a) Notwithstanding IC 32-34-1-34, the treasurer of state shall transfer on:

- (1) June 30, 2003;
- (2) June 30, 2004; and
- (3) June 30, 2005;

any balance (excluding amounts needed to fund appropriations to the attorney general for personal services and other operating expenses for the unclaimed property program) in the abandoned property fund that exceeds five hundred thousand dollars (\$500,000) to the state general fund.

(b) *After June 30, 2002, and before July 1, 2005, the treasurer of state may not transfer any amount in the abandoned property fund to the common school fund. If any money was transferred before June 30, 2003, in a manner that is inconsistent with this subsection, the treasurer of state shall take the necessary action to restore the money to the abandoned property fund and transfer the money as required under subsection (a).* (emphasis added).

(c) This SECTION expires July 1, 2004.

Your question recognizes the conflict between the language in subsection (b) requiring the Treasurer to withdraw principal from the Common School Fund in order to restore it to the Abandoned Property Fund, and Article 8, Section 3 of the Indiana Constitution, which provides:

The principal of the Common School fund shall remain a perpetual fund, *which may be increased, but shall never be diminished*; and the income thereof shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever. (emphasis added).

The constitutional intent that the principal of the Common School Fund remain forever protected is also expressed in Article 8, Section 7, where it is characterized as a trust:

All trust funds, held by the State, shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

The office of Treasurer of State is created by our Constitution at Article 6, Section 1: "There shall be elected, by the voters of the state... a Treasurer of State... [who]... shall perform such duties as may be enjoined by law..." As the holder of a constitutional office, you are required to take an oath to "support the Constitution of this State... and also an oath of office." Ind. Const. art. 15 § 4. Lest there be any question that the constitution prevails over any statutory enactment, Indiana Code Section 1-1-2-1 provides:

The law governing this state is declared to be:

First. The Constitution of the United States and of this state.

Second. All statutes of the general assembly of the state in force, and *not inconsistent with such constitutions*.

The duties of Treasurer are set by statute, and include the following:

Indiana Code Section 4-8.1-2-1: The treasurer of state is responsible for the safekeeping and investment of moneys and securities paid into the state treasury.

Indiana Code Section 4-8.1-2-5: (a) The treasurer of state may not use or permit any other person to use the moneys or property received by him or paid into the state treasury, except as permitted by law.

Indiana Code Section 21-1-3-1: On and after November 3, 1943, the treasurer of state shall be the exclusive custodian of the common school fund and the Indiana University permanent endowment fund not held in trust by the several counties... The state board of finance shall have full and complete management and control of such funds and is hereby authorized and directed to invest the common school funds and the Indiana University permanent endowment funds as provided in this title and IC 20.

### ANALYSIS

The drafters of Indiana Constitution found the right of a state-supported free education to be of such importance that they dedicated Article 8 solely to that subject:

Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.

Ind. Const. art. 8, § 1.

The sole purpose of Article 8 was to establish a perpetual, inviolable source of funds to provide for such education, and the mechanism chosen was the Common School Fund. Thus, Article 8, Section 2 lists sources of funds that as of 1851, were absolutely committed to the Fund; Section 3 creates the Fund and provides that while it "may be increased... [it] shall never be diminished"; Section 4 requires the General Assembly to invest the Fund "in some safe and profitable manner" and to make provision by law for distribution of the interest to counties; Section 5 requires reinvestment of unused interest; Section 6 holds the counties liable for "*preservation* of so much of the said fund as may be entrusted to them" (emphasis added); Section 7 emphasizes the intent that the Fund be held in trust by the State and remain "inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created"; and Section 8 creates a state superintendent of public instruction. Very early on, our courts recognized that all sections of Article 8,

being devoted to one subject, all of its sections must be construed together. Regarded thus, we find that the whole section designates what then existing matters should constitute the common school fund, naming such as were appropriated by the state, and also a certain trust fund, viz., the congressional township, donated by congress to be thus used; which aggregate fund, it is declared, *may be increased but not diminished*.

*Quick v. White-Water Township*, 7 Ind. 570, 576-77 (Ind. 1856) (emphasis added).

Our courts have historically and uniformly held that “the fund set apart for the common schools is a trust fund of a class and character that cannot be diverted, directly or indirectly, to any other purpose than that to which it is devoted by express law.” *Board of Commissioners of Rush County v. State ex rel. Hord*, 3 N.E. 165 (Ind. 1885) (citations omitted). Such cases typically involve an action by the Attorney General to compel an official to turn monies over to the Fund, and the Court holdings consistently refer to the inviolability of the Fund. As an example, in 1892, the court of appeals stated:

[t]he constitution provides that ‘the principal of the common school fund shall remain a perpetual fund, which may be increased, but shall not be diminished.’ It is the property of the State. “Fines and other additions to the school fund” become a part of the permanent principal of the fund. No part of this principal can be divested and applied to uses other than that or which the fund was created.

*State ex rel. Michener v. Board of Commissioners of Shelby County*, 32 N.E. 92, 93 (Ind. App. 1892), citing *Board of Commissioners of Bartholomew County v. State ex rel. Baldwin*, 19 N.E. 173, 179 (Ind. 1888).

The Office of the Attorney General has previously provided guidance to the General Assembly as to their authority to redirect certain funds by legislative act that are not constitutionally mandated to be made part of the Common School Fund under Article 8, Section 2. This legislative action can be clearly distinguished from redirecting funds once they have been lawfully vested and have accrued to the Common School Fund as a constitutional trust.

Case law confirms the principle that once monies are vested in the Common School Fund, they must remain in the trust. In *State v. Elliott*, 357 N.E.2d 276 (Ind. App. 1976), the trial court had properly entered a judgment of forfeiture on a surety bond. The surety did not obtain a stay pending appeal and the funds were remitted to the State Treasurer for deposit in the Common School Fund. The trial court ultimately held that the surety was entitled to return of the bond, and ordered the Treasurer to remit the funds. In reversing, the court of appeals reasoned simply, “[a]fter such funds are received by the Treasurer of the State, they become vested in the Common School Fund and cannot be remitted”. *Id.* at 280. *See also* 1952 Op. Att’y Gen No. 29, at 123-4 (“[t]he Constitution has provided that funds may not be withdrawn from the Common School Fund ... Funds once lawfully vested in the Common School Fund are beyond recall.”).

The only instance in which monies have been allowed to be withdrawn from the principal of the Common School fund appears to be *State v. Long*, 568 N.E.2d 1108 (Ind. App. 1991). In *Long*, when a criminal defendant failed to appeal, the trial court issued a warrant for his arrest and ordered his bail forfeited. The clerk of court then sent the money to the Common School fund. However, the trial court did not mail notice of the forfeiture either to the defendant or to the father who posted bail, nor did it enter judgment against the bond, both of which were required by statute. On these facts, the court of appeals held,

The clerk independently and improperly sent the money to the State Auditor without an order from the trial court to execute judgment of forfeiture, and in such case we do not conclude the money accrued to the fund. The trial court could still, and did, exert control over the improperly placed funds.

*Id.* at 1112. The narrow holding in *Long* stands for the proposition that before a forfeiture can be made part of the Common School Fund, it must indeed be a forfeiture and furthermore, money improperly or erroneously placed in the Common School Fund may be re-directed to the correct recipient.

However, the transfer of funds from the Abandoned Property Fund made in January 2003 by the Office of the Treasurer was, at the time it was made, neither improper nor erroneous. No judicial order or other determination terminating the rights of a third party was (or is) necessary. The Treasurer was required and authorized by statute to make such a transfer, and in doing so followed the statutory duty and mandate. As held in *State v. Elliot*, upon the proper transfer, the funds vested as part of the principal and accrued to the Common School Fund, which we have noted, *may be increased, but shall never be diminished*.

The general rule in Indiana is that legislation may apply retroactively with two exceptions: (1) the General Assembly shall not impair vested rights; and (2) the General Assembly shall not violate a constitutional guarantee. *State ex rel. Mass Transportation Authority of Greater Indianapolis v. Indiana Revenue Board*, 253 N.E.2d 725, 730 (Ind. App. 1969); *Guthrie v. Wilson*, 162 N.E.2d 79 (Ind. 1959).

To sanction the withdrawal of the funds transferred on January 30, 2003, would appear to be a direct violation of the constitutional guarantee of Article 8 of the Indiana Constitution that the Common School Fund remain inviolate and be used only for the support of the common schools and for no other purpose. Any other conclusion would concede an unfettered authority by

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## Attorney General's Opinions

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the General Assembly to redirect all principal not originating from the sources listed in Article 8, Section 2 to other purposes. Based on the language of the Indiana Constitution as to the inviolability of the Fund, as well as the consistent holdings by the state judiciary on this matter, we do not perceive that to be the constitutional intent.

### CONCLUSION

It is our opinion that to the extent House Enrolled Act 1001 (Public Law 224-2003) requires the Treasurer to diminish the principal of the Common School Fund, it is unconstitutional as a violation of Article 8 of the Indiana Constitution.

You should be aware that this opinion is not binding on a court, which could reach a different conclusion. *Welliver v. Coate*, 114 N.E. 775, 780 (Ind. App. 1917). However, we believe it to be the correct answer, one upon which you may rely in your actions, and one which this office will be prepared to defend if subject to court challenge.

Sincerely,

Stephen Carter  
Attorney General

Gregory F. Zoeller  
Deputy Attorney General

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### OFFICE OF THE ATTORNEY GENERAL

August 12, 2003

#### OFFICIAL OPINION 2003-6

The Honorable R. Tiny Adams  
Indiana House of Representatives  
State House  
200 W. Washington Street  
Indianapolis, IN. 46204

RE: Smoking bans

Dear Representative Adams:

This letter responds to your request for an advisory opinion on the constitutionality of ordinances that provide exemptions to smoking bans in public places. We note by way of background that efforts to ban smoking in restaurants, bars and workplaces are being proposed throughout Indiana. Advocates cite problems associated with the health effects from secondhand smoke and the related rise in medical costs for treating smoking-related health problems such as emphysema, bronchitis and cancer that plague both privately and publicly funded health care programs.<sup>1</sup> Authors of such bans additionally emphasize children, the elderly and certain other individuals may be especially vulnerable to the effects of secondhand smoke. The State of Indiana is also attempting to address the problems associated with the effects of secondhand smoke through public education and awareness programs.<sup>2</sup>

Recently, local governments exercising their authority under Indiana's Home Rule statute have begun to address the problem by passing ordinances that completely ban smoking in public places such as restaurants, workplaces and other enclosed areas.<sup>3</sup> Questions have arisen regarding the scope of the authority of local governments to enact such legislation, as well as the appropriate language necessary to craft exceptions that do not offend the constitutional guarantees of equal protection and Privileges and Immunities Clause.

The specific ordinance you cite in your question involves a smoking ban ordinance that grants exemptions to restaurants with fully enclosed smoking areas, or bars or taverns that exclusively serve the adult population. That leaves the remainder of owners of restaurants and eateries that are not bars or taverns, or that do not contain fully enclosed smoking areas subject to a smoking ban ordinance. This opinion addresses these questions.



### **BRIEF ANSWER**

It is our opinion that legislation seeking to provide exceptions to a general ban on smoking will likely survive constitutional scrutiny under an equal protection analysis if the classifications created in the ordinance bear a rational relationship to a legitimate government concern. We further believe the legislation would survive constitutional scrutiny under the Privileges and Immunities Clause if the preferential treatment granted by the ordinance is reasonably related to innate characteristics that distinguish the preferentially treated classes, and the preferential treatment granted is uniformly available to all individuals similarly situated.

### **LEGAL ANALYSIS**

Equal protection under the law is a right afforded by the United States Constitution.<sup>4</sup> This right is distinct from that granted by the Indiana Constitution under the Privileges and Immunities Clause.<sup>5</sup> This opinion provides an analysis of both of these distinct rights and privileges afforded to the citizens of Indiana.

#### **Equal Protection**

The Equal Protection Clause of the United States Constitution provides “[n]o state shall...deny to any person within its jurisdiction the equal protection of the laws.”<sup>6</sup> The provision does not forbid classifications, but forbids the government from treating people differently who are similarly situated.<sup>7</sup> When determining whether an ordinance violates the provisions of the Equal Protection Clause, it is fundamental to note the ordinance will initially be subject to the rules of statutory construction. “When interpreting an ordinance, the Court of Appeals will apply the same rules as those employed for construction of state statutes.”<sup>8</sup> One of those generally accepted rules is “legislation under constitutional attack in this court is clothed in a presumption of constitutionality.”<sup>9</sup> A challenger has the burden to rebut this presumption.<sup>10</sup> All reasonable doubts will be resolved in favor of the act being deemed constitutional where any construction is found that could support its constitutionality.<sup>11</sup>

To determine if an ordinance violates the Equal Protection Clause, a court will first look to “the applicable level of scrutiny” for the ordinance.<sup>12</sup> If there is a suspect classification, such as race or religion, or a burden on the exercise of a fundamental right, such as freedom of speech, the ordinance will be subject to strict scrutiny.<sup>13</sup> Where the construction of an ordinance is subject to strict scrutiny, “state action must be a necessary means to a compelling governmental purpose and be narrowly tailored to that purpose.”<sup>14</sup>

The type of legislation in question involves smoking ban ordinances that grant exemptions to restaurants with fully enclosed smoking areas, or bars or taverns that exclusively serve the adult population. That leaves the remainder of owners of restaurants and eateries that are not bars or taverns, or that do not contain fully enclosed smoking areas subject to a smoking ban ordinance. These are not the distinguishing characteristics or classifications of a suspect class. Suspect classes encompass distinctions based on classifications of “race, alienage, or national origin”.<sup>15</sup> This is not the case where the classification created by the government seeks to distinguish restaurant owners that do not have a fully enclosed dining/smoking area and are not considered a bar or tavern. Therefore, not being a suspect classification, the court will not subject the legislation to strict scrutiny.

Equal protection will also be afforded if there is an abridgement of a “fundamental right.” A “fundamental right” is defined as a right “explicitly or implicitly guaranteed [to each citizen] by the Constitution.”<sup>16</sup> These rights include “rights to travel, rights to vote, rights of access to the courts, and rights of personal privacy.”<sup>17</sup>

Again, the right of restaurant ownership and the right to engage in business without regulation does not rise to the level of a “fundamental right” contemplated by the United States Constitution.

We conclude the ordinance addressed creates no suspect classification, nor results in the abridgement of a fundamental right. Therefore, the standard of review (scrutiny) for equal protection in this instance would be the rational basis test. The ordinance in question will survive a constitutional challenge under the equal protection analysis if the classification created by the ordinance has a rational relationship to the expressed, legitimate government goal.<sup>18</sup>

In analyzing the classifications created by this particular smoking ban ordinance, the rational basis scrutiny appears to be met. If the government interest cited is limiting exposure of secondhand smoke to adults and children in an effort to decrease health related problems, there appears to be a rational basis to not allowing restaurants that cannot severely limit exposure of secondhand smoke to unwilling adults and children to benefit from the exemptions. With an enclosed area for smoking, there are far less incidents of exposure of unwilling adults and children to secondhand smoke. Within a tavern, only adults over the minimum legal age who willingly risk exposure to secondhand smoke will be exposed. By granting the exemption only to restaurants with these

types of facilities, or taverns, the articulated, legitimate government interest of minimizing the exposure of its more vulnerable citizens to secondhand smoke for health reasons is still served. Therefore, it is our opinion a smoking ban ordinance that carves out exceptions bearing a rational relationship to a legitimate government interest will survive a constitutional challenge.

#### Privileges and Immunities

“[T]here is no settled body of Indiana law that compels application of a federal equal protection analytical methodology to claims alleging special privileges or immunities under [the Indiana Constitution].”<sup>19</sup> Indiana courts have held that under this clause there is an “independent interpretation and application” from the equal protection guarantee under the United States Constitution.<sup>20</sup> Although your question does not directly ask about the Privileges and Immunities Clause, it will be addressed here as it provides guarantees that similarly situated individuals will be afforded equal treatment under the Indiana Constitution. Because the challenges appear to address the “preferential treatment” of the exemptions of local smoking ban ordinances, this clause is more likely to be used in a constitutional challenge.

Similar to the equal protection analysis, any ordinance passed will be “clothed in a presumption of constitutionality.”<sup>21</sup> The burden is the challenger to show the ordinance does not meet the necessary constitutionality.<sup>22</sup> But there is a different analysis and standard of review for constitutionality under the Privileges and Immunities Clause.

Indiana’s Privileges and Immunities Clause provides, “The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.”<sup>23</sup> In interpreting legislation where similarly situated individuals appear to be subject to differing treatment, two requirements must be met to find no violation of the Privileges and Immunities Clause has occurred. First, the distinctive treatment the ordinance mandates must be reasonably related to innate characteristics that distinguish the preferentially treated classes. In other words, in applying that standard, a court will look to whether there are inherent distinctions within the classifications that make the preferential treatment logical.

“Second, the preferential treatment must be uniformly applicable and equally available to all persons similarly situated.”<sup>24</sup> In other words, the preferential treatment must be equally applicable and available to anyone who fits in this distinguishing class. Finally, in determining whether the exceptions created in a similar ordinance is in compliance with Indiana’s Privileges and Immunities guarantee, a court will grant a great deal of deference to the discretion of the legislature.<sup>25</sup> “[T]he courts must accord considerable deference to the manner in which the legislature has balanced the competing interests involved.”<sup>26</sup> “So long as the classification is based upon substantial distinctions with reference to the subject matter, we will not substitute our judgment for that of the legislature; nor will we inquire into the legislative motives prompting such classification.”<sup>27</sup>

In the ordinance questioned, two of the classifications or “distinctions” accorded the “preferential treatment” of being exempt from the smoking ban include restaurants with full enclosures that separate a smoking area from the general dining area, and taverns or bars that only allow entry to individuals of a certain legal age. The classifications appear to have inherent characteristics that call for the distinguishing treatment. Initially, in a restaurant with a fully enclosed area, separate from the main dining area, there is far less chance that an unsuspecting diner, (who incidentally could be asthmatic), or young child will be exposed to secondhand smoke. In a bar or tavern exclusively off-limits to minors, there is no chance of exposure to secondhand smoke for young children, and only a chance of exposure to adults who willingly assume the risk. The stated purpose of such legislation is the protection of children and individuals from the effects of secondhand smoke in an effort to maintain the health of the unit’s citizenry. Another stated purpose of the legislation is to control the increasing health costs due to smoke-related illnesses. Therefore because these two specific instances have distinguishing characteristics that give them the ability to limit an individual’s exposure to secondhand smoke, restaurant owners granted this “preferential treatment” due to their distinguishing characteristic of the ability to limit an unwilling individual’s exposure to secondhand smoke have features innately unique that logically call for the exemptions.<sup>28</sup>

#### **CONCLUSION**

Therefore, we conclude that legislation that seeks to provide exceptions to a general ban on smoking will likely survive constitutional scrutiny under an equal protection analysis if the classifications created in the ordinance bear a rational relationship to a legitimate government concern. We further believe the legislation would survive constitutional scrutiny under a privileges and immunities analysis if the preferential treatment granted by the ordinance is reasonably related to innate characteristics that distinguish the preferentially treated classes, and the preferential treatment granted is uniformly available to all individuals similarly situated.

This office is prepared to support the legal defense of any local ordinance that seeks to ban smoking in public places based upon the legal rationale provided in this opinion.

Sincerely,

Stephen Carter  
Attorney General

Tracy L. Richardson  
Deputy Attorney General

<sup>1</sup> M. Scollo, A. Lal, A. Hyland, S. Glantz, *Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry*, Tobacco Control. 2003 Mar; 12(1):13-20, at <http://tc.bmjournals.com/cgi/content/abstract/12/1/13>.

<sup>2</sup> Indiana Tobacco Use Prevention and Cessation Trust Fund at Ind. Code § 4-12-4.

<sup>3</sup> Ind. Code § 36-1-3 *et seq.*

<sup>4</sup> U.S. Const. Amend. XIV, § 1.

<sup>5</sup> Ind. Const. Art. 1, Section 23.

<sup>6</sup> U.S. Const. Amend. XIV, § 1.

<sup>7</sup> *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992) (citing *F.S. Royster Guano Co v. Va.*, 253 U.S. 412, 415 (1920)).

<sup>8</sup> *City of Evansville v. V. Zirkelbach*, 662 N.E.2d 651, 653 (Ind. Ct. App. 1996) (citing *Boyle v. Kosciusko County*, 565 N.E.2d 1157, 1159 (Ind. Ct. App. 1991)).

<sup>9</sup> *Matter of Tina T.*, 579 N.E.2d 48, 56 (Ind. 1991).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Platt v. State*, 664 N.E.2d 357, 364 (Ind. Ct. App. 1996) *trans denied*, *cert. denied*, 50 U.S. 1187 (1997).

<sup>13</sup> *Id.* (citation omitted).

<sup>14</sup> *Id.*

<sup>15</sup> *City of Cleburne v. Cleburne Living Ctr. Inc.*, 473 U.S. 432, 440 (1985).

<sup>16</sup> *Plyer v. Doe*, 457 U.S. 202, 232 (1982) (quoting *San Antonio Indep. School Dist. v. Rodriguez*, 411 U.S. 1, 61 (1973) (Stewart, J. concurring)).

<sup>17</sup> *Panhandle E. Pipeline Co. v. Madison County Drainage Bd.*, 898 F. Supp. 1302, 1315 n.6 (S.D. Ind. 1995).

<sup>18</sup> *Shepler v. State*, 758 N.E.2d 966, 969 (Ind. Ct. App. 2001) (citing *State v. Alcorn*, 638 N.E.2d 1242, 1244 (Ind. 1994)).

<sup>19</sup> *Collins v. Day*, 644 N.E.2d 72, 75.

<sup>20</sup> *Id.*

<sup>21</sup> *Matter of Tina T.*, 579 N.E.2d 48, 56.

<sup>22</sup> *Id.*

<sup>23</sup> Ind. Const. Art. I, Section 23.

<sup>24</sup> *Collins*, 644 N.E.2d 72, 80.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 79 - 80 (citations omitted).

<sup>27</sup> *Id.* at 80 (citing *Chaffin v. Nicosia*, 310 N.E.2d 867, 869 (Ind. 1974)).

<sup>28</sup> *See Hall Drive Ins., Inc. v. City of Fort Wayne*, 773 N.E.2d 255 (Ind. 2002). Restaurant contained a general dining area, and separate but not fully enclosed tavern under one roof. Found: The architectural arrangement did not carry the inherent characteristic of being able to almost eliminate the exposure of secondhand smoke to children and unwilling adults while dining. *Id.* The Court found to grant this business owner the exception “would be contrary to the express purpose of the ordinance to reduce the exposure of children to second-hand smoke.” *Id.* at 258.

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**OFFICE OF THE ATTORNEY GENERAL**

August 12, 2003

**OFFICIAL OPINION 2003-7**

Mr. Charles Johnson, III, C.P.A.  
State Examiner  
State Board of Accounts  
302 West Washington Street  
4<sup>th</sup> Floor, Room E418  
Indianapolis, Indiana 46204-2765

RE: Political Subdivision Establishment of Rainy Day Funds

Dear Mr. Johnson:

You requested an advisory opinion concerning the application of Indiana Code Sections 36-1-8-5 and 5.1 concerning the establishment of rainy day funds by political subdivisions. Our office withheld issuing an advisory opinion pending the outcome of legislative action taken in 2003.

As you may be aware, two separate acts were passed during the 2003 legislative session which amended Section 36-1-8-5.1. First, Public Law 173-2003 (House Enrolled Act 1242) was signed by Governor O'Bannon on May 7, 2003. Subsequently, Public Law 267-2003 (Senate Enrolled Act 166) was signed by the Governor on May 8, 2003. Pursuant to the established rule of statutory construction, when two inconsistent acts are passed by the same session of the legislature, the more recently passed statute is controlling.<sup>1</sup> Therefore, because Public Law 267-2003 was passed subsequent to Public Law 173-2003, it is effective.

This advisory opinion focuses on the questions that you originally submitted which still appear to be relevant even with the 2003 legislative changes to the pertinent statutes. Please contact my office should you have additional questions or concerns with respect to the 2003 legislative changes or regarding the information included in this opinion.

This letter is our response to your request for an opinion on the following issues:

1. Whether the sources of a rainy day fund established by a political subdivision under Indiana Code Section 36-1-8-5 and -5.1 are limited to funds raised by a general or special tax levy.
2. Whether, pursuant to Indiana Code Section 36-1-8-5(b), the fiscal body of a political subdivision is required to transfer the entire balance of an unused fund or whether the fiscal body may transfer only a portion of the fund.
3. Whether Indiana Code Section 36-1-8-5.1(c) allows a political subdivision to transfer ten percent (10%) of the total budget for each fund or ten percent (10%) of the total budget for all funds combined.
4. Whether the reference to "intent" in Indiana Code Section 36-1-8-5.1(b) is a reference to the intent of the fund from which the balance was transferred or the intent of the rainy day fund. In addition, you asked how rainy day funds may be used or whether there are limits to such use.
5. Whether a political subdivision that has transferred money from a statutorily created fund with specific statutory restrictions into a rainy day fund is able to make disbursements for a purpose other than as provided by the originating fund's statutory restrictions.
6. How the requirement of Indiana Code Section 36-1-8-5(b), indicating the purpose of a tax levy be "fulfilled," may be applied to transfers to the rainy day fund under Indiana Code Section 36-1-8-5.1

#### **BRIEF ANSWERS**

1. The sources of a rainy day fund established by a political subdivision are limited to funds raised by a general or special tax levy under Indiana Code Section 36-1-8-5, or supplemental distributions made by the Indiana Department of Revenue from various county accounts under Indiana Code Section 36-1-8-5.1(a)(2)-(4).
2. The fiscal body of a political subdivision is required to transfer the entire balance of an unused fund under Indiana Code Section 36-1-8-5 to either its general fund or a rainy day fund, but certain limitations apply. Per fiscal year, the amount transferred to a rainy day fund may not exceed ten percent (10%) of the political subdivision's total budget. The transfer may occur only when no other statute provides that the unused funds are to be transferred elsewhere.
3. The statutory reference to "ten percent (10%) of the political subdivision's total budget" in Indiana Code Section 36-1-8-5.1(c), indicates the capped amount a political subdivision may transfer into a rainy day fund (under Indiana Code Section 36-1-8-5) is ten percent (10%) of the total budget for all of the political subdivision's funds combined.
4. The reference to "intent" in Indiana Code Section 36-1-8-5.1(b) is a reference to the intent of the rainy day fund. Rainy day funds are intended to be used during times of economic downturn in order to stabilize a political subdivision's budget so that

spending may be maintained without increasing taxes. Therefore, any appropriation consistent with that general intent would be proper.

5. Indiana Code Section 36-1-8-5(b) indicates that unused balances of funds may be transferred to the rainy day fund “unless a statute provides that it be transferred otherwise.” Therefore, the original statute creating the fund from which the transfer may come is controlling as to any limitations or directions concerning the transfer of the unused funds. Once appropriately transferred to the rainy day fund, disbursements need only be for a use that is consistent with the intent of the rainy day fund and any previous statutory restrictions do not apply.

6. The determination concerning whether the purpose of a tax levy has been fulfilled should be based on an analysis of the specific provisions of the appropriation act and its stipulations concerning the purpose and use of the funds appropriated.

### **ANALYSIS**

#### **I. Overview:**

“Rainy day funds,” also commonly referred to as budget stabilization funds, are budgetary tools used by state and local government entities. “Rainy day funds” act as a savings account used to stabilize a budget so that spending may be maintained during times of economic downturn and revenue shortfalls without requiring an increase in taxes.<sup>2</sup> The funds can be used as a cushion during a period of recession while more long-term restructuring can be debated and implemented.<sup>3</sup>

As an analogy, the State of Indiana has established a rainy day fund, referred to as the “Counter-Cyclical Revenue and Economic Stabilization Fund.” The stated purpose of the fund is to assist in the stabilization of revenue during periods of economic recession.<sup>4</sup> The fund is administered by the state treasurer who may combine amounts in the fund with other monies “for the purposes of cash management.”<sup>5</sup>

The statute granting political subdivisions the authority to create a rainy day fund is not as detailed as the state statute establishing the state’s “Counter-Cyclical Revenue and Economic Stabilization Fund.” The pertinent statutes regarding the rainy day funds are set out below (2003 legislative amendments are italicized):

36-1-8-5 Funds raised by general or special tax levy; disposition of unused balance

Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) *Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.*<sup>6</sup>

36-1-8-5.1 Rainy day funds established by political subdivisions

Sec. 5.1. (a) A political subdivision may establish a rainy day fund to receive transfers of unused and unencumbered funds under:

(1) section 5 of this chapter;

(2) *IC 6-3.5-1.1-21.1*;

(3) *IC 6-3.5-6-17.3*; and

(4) *IC 6-3.5-7-17.3*.

(b) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.

(c) In any fiscal year, a political subdivision may transfer under *section 5 of this chapter* not more than ten percent (10%) of the political subdivision's total budget for that fiscal year to the rainy day fund.

(d) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.<sup>7</sup>

To summarize, the above statutes give a political subdivision the general authority to establish a rainy day fund comprised of leftover funds raised by general or special tax levies under Indiana Code Section 36-1-8-5, or from supplemental distributions made by the Indiana Department of Revenue from various county accounts.<sup>8</sup> The fund is "subject to the same appropriation process as other funds that receive tax money."<sup>9</sup> Specifically, the fiscal body of the political subdivision must make a finding that the use of the rainy day fund is consistent with the "intent of the fund" before making an appropriation.<sup>10</sup> The statute sets a cap on the amount that a political subdivision may transfer under Section 5 to the rainy day fund in any fiscal year.<sup>11</sup> Finally, the Department of Local Government Finance is instructed not to reduce the actual or maximum permissible levy of a political subdivision based on the balance in the rainy day fund.<sup>12</sup>

When the meaning of a statute is ambiguous, the rules of statutory construction are useful. First and foremost, one should determine the intent of the legislature.<sup>13</sup> The words of a statute are to be given their plain and ordinary meaning.<sup>14</sup> One must presume the legislature is aware of existing statutes in the same area when it enacts a statute.<sup>15</sup> Related statutes should be construed together to give force and effect to each statute.<sup>16</sup> The "goals of the statute and the reasons and policy underlying the statute's enactment" should be considered.<sup>17</sup> Statutes of a general nature may be modified or limited to the extent that a later more specific statute is inconsistent with the earlier enactment.<sup>18</sup> The latter of two statutes covering the same subject is controlling as to any conflicting provision.<sup>19</sup>

Given the generally accepted definition of "rainy day funds" for state and local governmental purposes, the general intent of the legislature in enacting Indiana Code Sections 36-1-8-5 and 5.1 was presumably to grant political subdivisions the authority to preserve certain leftover revenue for locally related uses during economic downturns. By enacting the statute, the legislature has determined that allowing local entities to create rainy day funds furthers a legitimate public purpose.

The emphasis on empowering the local government to run its own affairs is a consistent trend of the state legislature. In 1980, the legislature adopted the Home Rule Act. Under the Act, a local unit of government is granted broad authority, with few exceptions, to adopt any local law needed "for the effective operation of government as to local affairs."<sup>20</sup> A local unit may legislate only when given specific authority to do so in the enacting statute.<sup>21</sup> Indiana Code Section 36-1-8-5.1 gives the local units of government such authority to create and use the rainy day funds within the statutorily created guidelines.

## **II. The Sources for a Political Subdivision's Rainy Day Funds:**

First, you asked whether sources of the rainy day funds are limited to funds raised by a general or special tax levy. The changes in 2003 indicate that rainy day funds may be comprised of leftover funds raised by a general or special tax levy under Indiana Code Section 36-1-8-5, or from supplemental distributions made by the Indiana Department of Revenue from various county accounts described at Indiana Code Section 36-1-8-5.1(a)(2)-(4).

You also asked how the requirement at Indiana Code Section 36-1-8-5(b) indicating that the purpose of the tax levy be "fulfilled" applies to a transfer to a rainy day fund under that statute. Such a determination must be made with respect to the specific provisions of the appropriation act and the stipulations concerning the purpose and use of the funds appropriated.<sup>22</sup>

You questioned when the purpose of a "general fund tax levy" would ever be fulfilled for a transfer under Indiana Code Section 36-1-8-5. In interpreting a statute, one must presume the legislature "intended the language used in the statute to be applied logically and was not intended to bring about an unjust or absurd result."<sup>23</sup> The most logical interpretation of "general tax levy" under Indiana Code Section 36-1-8-5 is not as a general tax levy used through the general fund for usual and ordinary expenses of government. In this instance, "general or special tax levy" most likely means a levy for a special reason raised "either by an assessment on real estate specially benefited, or by a general tax on all the property, real and personal located in the taxing district."<sup>24</sup> In other words, in the context of the statute, "general" most logically is used to describe not a general fund tax levy, but a special tax levy that is levied generally on all property or persons in the taxing district.

### **III. The Statutory Limitations on Transfers to the Rainy Day Fund under Indiana Code Section 36-1-8-5:**

Second, you asked whether the fiscal body of a political subdivision is required to transfer the entire balance of an unused fund under Indiana Code Section 36-1-8-5, or whether only a portion of the unused balance may be transferred to a rainy day fund. The statute provides that the unused balances “shall” be transferred into the general fund “or” the rainy day fund in accordance with Section 5.1, “unless a statute provides that it be transferred otherwise.”<sup>25</sup> The use of the term “shall” in a statute implies a mandatory obligation.<sup>26</sup> The use of the conjunction “or” is a signal that indicates an alternative exists.<sup>27</sup> Based on the statutory direction, a political subdivision is required to transfer leftover balances from funds raised by general or special tax levies to either the political subdivision’s general fund or the rainy day fund, but certain limitations apply.<sup>28</sup>

The statute sets out three limitations on transfers to a rainy day fund under Section 5. First, Section 5.1 clarifies that per fiscal year, total transfers into a rainy day fund under Indiana Code Section 36-1-8-5 may not exceed ten percent (10%) of the political subdivision’s total budget in any given fiscal year, as clarified below.<sup>29</sup> Second, the leftover unused and unencumbered funds may be transferred to either the general fund or the rainy day fund; nothing in the statute would appear to prohibit a political subdivision from dividing the amount transferred between its general fund and rainy day fund if the political subdivision so chose.<sup>30</sup> Third, a transfer of funds may occur only when no other statute provides that the unused and unencumbered funds are to be used in another manner.<sup>31</sup>

The statutes do not set a limit on the ultimate size a rainy day fund may reach; however, Section 5.1(c) sets a cap on the amount a political subdivision may transfer into a rainy day fund in any given fiscal year under Indiana Code Section 36-1-8-5. The statute indicates no more than ten percent (10%) of the “political subdivision’s total budget” for the fiscal year may be transferred to the rainy day fund. You asked whether: 1) the language of the statute means the amount to be transferred is capped at ten percent (10%) of the total budget per individual fund, resulting in no more than ten percent (10%) of any fund being transferred; or 2) whether the amounts to be transferred are capped at ten percent (10%) of the total budget for all of the political subdivision’s funds combined, which could result in a transfer of more than ten percent (10%) from a single fund, but only if the amount transferred is not more than ten percent (10%) of the subdivision’s total budget. In the statutory language, the possessive form of “political subdivision” modifies “total budget.” The legislature chose only the term “budget” and not the term “fund” when delineating what sets the cap. Given its plain and ordinary meaning, “political subdivision’s total budget for that fiscal year” would appear to imply an all-inclusive total of all of the political subdivision’s funds combined. Therefore, if ten percent (10%) of a fund’s balance is \$10,000, but ten percent (10%) of the political subdivision’s total budget is \$100,000, the subdivision may transfer \$100,000 from the fund into its rainy day fund.

### **IV. Acceptable Appropriations from the Rainy Day Fund:**

You also asked for clarification regarding the language of Section 5.1(b) which deals with appropriations from a rainy day fund by the political subdivision.<sup>32</sup> That section indicates that a fiscal body must make a finding that any appropriation from its rainy day fund is for a use that is “consistent with the intent of the fund.”<sup>33</sup> You asked whether the statute refers to the intent of the rainy day fund or the original intent of the fund from which the balance was transferred. Within Section 5.1(b), the word “fund” is modified by the adjective “rainy day” twice within the same sentence. Once modified within the sentence, it is appropriate to assume the same modification applies to the noun thereafter. Had the legislature intended to refer to another type of fund within the same sentence, presumably it would have used another adjective to describe “fund.” Therefore, a fiscal body must make a finding that any appropriation from a rainy day fund is for a use that is consistent with the intent of the rainy day fund. Rainy day funds are intended to be used during times of economic downturn in order to stabilize a budget so that spending may be maintained without a tax increase. Any appropriation during an economic downturn which is consistent with that general intent would be appropriate.

You also asked whether it is proper for a political subdivision to transfer amounts in funds raised by general or special tax levies for a specific purpose to a rainy day fund where the funds may ultimately be used for other purposes. Indiana Code Section 36-1-8-5(b) indicates that unused and unencumbered balances of funds raised by general or special tax levies shall be transferred to the general fund or rainy day fund of the subdivision “unless a statute provides that it be transferred otherwise.” Therefore, the original statute creating the fund from which the transfer may occur is controlling as to any limitations or directions concerning the transfer of unused funds. The legislature maintains “full power and control over the disposition of revenues derived from taxation, except when there exists some constitutional provision to the contrary, and this power extends to such taxes as are raised by the political subdivisions of the state under the authority of the state.”<sup>34</sup> Therefore, barring any legislative direction providing that the unused funds be transferred elsewhere, the funds should be transferred into the political subdivision’s general or rainy day fund. Once deposits are made into the rainy day fund, nothing would prohibit a disbursement from the rainy day fund for a purpose outside of those for which the unused funds were originally raised. According to the statutory language, disbursements from the rainy day

fund need only be for a use that is consistent with the intent of the rainy day fund, i.e., as noted previously, to provide relief during economic downturns.<sup>35</sup>

### CONCLUSION

In summary, the above information is intended to provide you with some guidance as to the implementation of Indiana Code Sections 36-1-8-5 and -5.1 until the legislature amends the existing statutes or enacts a more specific statute regarding rainy day funds. Political subdivisions should be encouraged to develop policies to guide the creation, maintenance and use of rainy day funds for stabilization purposes.

Sincerely,

Stephen Carter  
Attorney General

Rebecca Walker  
Deputy Attorney General

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<sup>1</sup> *Baldwin v. Reagan*, 715 N.E.2d 332, 340 (Ind. 1999).

<sup>2</sup> Nat'l Assoc. State Budget Officers, *Budget Processes in the States* 43-44 (Jan. 2002).

<sup>3</sup> *Id.* at 44. In addition to rainy day funds, state and local governments also often have "contingency funds." Contingency funds are often used primarily for disaster relief or unforeseen expenditures.

<sup>4</sup> Ind. Code § 4-10-18-2.

<sup>5</sup> *Id.*

<sup>6</sup> Ind. Code § 36-1-8-5 (1980), Pub. L. No. 211, Sec. 1. Amended by Pub. L. No. 251-2001, Sec. 1 and Pub. Law. No. 173-2003, Sec. 18.

<sup>7</sup> Ind. Code § 36-1-8-5.1 (2001), Pub. L. No. 251-2001, Sec. 2. Amended by Pub. L. No. 90-2002, Sec. 461, Pub. L. No. 173-2003, Sec. 18, and Pub. L. No. 267-2003, Sec. 15.

<sup>8</sup> Ind. Code §§ 36-1-8-5—5.1.

<sup>9</sup> Ind. Code § 36-1-8-5.1(b).

<sup>10</sup> *Id.*

<sup>11</sup> Ind. Code § 36-1-8-5.1(c).

<sup>12</sup> Ind. Code § 36-1-8-5.1(d).

<sup>13</sup> *MDM Inv. v. City of Carmel*, 740 N.E.2d 929, 934 (Ind. Ct. App. 2000).

<sup>14</sup> Ind. Code § 1-1-4-1(1); *See Town of Merrillville v. Merrillville Conservancy Dist.*, 649 N.E.2d 645, 649 (Ind. Ct. App. 1995).

<sup>15</sup> *Town of Merrillville*, 649 N.E.2d at 649.

<sup>16</sup> *Ind. Waste Sys., Inc. v. Bd. of Comm'rs of the County of Howard, Ind.*, 389 N.E.2d 52, 59 (Ind. App. 1979).

<sup>17</sup> *Hall Drive Ins, Inc. v. City of Fort Wayne*, 773 N.E.2d 255, 257 (Ind. 2002).

<sup>18</sup> *Etherton v. Wyatt*, 293 N.E.2d 43, 49 (Ind. App. 1973).

<sup>19</sup> *Ind. Waste Sys., Inc.*, 389 N.E.2d at 59.

<sup>20</sup> Ind. Code § 36-1-3-2.

<sup>21</sup> *City of Hammond v. N.I.D. Corp.*, 435 N.E.2d 42, 48 (Ind. Ct. App. 1982).

<sup>22</sup> *See Ristine v. State of Indiana*, 20 Ind. 328 (1863).

<sup>23</sup> *Ind. Ins. Guar. Ass'n v. Blickensderfer*, 778 N.E.2d 439, 442 (Ind. Ct. App. 2002) (citing *Civil Rights Comm'n v. County Line Park, Inc.*, 738 N.E.2d 1044, 1048 (Ind. 2000)).

<sup>24</sup> *South Bend Pub. Transp. Corp. v. City of South Bend*, 428 N.E.2d 217, 221 (Ind. 1981) (citing *Dep't of Pub. Sanitation of the City of Hammond v. Solan*, 97 N.E.2d 495, 500 (Ind. 1951)).

<sup>25</sup> Ind. Code § 36-1-8-5.

<sup>26</sup> *Ind. Civil Rights Comm'n v. Indianapolis Newspapers, Inc.*, 716 N.E.2d 943, 947 (Ind. 1999).

<sup>27</sup> *Field v. Area Plan Comm'n. of Grant County, Ind.*, 421 N.E.2d 1132, 1137 (Ind. Ct. App. 1981).

<sup>28</sup> These same limitations would not appear to apply to supplemental distributions made by the Indiana Department of Revenue under Indiana Code Section 36-1-8-5.1(a)(2)-(4).

<sup>29</sup> Ind. Code § 36-1-8-5.1(c).

<sup>30</sup> Ind. Code § 36-1-8-5(b).

<sup>31</sup> *Id.*



<sup>32</sup> Ind. Code § 36-1-8-5.1(b).

<sup>33</sup> *Id.*

<sup>34</sup> *South Bend Pub. Transp. Corp.*, 428 N.E.2d 224.

<sup>35</sup> IND. CODE § 36-1-8-5.1(b).

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**OFFICE OF THE ATTORNEY GENERAL**

August 27, 2003

**OFFICIAL OPINION 2003-8**

The Honorable Ralph Ayres  
Indiana House of Representatives  
Indiana State House  
Indianapolis, Indiana 46204

RE: Redevelopment Commission's Acquisition and Disposition of Property

Dear Representative Ayres:

This letter responds to your request for an opinion on the following question:

Is a redevelopment commission of a unit (county, city or town), created pursuant to Indiana Code section 36-7-14-3, separate from such unit, and therefore able to acquire and dispose of property and appropriate non-property tax revenues for purposes of redevelopment or economic development within the boundaries of the unit, without the approval of the legislative body of that unit?

**BRIEF ANSWER**

Although initially established by a unit of government, a redevelopment commission created pursuant to Ind. Code § 36-7-14-3 is a special taxing district and a political subdivision, and not merely an agency of the unit. Redevelopment commissions have been granted broad powers by the General Assembly regarding acquisition and disposition of property, issuance of bonds for redevelopment, and the general conduct of business. Ind. Code chapter 36-7-14 contains comprehensive and detailed sections governing the powers of a redevelopment commission, its acquisition and disposition of property, and the various mechanisms available for funding its activities. While approval of the fiscal or legislative body of the establishing unit is required for some transactions, other transactions do not require such approval.

**ANALYSIS**

A redevelopment commission is established by a unit of local government and funded in part by a special benefits tax:

(a) A unit may establish a department of redevelopment controlled by a board of five (5) members to be known as “\_\_\_\_\_ Redevelopment Commission”, designating the name of the municipality or county.

(b)... [A]ll of the territory within the corporate boundaries of a municipality constitutes a taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in this chapter.... [A]ll of the territory in a county, except that within a municipality that has a redevelopment commission, constitutes a taxing district for a county.

(c) All of the taxable property within a taxing district is considered to be benefited by redevelopment projects carried out under this chapter to the extent of the special taxes levied under this chapter

Ind. Code § 36-7-14-3. Once established,

redevelopment commissions constitute special taxing districts and are not independent municipal corporations subject to Indiana constitutional debt limitations.

*South Bend Public Transportation Corporation v. City of South Bend*, 428 N.E.2d 217 (Ind. 1981); *Alanel Corporation v. Indianapolis Redevelopment Commission*, 154 N.E.2d 515 (Ind. 1958). *See also* 1989 Ind. OAG No. 3 (“A city department of redevelopment established pursuant to Indiana Code Section 36-7-14-3 is a special taxing district.”)

Although sometimes characterized as a department of the establishing municipality or county, *see, e.g.*, Ind. Code § 36-7-14-19(c) (instruments conveying title to land shall be to “the ‘City (Town or County) of \_\_\_\_\_ for the use and benefit of its department of redevelopment’”); Ind. Code § 36-7-14-20(a) (petitions for eminent domain filed “in the name of the unit on behalf of the department of redevelopment”); Ind. Code § 36-7-14-28 (budget for tax levy shall be formulated and filed “in the same manner as executive departments of the unit are required to formulate and file budgets. This budget is subject to review and modification in the same manner as the budgets and tax levies formulated by executive departments of the unit.”), the powers of a redevelopment Commission are quite broad.

Among other powers, a redevelopment commission may:

(1) acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of blighted areas located within the corporate boundaries of the unit;

(2) hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of blighted areas on the terms and conditions that the commission considers best for the unit and its inhabitants;

(3) sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on;...

(19) expend, on behalf of the special taxing district, all or any part of the money of the special taxing district;...

(22) accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.....

Ind. Code § 36-7-14-12.2.

Adding detail to the general powers granted by Indiana Code § 36-7-14-12.2, the General Assembly has provided that certain actions of a redevelopment commission require approval of the unit’s executive and legislative bodies. For example, a redevelopment commission “may not proceed with the acquisition of a blighted area until the approving order of the plan commission is issued and approved by the municipal legislative body or county executive.” Ind. Code § 36-7-14-16(b). In order to receive such approval, a redevelopment commission must have first submitted a comprehensive package of documentation, including maps and plats of the blighted area and an estimate of the cost of acquisition and development. Ind. Code section 36-7-14-15.

In addition, a redevelopment commission may enter into a lease (as opposed to purchase) of a property to serve the public purpose only with the approval “by an ordinance of the fiscal body of the unit.” Ind. Code § 36-7-14-25.2(c). For such a lease,

(f) A redevelopment commission entering into a lease payable from allocated taxes under [Ind. Code § 36-7-14-39] or other available funds of the redevelopment commission may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; and

(2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the redevelopment commission to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

Ind. Code §36-7-14-25.2 (f) and (g). Further, “except as provided” in the statutory sections cited above, “no approvals of any governmental body or agency are required before the redevelopment commission enters into a lease under this section.” Ind. Code §36-7-14-25.2 (h). Petitions objecting to leases paid for by the levy of special benefits taxes are heard by the Department of Local Government Finance, whose decision is final. Ind. Code § 36-7-14-15.2(e). It is important to note that Ind. Code §36-7-14-25.2 (f) and (g) is applicable only when the redevelopment commission will be the lessee and lease payments flow from the commission to a landlord; those subsections are not applicable when it is the redevelopment commission that is the landlord.

Otherwise, the statutes do not require a redevelopment commission to obtain approval of the municipality or county in acquiring property, although the commission is required to make certain filings from time-to-time. *See, e.g.*, Ind. Code § 36-7-14-13 (annual report to be filed with unit’s executive); Ind. Code § 36-7-14-17(b) (hearing notices); Ind. Code § 36-7-14-17(c) (declaratory resolutions and other information relating to property tax allocations); Ind. Code § 36-7-14-28 (budget for tax levy).

Certain other activities of a redevelopment commission require the approval of the Department of Local Government Finance. For example, “[a]ll laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the

appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and *the approval of the appropriation by the department of local government finance* apply to all bonds issued under this chapter that are payable from the special benefits tax levied pursuant to section 27 of this chapter or from taxes allocated under section 39 of this chapter” Ind. Code § 36-7-14-25.1(k). Furthermore, a redevelopment commission may borrow money in anticipation of receipt of taxes by issuing warrants the amount of which has been certified or approved the department of local government finance. Ind. Code § 36-7-14-27.5, and it is the Department of Local Government Finance (and the State Board of Accounts) that makes “the rules and prescribe[s] the form and procedures they consider expedient for the implementation” of the distribution and allocation of property taxes in support of a redevelopment commission. Ind. Code § 36-7-14-39(h).

In the case of special tax levies for bonds issued by a redevelopment commission and leases entered into pursuant to Ind. Code § 36-7-14-25.2, such “tax levies... are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the lease payable from the levy of taxes.” Ind. Code § 36-7-14-27(e).

As far as the disposal of property is concerned, the statutes do not require approval of the legislative body of the unit. The statute generally governing the disposal of real or personal property by a political subdivision<sup>1</sup> does not apply “to the disposal of property by a redevelopment commission established under IC 36-7.” Ind. Code § 36-1-11-1(a)(4). Moreover, while Ind. Code § 36-7-14-22 requires a redevelopment commission to follow appraisal, notice and bidding procedures quite similar to those required of a municipality, it may ultimately execute a deed, lease, land sale contract and other conveyances, “in the name of ‘City (or Town or County) of \_\_\_\_\_, Department of Redevelopment’” and such instrument “shall be signed by the president or vice president of the redevelopment commission and attested by its secretary. A seal is not required on these instruments or any other instrument executed in the name of the department.” Ind. Code § 36-7-14-22(i).

When a redevelopment commission seeks the benefit of a property tax levy, it is required by Ind. Code § 36-7-14-28 (b) to formulate and file a budget. This property tax levy budget is subject to review and modification “in the same manner as the budgets and tax levies formulated by executive departments of the unit” by the legislative branch. Tax levy revenues obtained for the payment of land, rights-of-way, or other acquisition costs must be deposited in the redevelopment district capital fund; other revenues obtained from the tax levy are to be deposited in the redevelopment district general fund. Ind. Code § 36-7-14-28 (c). No such budget submission and review is required for non-property tax revenues.

A redevelopment commission may enter into a lease under Ind. Code § 36-7-14-25.2(c) either “payable from allocated taxes under [Ind. Code § 36-7-14-39]” or *other available funds of the redevelopment commission*” (emphasis added).

### **CONCLUSION**

Although initially established by a unit of government, a redevelopment commission created pursuant to Ind. Code § 36-7-14-3 is a special taxing district and a political subdivision, and not merely an agency of the unit. Recognizing that “the planning, replanning, development, and redevelopment of economic development areas are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise”, Ind. Code § 36-7-14-2.5(a), redevelopment commissions have been granted broad powers by the General Assembly regarding acquisition and disposition of property, issuance of bonds for redevelopment, and the general conduct of business. Ind. Code chapter 36-7-14 contains comprehensive and detailed sections governing the powers of a redevelopment commission, its acquisition and disposition of property, and the various mechanisms available for funding its activities. While approval of the fiscal or legislative body of the establishing unit is required for some transactions, other transactions do not require such approval.

Sincerely,

Stephen Carter  
Attorney General

Gregory F. Zoeller  
Deputy Attorney General

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<sup>1</sup> “Political subdivision” means municipal corporation or special taxing district. Ind. Code § 36-1-2-13.

**INDIANA DEPARTMENT OF INSURANCE****October 6, 2003****Bulletin 122****Use of Credit Information by Insurance Companies**

This Bulletin is directed to all insurance companies, as defined by IC 27-1-2-3, that write personal lines property and casualty products in this state. IC 27-2-21 as added by Senate Enrolled Act 178 (P.L. 201-2003) addresses the use of credit information by these insurance companies for applications submitted and policies issued, delivered, amended or renewed after December 31, 2003. The definitions contained in IC 27-2-21 apply to this bulletin.

An insurer that uses a credit score to underwrite and rate risks shall file the insurer's scoring models or other scoring processes with the Department of Insurance (Department). This filing is confidential under IC 5-14-3-4(a)(1) and IC 27-2-21-20(d) and not available for public inspection. To afford the Department an opportunity to review these filings for compliance with IC 27-2-21 before use after December 31, 2003, the Department is directing companies to make their filings by November 15, 2003. While an insurer is not required to await Department approval before implementing rates on personal lines property and casualty products, the rating methodology must be consistent with Indiana law including IC 27-1-22, IC 27-2-21 and IC 27-4-1-4. The Department is asking for prior submission of these filings to avoid disruption in the marketplace if the Department determines an insurer's filing is not compliant with applicable laws. Companies should identify their filings as made pursuant to IC 27-2-21 and should separate all confidential documents and clearly identify them as confidential as described in Bulletin 111. Pursuant to IC 27-2-21-20 the scoring model and other scoring processes are confidential.

Insurers that use credit information were required by Bulletin 111 to file their credit scoring methodologies in 2002. If the 2002 filing is compliant with the provisions of IC 27-2-21 then there is no need for the insurer to file in 2003. In these cases, the insurer should notify the Department in writing that they have made no changes to the 2002 filing and certify that it is compliant with the provisions of IC 27-2-21.

An insurer may not deny, cancel or decline to renew a personal insurance policy solely on the basis of credit information. An insurer may not base an insured's renewal rate for a personal insurance policy solely on credit information. The Department interprets this prohibition to mean that an insurer may not deny, cancel, decline to renew or increase a renewal rate due to a credit score unless at least one other rating factor has changed to indicate a denial, cancellation, declination to renew or increase in the premium rate. These actions are considered "adverse actions". Other factors may include, but are not limited to, rating territory, driver class, driving record, age of home, age of the insured, location of home, claim experience, and number of vehicles owned. If no other factor used in underwriting or rating would cause the insurer to deny, cancel, decline to renew or increase a renewal rate and credit information would indicate such an action, the insurer is prohibited from denying, canceling, declining to renew or increasing the premium rate, as this would constitute taking an adverse action solely on the basis of credit information. A base rate change cannot be identified as the second factor to support an adverse action.

If credit is one of the factors leading to an adverse action the insurer must use a credit report issued or a credit score calculated not more than ninety (90) days before the effective date of the policy or the renewal. In addition, the insurer shall provide notice to the consumer in accordance with the Federal Fair Credit Reporting Act and provide notice to the consumer explaining the reason for the adverse action. This notice shall be sufficiently clear and use specific, not general, language to identify the basis for the insurer's adverse action.

An insurer may not use income, gender, address, zip code, ethnic group, religion, marital status or nationality as a factor in determining the credit score. An insurer may not take an adverse action against a consumer solely because the consumer does not have a credit card account. The absence of credit information may not be used in underwriting unless the insurer presents information acceptable to the Commissioner to show the proposed treatment is neutral to the consumer. If an insurer uses credit information the insurer shall recalculate the insurance score or obtain an updated credit report at least every thirty-six (36) months. If an insured requests, the insurer must re-underwrite or re-rate the policy with an updated credit report or score not more often than one time in a twelve (12) month period.

An insurance score cannot consider as a negative factor a credit inquiry that was not initiated by the consumer. A consumer's inquiry to his/her own credit cannot be used as a negative factor. Credit inquiries relating to insurance coverage or unpaid medical bills can not be used as negative factors. Multiple lender inquiries related to a home mortgage or automobile financing in a thirty (30) day period can only be counted as one inquiry.

The application of insurance must inform the consumer that credit information is used by the insurer. The insurer must have a policy in place for handling notification of an error in a credit report and also a procedure for a consumer to dispute a credit score.

The Department will review filings to ensure that insurers using credit information are acting appropriately. An insurer that is found to be acting contrary to the provisions of IC 27-2-21 will be subject to enforcement action under IC 27-4-1.

INDIANA DEPARTMENT OF INSURANCE

Sally McCarty  
Commissioner

**NATURAL RESOURCES COMMISSION**

## Information Bulletin #36 (First Amendment)

**Subject:** Procedural Guidelines for the Interpretations of the Conservancy District Article (IC 14-33). The process outlined here supersedes Information Bulletin #6, Interpretations of Conservancy District Chapter (IC 13-3-3); Contiguous Areas and Annexation (17 IR 1836-1838) and Information Bulletin #12, Procedural Guidelines for the Establishment, Development, and Dissolution of Conservancy Districts (19 IR 2801-2808).

**1. History**

The development of conservancy districts is an increasingly active option for addressing a variety of land use issues at the local level. Freeholders within contiguous geographic areas may use a conservancy district to achieve a dependable drinking water supply, to provide for sewage collection and treatment, to improve flood control, to reduce soil erosion, or to achieve any of numerous other water-resource community goals, either singly or in combination. IC 14-33-1-1.

The determination whether to approve the establishment of a conservancy district and the primary responsibility for the oversight of an existing conservancy district rest with a circuit court where the district is located. IC 14-33-2-26. Management of the district itself is under the control of a board of directors, selected initially by the county commissioners and subsequently by the freeholders of the district. IC 14-33-5-11.

Important roles are also served by the natural resources commission at six crucial stages in the formation, management, and dissolution of conservancy districts. At two of the stages, hearings for public input are required. At the other four, hearings may be requested. These stages also provide the primary forums for the receipt and evaluation of scientific and technical data upon which the court adjudicates and the board manages. In the receipt and evaluation of technical data, the commission brings together reports and analyses of the department of natural resources, acting primarily through the division of water, and other state and local agencies. Most common among these are the department of environmental management, state department of health, and utility regulatory commission.

In 1996, a comprehensive commission policy was established for procedural functions relating to the formation and development of conservancy districts. [Information Bulletin #12, 19 IR 2801, superseded]. Four developments were identified by the commission in support of the policy:

First, the absence of a policy led to public uncertainty and discomfort, particularly among persons who oppose the formation of a conservancy district or who oppose the development of a project within an existing conservancy district. Concerns had been expressed that the conservancy district process should be re-evaluated to assure all citizens within the boundaries of a proposed or existing district would have meaningful access to the hearing processes.

Second, the complexity of the economic and environmental issues supported the need for a consistent policy. Not the least of these issues were the regulatory functions of the state agencies and their coordination with local governmental entities bearing upon the functions of conservancy districts.

Third, the natural resources commission and the department of natural resources had experienced a statutory evolution regarding hearing processes that had not yet been accommodated for conservancy district hearings. Most noteworthy was the development of the administrative orders and procedures act (IC 4-21.5) and the “sunset review” process for these agencies that resulted in 1990 and 1991 legislation.

The fourth development was the recodification of natural resources laws set forth in P.L. 1-1995. The recodification resolved a statutory ambiguity relative to adding territory to conservancy districts. Compare IC 13-3-3-6(a) as recodified at IC 14-33-4-2(b). In part to address the ambiguity, the commission implemented Information Bulletin #6, published at 17 IR 1836 (April 1, 1994). With the recodification, Information Bulletin #6 was reconsidered and amended.

In response to these developments, Information Bulletin #12 provided guidelines for implementation of conservancy districts processes, where those processes were within the jurisdiction of the natural resources commission. A flexible guidance was designed to help the commission fully and fairly review pertinent issues. Responsibilities were identified and delegated to the commission’s division of hearings, and to the department of natural resources, so as to foster better coordination among these and other pertinent agencies.

The primary purposes of Information Bulletin 33 are as follows: (1) refinement of the purposes previously addressed in Information Bulletin #12; (2) integration of the “contiguity” analysis contained in Information Bulletin #6; (3) clarification of agency treatment of initiatives to add a purpose to an existing district; (4) inclusion of standards for determining whether a district qualifies for the purpose of flood prevention and control; and, (5) consideration of conservancy district elections.

The six crucial stages in which the commission serves are considered separately. These stages are as follows:

- (1) consideration of technical issues prior to formation of a district;
- (2) development of a district plan;
- (3) development of a unit of work;
- (4) addition of territory to an existing district;
- (5) addition of a purpose to an existing district; and,

(6) dissolution of a district.

The natural resources commission on September 16, 2003 approved amendments to this information bulletin, for additions to conservancy districts in Hendricks County. These amendments were published in the Indiana Register and became effective on November 1, 2003.

## **2. Consideration of Technical Issues Prior to Formation of a District**

### **A. Petition Referral**

As provided in IC 14-33-2-17(b), after a court determines a petition to create a district is in proper form and bears the needed signatures, the petition is referred to the natural resources commission for a technical review. The issues for review are set forth in subsection (c) and include whether:

- (1) the proposed district appears to be necessary;
- (2) the proposed district holds promise of economic and engineering feasibility;
- (3) the proposed district seems to offer benefits in excess of costs and damages (or, for water supply, sewage disposal, or water storage, whether the public health will be served);
- (4) the proposed district proposes to cover and serve a proper area; and,
- (5) the proposed district could be established in a manner compatible with similar governmental entities.

At least one public hearing is mandatory. An interested person has “the right to be heard. At the request of an interested person, the commission shall hold hearings at the county seat of a county containing land in the proposed district.” IC 14-33-2-19(a). Notice of the hearing must be published in a “newspaper of general circulation in each county containing land in the proposed district.” IC 14-33-2-19(b). The commission is also required to incorporate technical assistance from any state and local agency that might have jurisdiction over the subject-matter of the proposed district.

The information received at public hearing and from the agencies is incorporated in a factfinding report to the commission from its hearing officer. The factfinding report of the commission on the proposed district is prima facie evidence of the facts in all subsequent proceedings. IC 14-33-2-23. After receipt of the report from the commission, the court sets another hearing at which an opportunity for additional evidence is provided. IC 14-33-2-25.

Of the six stages under consideration, the initial stage has traditionally been the one most likely to evoke controversy. The petitioner is always represented by an attorney. Where there is a formal remonstrance to a proposed district, the remonstrants are likely to have legal representation. Attorneys participating in the process at this stage, most notably those representing remonstrants, have sometimes urged the full application of the administrative orders and procedures act. Key elements of that act are that all testimony must be given under oath, there is an opportunity for the cross-examination of witnesses, and there is a prohibition on substantive ex parte communications between a party and the administrative law judge (or, if applied to conservancy districts, the hearing officer).

The administrative orders and procedures act does not appear to have direct application to the commission’s role prior to formation of a district. Most notably, the act applies generally to agency “orders”. The commission issues not an order but a factfinding report that the circuit court then utilizes as prima facie evidence. The court itself issues the order whether or not to create a conservancy district and does so only following a judicial hearing held after receipt of the commission’s factfinding report. In addition, the application of the relatively formal processes of the administrative orders and procedures act appear unwieldy in relation to the informal public hearings before the commission’s hearing officer; often these public hearings are attended by hundreds of participating citizens. Application of the administrative orders and procedures act may have a chilling effect upon public comment and inquiry at this preliminary stage. Finally, before the hearing date the hearing officer typically is only vaguely informed, if informed at all, of the identity of any remonstrants. The concept of party status is not generally well-defined at this stage, casting uncertainty on application of the prohibition against substantive ex parte communications.

On the other hand, fairness requires the full participation by remonstrants and by citizens seeking additional information, as well as by the petitioners, in this stage of the process. The development of a complete factfinding report is also supported by full participation by all citizens, particularly the freeholders to a proposed district. The process should be conducted in a manner which both is and has the appearance of being impartial. To these ends, the following guidelines are established:

- (1) Referrals by a court for the technical review anticipated by IC 14-33-2-17(b) are directed to the following address:

Division of Hearings  
Natural Resources Commission  
Indiana Government Center South  
402 West Washington Street, Room W272  
Indianapolis, IN 46204-2739

- (2) As soon as practicable after the receipt of the referral, the director of the division of hearings appoints a hearing officer. The hearing officer conducts actions appropriate to the preparation and submission to the commission of a recommended factfinding report. Included among these actions are the following:

(A) The hearing officer promptly provides a copy of the referral to the division of water of the department of natural

resources, the department of environmental management, the state department of health, the utility regulatory commission, and any other agency determined by the hearing officer to have jurisdiction over the subject-matter of the referral. Accompanied by the referral is an invitation for comment as well as the address and telephone number of a contact person within the division of water. The address for the contact person is as follows:

Division of Water–Project Development  
Department of Natural Resources  
Indiana Government Center South  
402 West Washington Street, Room W264  
Indianapolis, IN 46204-2641

(B) The hearing officer confers with the court or the clerk of the court to determine, if in addition to the petitioners, a remonstrant or other party has entered an appearance as a party to the civil proceeding.

(C) The hearing officer forwards a copy of this nonrule policy document to each of the parties. Also included are the name, address, and telephone number of the contact person within the division of water who will coordinate technical reviews.

(D) If parties other than the petitioners have entered an appearance, the hearing officer promptly sets an informal conference of the parties. An invitation to participate is also made to division of water. During the informal conference, the hearing officer will attempt to develop a consensus for the conduct of the public hearing. If a consensus cannot be developed, the hearing officer determines the conduct of the hearing in accordance with the following principles:

1. A hearing is held in the county seat of a county containing land in the proposed district.
2. The process is conducted in the most informal manner practicable that also supports fairness and meaningful public participation.
3. If issues in dispute are identified during the informal conference which require expert testimony, or for which the hearing officer otherwise determines testimony should be under oath, a second hearing may be conducted. An opportunity for cross-examination shall be provided, the hearing recorded by a court stenographer or reporter approved by the commission, and the trial rules of discovery applied. The hearing officer provides written notice to the parties of any second hearing and also announces the time, date, and location of the second hearing during the initial public hearing. Unless otherwise agreed by the parties, the hearing officer makes every reasonable effort to conduct the second hearing so that a delay is not required in the submission of a recommended factfinding report to the commission.

(E) The hearing officer drafts and tenders to the commission a recommended factfinding report. A copy of the report is forwarded to each party, to the division of water, to any agency that commented upon the proposed conservancy district, and to any other person requesting a copy. The hearing officer encloses with the report a notice of the time, date, and location when the commission is scheduled to act upon the recommended factfinding report.

(F) Following action by the commission, the hearing officer causes a copy of the factfinding report of the commission to be filed with the court and served upon the division of water, the parties, and any other person requesting a copy.

#### **B. ‘Contiguousness’ of District Boundaries**

As part of the factfinding report, the commission is required to determine and communicate to the court whether a proposed district would “cover and serve a proper area.” IC 14-33-2-17(c)(5). Also, as provided in IC 14-33-2-22, the factfinding report must include “findings on the territorial limits of the proposed district.”

Factors or determining appropriate district boundaries are set forth in IC 14-33-3-1. Among these factors is a requirement that “each part of the district is contiguous to another part.” The statutory requirement of contiguousness forms an important element to the geographic requirements of the conservancy district chapter.

If lengthy but narrow boundaries are created to incorporate outlying areas into a district, problems could be posed to adjacent areas, particularly if residents of these areas are not allowed to enter the district. The establishment of a district with exclusive boundaries may hinder attempts by the residents to form a new district. These problems may be acute where a purpose of the district is to provide water supply or sewage disposal.

To establish a consistent and viable framework for determining what is “contiguous” within IC 14-33-3-1, the commission will apply the following:

As used in IC 14-33-3-1, “contiguous” will ordinarily be applied to require that each part of the district adjoin every other part. The requirement is not met where a district boundary is excessively long and narrow. What is excessively long and narrow will be evaluated on an individual basis and will more likely be a major concern for districts that would provide sewage disposal or water supply than for districts which would provide other services. Where the district would provide flood prevention and control, contiguousness will be applied to encourage a coordinated effort within a particular watershed.

An easement or other written license granted by the fee title holder to the district or proposed district may establish contiguousness. Where the district is to provide sewage treatment or water supply, freeholders must typically be provided an

opportunity to connect to an adjacent line or to enter the district. As used in this paragraph, an “adjacent line” is one that is either (1) used to carry sewage and located within 300 feet of the freeholder’s building; or (2) used to carry water supply and located on an easement or license that adjoins the freeholder’s property. A petitioner must provide the division of water a copy of an easement or other written license that is used to establish contiguousness.

### **C. Review Standards for Purpose of Flood Prevention and Control**

One purpose for which a conservancy district can be established is flood prevention and control. IC 14-33-1-1(a)(1). In order to receive a favorable determination by the commission under IC 14-33-2-17 for the purpose of flood prevention and control, the petitioners must show the district would accomplish at least one of the following functions:

- (1) The removal of obstructions and accumulated debris from a waterway channel.
- (2) The cleaning or straightening of a channel.
- (3) The development of a new and enlarged channel.
- (4) The construction or repair of dikes, levees, or other flood protective works.
- (5) The construction of waterway bank protection.
- (6) The establishment of a floodway.

All works for the purpose of flood prevention and control must be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable that complies with IC 14-28-1-29.

### **3. Development of a District Plan**

Following the creation of a conservancy district by the circuit court, the district is required to establish a “district plan.” As provided in IC 14-33-6-2, a “district plan consists of an engineering report that sets forth the general, comprehensive plan for the accomplishment of each purpose for which the district was established.” The district plan includes physical and technical descriptions, maps, preliminary drawings, cost estimates based upon preliminary engineering surveys and studies, copies of agreements with other governmental entities, and works of improvement.

The board of directors is required to submit a district plan to the commission for its approval within 120 days after the appointment of the board members, unless a time extension is obtained from the commission. IC 14-13-6-3. “The commission may reject a plan or any part of a plan.” IC 14-13-6-4(d). “After receiving the approval of the commission, the board shall file the district plan with the court.” IC 14-13-6-5(a). Following the filing by the board of directors, the court sets the district plan for a hearing. IC 14-13-6-5(b).

The conservancy district statutory article does not address review of the “approval” process at the state agency level, but administrative reviews are addressed generally in IC 4-21.5 (“administrative orders and procedures act” or “AOPA”). Licenses are governed by AOPA, and included within the definition of “license” is any “approval” required by law. IC 4-21.5-1-8. The term “license” is also defined in the statutory chapter governing the relationship of the natural resources commission and the department of natural resources to include an “approval” that may be issued by the department under Indiana law. IC 14-11-3-1(a).

Significant to the inclusion of “approval” within the definition of license contained in IC 14-11-3-1(a) is that “[n]otwithstanding any other law, the director shall issue all licenses.” IC 14-11-3-1(b). A designee may act for the director in license issuance, but the designee must be a “full-time employee of the department” of natural resources. IC 14-11-3-1(c). The commission then acts as the “ultimate authority” for license determinations by the director or his designee. IC 14-10-2-3. “Ultimate authority” is defined in AOPA to mean the entity “in whom the final authority for an agency is vested by law.” IC 4-21.5-1-15.

With this background, the following guidelines are established:

- (1) The board of directors of a district submits any proposal for or pertaining to a district plan to the department’s division of water.
- (2) The division of water assists the board in identifying licenses likely to be required to implement the district plan. The division of water also coordinates with the department of environmental management and the state department of health concerning any comments pertaining to the development of a district plan.
- (3) The division of water reviews and evaluates comments and alternative proposals to the district plan that may be submitted by other interested persons. The division of water shall consider only technical, engineering, and scientific issues necessary to the development of the district plan. The division may use facilitation or mediation to help resolve any conflict.
- (4) The director of the division of water approves or disapproves the district plan. Notice of the agency action and the opportunity to seek administrative review under AOPA is provided to the board of directors and to any other person requesting a copy of the notice. The director of the division of water also acts upon any request to extend the time to file a district plan, and the same notification process applies. The division director shall encourage the board to file completed applications for any necessary license as soon as practicable after approval of a district plan.
- (5) The commission’s division of hearings conducts any administrative review sought under part (4). The commission is the ultimate authority for the department of natural resources under AOPA. Following the completion of administrative review, the division of hearings notifies the parties of the completion and that review of the commission order is subject to further action by the circuit court pursuant to IC 14-13-6-5(b).



#### 4. Development of a Unit of Work

To implement a district plan, the board of directors of a conservancy district “shall order the preparation of the detailed construction drawings, specifications, and refined cost estimates.... The implementation may involve all or part of the works of improvement if the part constitutes a unit that:

- (1) can be constructed and operated as a feasible unit alone; and
- (2) can be operated economically in conjunction with other proposed works set forth in the district plan.” IC 14-33-6-8(a). “When the drawings, specifications, and cost estimates have been prepared to the satisfaction of the board [of directors], the board shall by resolution tentatively adopt and submit the drawings, specifications, and cost estimates to the commission for approval.” IC 14-33-6-8(b). “Upon the receipt of the written approval,” the board provides a “hearing on the drawings, specifications, and cost estimates at which any interested person must be heard.” IC 14-33-6-9.

The process of the development of a unit of work is similar to that for the preparation of a district plan. An important distinction is no judicial hearing follows the commission approval. Within the context of the review process, the legislature may have envisioned the hearing by the board, following commission approval of the unit of work, serves as an informational rather than judicial or quasi-judicial process.

With this background, the following guidelines are established:

- (1) The board of directors of a district submits to the division of water of the department of natural resources any proposals for or pertaining to a unit work.
- (2) The division of water assists the board in identifying licenses likely to be required to implement the district plan. The division of water also coordinates with the department of environmental management and the state department of health concerning any comments pertaining to the development of a unit of work.
- (3) The division of water reviews and gives due consideration to comments and alternative proposals to the unit of work which may be submitted by other interested persons. In performing this function, the division is limited to consideration of the design and construction of structures needed to implement the district plan. The division may use facilitation or mediation to help resolve any conflict.
- (4) The director of the division of water approves or disapproves the unit of work. Notice of the agency action and the opportunity to seek administrative review pursuant to the administrative orders and procedures act is provided to the board of directors and to any other person requesting a copy of the notice. The director of the division of water also acts upon any request to extend the time by which to file a unit of work, and the same notification process applies. The division director shall encourage the board of a conservancy district to file completed applications for any necessary license as soon as practicable after approval of a unit of work.
- (5) The commission’s division of hearings conducts any administrative review sought under part (4). The commission is the ultimate authority for the department of natural resources. Following the completion of administrative review under AOPA, the division of hearings notifies the parties of the final agency action by the commission and outlines the process for obtaining judicial review. Also included in the notice is reference to the informal hearing before the board of directors pursuant to IC 14-33-6-9.

#### 5. Addition of Territory to an Existing District

Ordinarily, territory may be added to an existing district according to either of two procedures. Additional considerations apply to the addition of territory to a conservancy district located in Hendricks County. The procedures in these three circumstances follow distinct paths and are here viewed separately:

##### A. Additions Initiated with the Circuit Court

Pursuant to IC 14-33-4-2(b)(1), territory may be added according to the same procedure as is provided for the establishment of a district. A petition to add territory under this subdivision will be supported by the following guidance.

After a court determines a petition to add territory to a district is in proper form and bears the needed signatures, the petition is referred to the natural resources commission for a technical review. The issues for review include whether:

1. the proposed addition appears to be necessary;
2. the proposed addition holds promise of economic and engineering feasibility;
3. the proposed addition seems to offer benefits in excess of costs and damages (or, for water supply, sewage disposal, or water storage, whether the public health will be served);
4. the proposed addition proposes to cover and serve a proper area; and,
5. the proposed addition could be implemented in a manner compatible with similar governmental entities, most notably the existing conservancy district.

At least one public hearing is mandatory. The hearing officer will be selected and conduct the hearing essentially as provided to consider the establishment of a new district. An interested person has the right to be heard. The hearing will be held at the county seat of a county containing land in the proposed district. Notice of the hearing will be published in a newspaper of general circulation in each county containing land in the district and the proposed addition. The commission hearing officer will incorporate technical

assistance from a state agency having jurisdiction over the subject-matter of the district and the proposed addition.

Where territory is sought to be added to an existing district, the impact upon the district is often inconsequential. An addition may be relatively minor and involve only a small area with little or no measurable affect to the freeholders within the existing district. The hearing officer will consider and, following the completion of the public hearing or hearings, report to the director of the division of water as to the likely consequence to the district of the proposed addition. The director of the division of water is delegated authority to determine when the proposed addition of territory is de minimis and when its review by the commission is unlikely to be productive. When the division director makes such a determination, the hearing officer's report is forwarded directly to the court as the commission's factfinding report. This report is to be submitted within 30 days of receipt by the division of water of a completed petition to add territory to a district.

#### **B. Additions Initiated with the Board of Directors**

As provided in IC 14-33-4-2(b)(2), an addition of territory to an existing district may also be initiated by a board resolution. The resolution follows a petition by the majority of freeholders or the municipality in the area proposed to be added. The resolution and petition are filed with the court, and the court sets the matter for hearing. Notice of the hearing is sent to the natural resources commission and to the freeholders in the district and in the area proposed to be served by the additional territory. The notice to the commission should be forwarded to the division of hearings.

Upon receipt of the notice, the division of hearings will notify the division of water of the department of natural resources and other state agencies which appear to have jurisdiction over the subject of the addition. A conservancy district board wishing to apply IC 14-33-4-2(b)(2) is urged to communicate its wish to the division of hearings as soon as practicable so that expeditious technical discussions may be pursued with the appropriate state agencies. The recommendation is that this communication occur at least 60 days prior to the setting of a hearing under IC 14-33-4-2(d). Adequate review is essential to a favorable comment by the commission to the court. The division director of the division of water is delegated authority by the commission to report favorably, to make recommendations to modify or condition the addition of territory, or to object to the addition of territory. See particularly IC 14-33-4-2(e).

#### **C. Additions to a Conservancy District in Hendricks County**

As provided in IC 14-33-4-3, an addition of territory to an existing district in Hendricks County is initiated when the freeholders who desire the expansion file a petition with the board and mail notice of the petition to each freeholder who has not signed the petition and who owns land in the proposed area to be added. If the board approves the petition, the board files the board's resolution and the petition with the court and with the commission's division of hearings. The resolution may contain reasonable terms and conditions imposed on the additional area.

Within 30 days after receiving the petition, each of the following shall occur:

(a) The director of the division of hearings shall appoint a hearing officer to conduct a hearing to determine whether the addition will have a de minimis effect. Addition of the area will have a de minimis effect under this subsection if the addition:

(1) is relatively minor in area; and

(2) will have little or no measurable impact on:

(A) the freeholders within the existing district; or

(B) any other conservancy district, any flood control project, any reservoir, any lake, any drain, any levee, and any other water management or water supply project.

The hearing officer shall give notice of the hearing by publication at least one (1) time in one (1) newspaper of general circulation in Hendricks County. The petitioner has the burden of going forward and the burden of persuasion at hearing to demonstrate through probative evidence that the effect is likely to be no more than de minimis. The evidence must contain facts sufficient to support the legal conclusions required by this subsection.

(b) The hearing officer shall prepare a summary of evidence received during the public hearing and report to the director of the division of water with recommendations as to whether the addition is likely to have more than a de minimus effect.

(c) The director of the division of water shall make a determination whether the addition of area is likely to have more than a de minimis effect and report upon that determination to the court and the board. If the division director determines the effect is likely to be no more than de minimis, the report is the commission's final factfinding report on the proposed addition. If the division director determines the effect may be more than de minimis, subsection (d) applies.

(d) If the director of the division of water determines the effect of the addition of area may have more than a de minimis effect, the director of the division of hearings shall appoint a hearing officer to conduct all proceedings anticipated by IC 14-33-4-3(e). The director of the division of hearings may appoint the same person as was appointed under subsection (a). Following the completion of these proceedings, the hearing officer shall make recommendations to the commission concerning each of these items:

(1) A determination under IC 14-33-2-17 with respect to the proposed addition to the district. In addition to determining compatibility with the districts described in IC 14-33-2-17(c)(6), the hearing officer shall also determine whether the addition could be established and operated in a manner compatible with the following:

(A) the existing conservancy district;

- (B) regional water districts; and
- (C) regional sewer districts.

(2) A report under IC 14-33-2-22 with respect to the proposed addition to the district.

The commission shall make its report to the Hendricks Circuit Court within one hundred twenty (120) days after the petition for the addition of territory is referred to the commission. The remaining procedures in IC 14-33-2-23 through IC 14-33-2-30, and in this information bulletin, for the establishment of a district shall be followed.

#### **6. Addition of a Purpose to an Existing District**

A purpose may be added to an existing district in either of two ways. The same procedure may be used as is provided for the establishment of a district. IC 14-33-1-4(1). If this subdivision is applied, reference should be made to the process for the addition of territory pursuant to part 5A of this nonrule policy document.

In the alternative, IC 14-33-1-4(2) provides that the conservancy district board may add a purpose based upon a petition signed by at least 10% of the freeholders of the district. If the resolution is passed, the resolution and petition are filed with the county court and the court sets the matter for hearing. The court forwards to the commission the notice of hearing along with a copy of the resolution "at least 30 days before the date of hearing." IC 14-33-1-5.

Upon receipt of the notice, the division of hearings will notify the department's division of water and other state agencies that appear to have jurisdiction over the subject of the addition. A conservancy district board wishing to apply IC 14-33-1-4(2) is urged to communicate its wish to the division of hearings as soon as practicable so that expeditious technical discussions may be pursued with the appropriate state agencies. The recommendation is this communication occur at least 60 days before setting a hearing under IC 14-33-1-5(b). Adequate review is essential to a favorable comment by the commission to the court. The division director of the division of water is delegated authority by the commission to report favorably, to make recommendations to modify or condition the addition of territory, or to object to the addition of territory. See particularly IC 14-33-1-5(e).

#### **7. Dissolution of a District**

A conservancy district may be dissolved either because the district is "no longer of benefit" (IC 14-33-15) or because "construction of works of improvement has not begun within six (6) years after the district plan." (IC 14-33-16). Where works of improvement are not begun, there is no statutory participation by the natural resources commission; no procedural issue is presented. A district dissolved due to loss of benefit applies "the same procedure used to establish a district. The petition must set forth the change of circumstances that causes the district to lose the district's benefit." IC 14-33-15-1.

Because the process is essentially the same for the dissolution as for the establishment of a conservancy district, the same analysis applies to the development of an appropriate process. With this background, the following guidelines are established:

- (1) Referrals by a court for the technical review anticipated by IC 14-33-15-1 are directed to the division of hearings.
- (2) As soon as practicable after the receipt of the referral, the director of the division of hearings appoints a hearing officer. The hearing officer conducts actions appropriate to the preparation and submission to the commission of a recommended factfinding report. Included among these actions are the following:

- (A) The hearing officer promptly provides a copy of the referral to the division of water of the department of natural resources, the department of environmental management, the state department of health, the utility regulatory commission, and any other agency determined by the hearing officer to have jurisdiction over the subject-matter of the referral. Accompanied by the referral is an invitation for comment as well as the address and telephone number of a contact person within the division of water.

- (B) The hearing officer confers with the court or the clerk of the court to determine, if in addition to the petitioners, a remonstrant or other party has entered an appearance as a party to the civil proceeding.

- (C) The hearing officer forwards a copy of this nonrule policy document to each of the parties. Also included are the name, address, and telephone number of the contact person within the division of water.

- (D) If parties other than the petitioners have entered an appearance, the hearing officer promptly sets an informal conference of the parties. An invitation to participate is also made to division of water.

During the informal conference, the hearing officer will attempt to develop a consensus for the conduct of the public hearing. If a consensus cannot be developed, the hearing officer determines the conduct of the hearing in accordance with the following principles:

- (1) A hearing is held the county seat of a county containing land in the district.
- (2) The process is conducted in the most informal manner practicable which also support fairness and meaningful public participation.
- (3) If issues in dispute are identified requiring expert testimony, or for which the hearing officer otherwise determines testimony should be under oath, a second hearing may be conducted. An opportunity for cross-examination shall be provided, the hearing recorded by a court stenographer or reporter approved by the commission, and the trial rules of discovery applied. The hearing officer announces the time, date, and location of the second hearing during the initial public hearing. Unless otherwise agreed by the parties, the hearing officer

makes every reasonable effort to conduct the second hearing so that a delay is not required in the submission of a recommended factfinding report to the commission.

(4) The hearing officer determines whether either of the following matters are in issue: (a) whether the board has failed, within two years of establishment of the conservancy district, to produce satisfactory evidence of progress in the preparation of the district plan; or, (b) whether federal or state money, or both, contemplated in the petition for the establishment of the district, appears to be unavailable. See IC 14-33-15-2.

(E) The hearing officer drafts and tenders to the commission a recommended factfinding report. A copy of the report is forwarded to each party, to the division of water, to any agency that commented upon the conservancy district, and to any other person requesting a copy. The hearing officer encloses with the report a notice of the time, date, and location when the commission is scheduled to act upon the recommended factfinding report.

(F) Following action by the commission, the hearing officer causes a copy of the factfinding report of the commission to be served upon the division of water, the parties, and any other person requesting a copy.

#### **8. Election of Board of Directors and Notice to Commission**

Neither the natural resources commission nor the department of natural resources have jurisdiction over board elections. The board of commissioners of the county appoints the board of directors for the new district within twenty (20) days after a court order establishing a district. IC 14-33-5-1. A person adversely affected by an action committed or omitted by the board may petition the court having jurisdiction over the district to enjoin or mandate the board. IC. 14-33-5-24.

The board chair is required by IC 14-33-5-17 to promptly notify the commission when board members are elected or appointed. The department's division of water maintains a database of conservancy districts and board members. By this Information Bulletin, the commission identifies the following address for the notice required by IC 14-33-5-17:

Division of Water–Project Development  
Department of Natural Resources  
Indiana Government Center South  
402 West Washington Street, Room W264  
Indianapolis, IN 46204-2641

Service at this address will also help assure the division of water's database is current. For more information see [http://www.IN.gov/dnr/water/pdf/con\\_dist\\_dir\\_2001.pdf](http://www.IN.gov/dnr/water/pdf/con_dist_dir_2001.pdf).

#### **9. Application and Modification**

This information bulletin is intended to be liberally construed in order to support efficient administration by the natural resources commission, acting in cooperation with other agencies, of its conservancy district responsibilities. Modifications to the document may be needed based upon experience or legislative changes. Suggestions for modification of the document are welcomed from the public and should be forwarded to the division of hearings at the address set forth previously. Send any suggestions to the address for the division of hearings shown above or by email to [slucas@dnr.state.in.us](mailto:slucas@dnr.state.in.us).

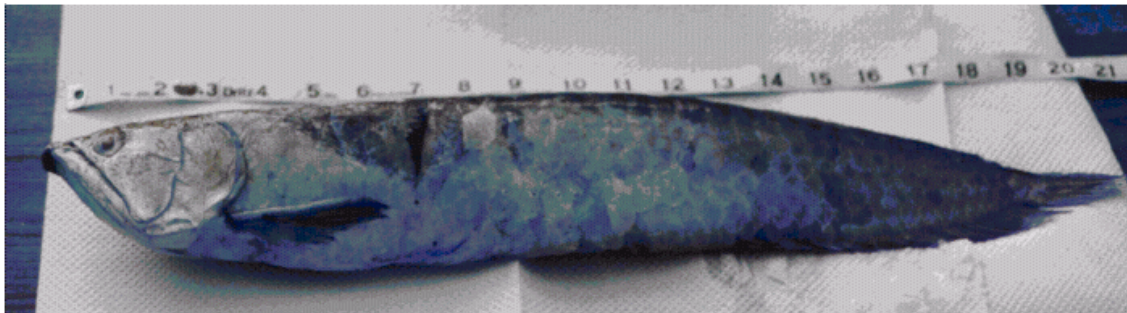
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**Natural Resources Commission  
Indiana Aquatic Nuisance Species (ANS)  
Management Plan  
(Information Bulletin #39)**

**Purpose:** The purpose of this nonrule policy document is to provide a comprehensive guidance for addressing the challenges posed by aquatic nuisance species to Indiana and its citizens. The document defines the need for providing adequate human and financial resources. The great adverse economic and environmental impact of aquatic nuisance species is described. The document emphasizes the role of education but also contemplates the need for regulatory controls. The document presents a visionary plan that is usable by governmental and nongovernmental organizations. The allocation of resources is prioritized upon, and must in the future continue to be prioritized upon, the best available science-based risk assessment and management strategies.

**Effective Date:** The Natural Resources Commission approved the principles contained in this nonrule policy document during a regular meeting held on September 16, 2003. The document is effective upon approval by the Governor and publication in the Indiana Register.



Aruana caught by angler in Lake George, Lake County, Indiana Photo credit: Brian Breidert, IDNR

**Indiana Department of Natural Resources**

**Funded by: Division of Fish and Wildlife**

Edited by: Phil Seng and Gwen White, D.J. Case & Associates, Mishawaka, Indiana

October 1, 2003

**Indiana Aquatic Nuisance Species (ANS)  
Management Plan**

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**Indiana Aquatic Nuisance Species (ANS)  
Management Plan****EXECUTIVE SUMMARY****What are aquatic nuisance species?**

An “invasive species” is defined as a species that is nonnative (or alien) to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health (Executive Order 13112; <http://www.invasivespecies.gov>). Invasive species can be plants, animals, and other organisms, such as bacteria and viruses. This plan addresses invasive species that can live in the aquatic habitats of Indiana, such as lakes, rivers, and wetlands.

**Why should we be concerned?**

Invasive species problems are both a consequence of and an impact on the economic welfare of our nation (Evans, 2003). Most introductions of invasive species can be linked to the intended or unintended consequences of economic activities, such as trade and shipping (Perrings, et al., 2002). Six types of economic impacts can be identified: (a) production; (b) price and market effects; (c) trade; (d) food security and nutrition; (e) human health and the environment; and (f) financial costs impacts (Food and Agricultural Organization, 2001). Over the past 200 years or so, more than 50,000 foreign plant and animal species have become established in the United States. About one in seven has become invasive, with damage and control costs estimated at more than \$137 billion each year (Pimental et al., 2000).

New invasions of nuisance aquatic species could decimate fisheries and other aquatic resources, requiring funds for prevention, control, and mitigation that could have been used for other purposes. Nuisance aquatic plant and animal invaders, such as zebra mussels, bighead carp, purple loosestrife, gizzard shad, and sea lamprey, cost Hoosiers millions of dollars each year in control measures and lost natural resource value. For instance, University of Notre Dame researchers determined that it would be cost effective to spend \$324,000 per year to prevent zebra mussel infestation of each lake associated with a power plant due to the high costs of managing their negative impacts on water withdrawals (Leung et al., 2002). The Department of Natural Resources estimated that lake residents in northern Indiana spend at least \$800,000 per year to remove Eurasian watermilfoil, an invasive aquatic plant that mats across the water surface, degrades habitat for fish and wildlife, and interferes with recreational uses (White, 1998). An initial estimate created during the process of developing this document indicates that state agencies and others are spending at least \$3 million annually on prevention and control of invasive species in Indiana and much more could be done.

**What can we do to minimize our risks?**

The development of a state management plan, as called for in Section 1204 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L. 101-646) (NANPCA) provides an opportunity for federal cost-share support for implementation of the plan. The Indiana Aquatic Nuisance Species (ANS) Management Plan identifies feasible, cost-effective management practices and measures to be taken on by state and local programs to prevent and control ANS infestations in a manner that is environmentally sound.

Universities, industries, non-governmental organizations, and citizens interested in aquatic nuisance species control have contributed ideas toward development of a statewide long-term Indiana ANS Management Plan. The completed plan will be used as a road map for guiding nuisance control efforts over the next five years. Approval of the management plan by the national ANS Task Force is also required for a state to be eligible for federal cost-share support. In recent years, adjacent Midwestern states have received up to \$100,000 annually in federal funds for implementation of ANS plans. The plan will also provide a foundation for prioritizing and coordinating actions in other state and federal programs. For instance, the Indiana state legislature approved an increase in the Lake and River Enhancement (LARE) boater fee to generate about \$1.1 million annually, starting in 2004, for sediment removal and control of exotic plants and animals in Indiana waters.

The goals of this state management plan are designed to address different stages of ANS invasion:

1. preventing the introduction of new nonindigenous species transported from water bodies in other parts of the continent or world;
2. limiting the spread of established, reproducing ANS populations to other water bodies in Indiana and other states; and
3. mitigating the harmful ecological, economic, social, and public health impacts of established ANS populations.

The draft Indiana ANS Plan includes an introduction to aquatic exotic species issues, regulations, and a strategic implementation section with goals, actions, tasks, and subtasks. The Implementation Table contains a list of strategies and actions to carry out these goals. Over 170 strategies and actions are listed under each of 32 objectives. The regulatory sections were developed in close coordination with Dr. Robert Waltz, who is leading a DNR effort to review and propose modifications for state authority over all types of invasive species, both aquatic and terrestrial.

### **Public input and approval process**

Information for plan development was derived from a number of agency meetings, interviews with over 40 stakeholders, and public meetings on April 15, July 29, and September 18, 2003. The list of project reviewers, including work group members, totaled over 120 individuals who represent industries, agencies, and organizations with an interest in impacts and management of aquatic nuisance species. Drafts of the management plan were available for public review and comment over the summer. All meetings were announced in IDNR Division of Fish and Wildlife *Wild Bulletin* email news service and on the DNR website. A professional facilitation team from D.J. Case & Associates, Mishawaka, Indiana, guided all meetings and plan development under contract to the IDNR Division of Fish and Wildlife.

The agency approval process included presentation of the project to the DNR Advisory Council on August 27, 2003. The Natural Resources Commission approved the plan as a nonrule policy document on September 16, 2003. Gov. Joseph E. Kernan endorsed the plan on October 7, 2003. The plan was published in the Indiana Register on November 1. State eligibility for federal funding is contingent upon final approval by the National ANS Task Force. The Indiana ANS Management Plan and minutes from the public meetings are on the DNR website at: [www.invasivespecies.in.gov](http://www.invasivespecies.in.gov).

For more information, contact:

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Phil Seng or Gwen White, Ph.D., D.J. Case & Associates, 607 Lincolnway West, Mishawaka, IN 46544; 574-258-0100; [info@djcase.com](mailto:info@djcase.com).

## **INTRODUCTION**

### **Why should we be concerned?**

The introduction of nonindigenous aquatic nuisance species into the Great Lakes, Mississippi River, and inland state waters is a source of biological pollution that threatens not only the ecology of the region and states' water resources, but also the economic, societal and public health conditions of the region and states. The Great Lakes and connecting channels and rivers form the largest surface freshwater system in the world. The aquatic resources of the Great Lakes region are an integral part of activities such as recreation and tourism valued at \$15 billion annually with \$6.89 billion related to the fishing industry. Approximately 75,000 jobs are supported by sport fisheries; and commercial fisheries provide an additional 9,000 jobs (U.S. Fish and Wildlife Service, 1995). Introduction of over 150 exotic species has irreversibly altered the Great Lakes ecosystem, causing dramatic changes in biological relationships and natural resource availability. Nationally, about 42% (400 of 958) of species that are listed as threatened or endangered under the Endangered Species Act are considered to be at risk primarily because of predation by or competition with non-indigenous species (Nature Conservancy, 1996; Wilcove et al., 1998).

Hoosiers support recreational, commercial, and protective uses of aquatic habitats in Indiana, which range widely from the Lake Michigan shoreline to the banks of the Ohio River. Records of the Indiana Department of Natural Resources show that over 874,000 recreational anglers, 19,000 waterfowl hunters, and 9,000 trappers depend on intact aquatic wildlife and ecosystems in Indiana. An additional 1.7 million wildlife watchers enjoy the benefits of wildlife diversity in the seven major natural regions covering the state. Over 60 rare and endangered species rely on wetland and shallow aquatic habitats in the state. According to the 2001 National Survey of Fishing, Hunting and Wildlife-Associated Recreation, anglers, hunters and wildlife watchers spend \$1.5 billion annually to participate in these activities in Indiana. The Indiana Chapter of The Nature Conservancy (2003) indicates that up to 72,000 Hoosiers purchase the environmental license plate over the past nine years, generating over \$1.8 million per year for acquisition of parks, recreational areas, nature preserves, and similar open space uses. An additional 31,000 state residents contributed almost \$400,000 to the funds available for protection of nongame and endangered wildlife. Over 16,000 citizens are members of land conservation trusts, raising over \$3.5 million in 2001 for land preservation efforts.

These valuable resources and associated Hoosier investments are at risk if nuisance exotic species invade and degrade these

ecosystems. An initial estimate created during the process of developing this document indicates that state agencies and others are spending at least \$3 million annually on prevention and control of invasive species in Indiana and significantly more could be done.

### **Why are we hearing about more nuisance exotics?**

Increasing global trade, airline travel, and internet sales have brought hundreds of exotic species literally to our doorsteps in a period of hours or days. As use of the Great Lakes intensified as a transportation route for commerce, the rate of introduction of aquatic nuisance species also increased. More than one-third of the new organisms have been introduced in the past 30 years, a surge coinciding with the opening of the St. Lawrence Seaway. Other human activities contributing to the transport and dispersal of aquatic nuisance species into the Great Lakes and inland state waters include release of organisms from the ballast water of ships, transport and release from the bottom of ships, movement or intentional release of aquaculture and fishery species along with their associated (free-living and parasitic) organisms, release of organisms associated with pet industries or pest management practices, recreational boating, bait handling, water transport, and ornamental and landscape practices.

### **Are all exotic species causing problems?**

No. Since recorded time began, humans have traveled across the earth, bringing plants and animals with them for food and other uses. Introduced species of plants and animals, such as varieties of corn, wheat, rice, and other food crops, and cattle, poultry, and other livestock, now provide more than 98% of the U.S. food system at a value of approximately \$800 billion per year (Pimental, 2002). Modern society reaps the benefits of many cultivated species that were not originally found in Indiana. Some species that were originally introduced with beneficial intent have in the end caused more problems than they were worth. For instance, common carp were transported across the country on railcars in the late 1800s and stocked by the government in waterbodies in nearly every state and several other countries in the Western hemisphere as a source of angling enjoyment and food. More recently, it has become clear that carp can interfere with native fish populations by rooting around in polluted sediments, tearing out beneficial aquatic plants, disturbing nests of native fish, and muddying the water. Despite these negative characteristics, there remain anglers who appreciate the recreation and food provided by this species.

### **Why do some of these species become nuisances?**

Species that are useful to humans are those that can tolerate a broad range of conditions, reproduce easily, can accommodate disturbance associated with human activities, and are resistant to diseases. Unfortunately these characteristics can also mean a new introduction may quickly dominate the native plants and animals in an area that may be more specialized or sensitive to environmental degradation.

Additionally, both humans and domesticated plants and animals can unintentionally carry pests and pathogens. In recent years, scientists have become increasingly concerned with zoonotic diseases that are transmitted from animals to humans. Monkey pox, ebola virus, and HIV are thought to have originated in animals and either mutated or jumped to human populations. While diseases are most commonly spread between closely related species, there are a number of serious pests and pathogens of humans and domestic animals that live in water or have waterborne vectors, such as mosquitoes or fish.

A newly introduced species, if it becomes established through reproduction, can disrupt the natural ecosystem balance by altering the composition, density and interactions of native species. This disruption can cause significant changes to the ecosystem, such as alterations to the foodwebs, nutrient dynamics and biodiversity. New introductions also can cause costly socio-economic impacts even if effective prevention and control mechanisms are established. Eventually, each newly introduced species will become integrated into an ecosystem that is in a constant state of flux; or the population will not survive and become extinct (New York State Department of Environmental Conservation, 1993). The following examples portray the extensive ecological and economic impacts caused by aquatic nuisance species that have been introduced into the Great Lakes and Ohio River basins.

### **What principles should guide invasive species management in Indiana?**

The guiding principles describe the precepts by which the *Indiana ANS Management Plan* has been developed and will be implemented. The *Indiana ANS Management Plan* process will:

- P Ensure strong leadership, resources, staff support, and commitment to follow, implement, and evaluate the plan as an integrated and coordinated long-term process.
- P Show the economic impact of ANS to the people of Indiana by producing effective educational outreach materials and programs.



- P Create a visionary plan with elements that can be readily implemented within the short-term and that have adequate money and support.
- P Create a usable plan for all levels of government and grassroots organizations.
- P Prioritize issues that need to be immediately addressed. Allow for flexibility, recognizing that priorities will vary across agencies and organizations and that all ideas should be retained. Use public input to assure that prioritization recognizes differing viewpoints.
- P Use frequent and effective communication tools.
- P Use education efforts to develop leadership support from the local to state level.
- P Involve the public in education and implementation. Create a plan that is clear, uncluttered, accessible, and avoids unnecessary complexity in messages to the general public as an introduction to ANS issues.
- P Assign resources where they will be most effective. Make sure the plan is not driven by politics but by the best available science-based risk assessment and management strategies.

### Which species are top priorities for management in Indiana?

The Great Lakes region has been subject to the invasion of aquatic nuisance species since the settlement of the region by Europeans. Since the 1800s, at least 139 nonindigenous aquatic organisms have colonized habitats of the Great Lakes ecosystem (Mills et al., 1993). The bulk of these species include aquatic or wetland plants (42%), fishes (18%), and algae (17%). Introduced species of mollusks, oligochaetes, crustaceans, flatworms, bryozoans, cnidarians, and disease pathogens combined represent 22% of the total. All entered the Great Lakes basin by major mechanisms or routes including shipping (41 exotic species); unintentional releases (40 new species); ship or barge canals, along railroads or highways, or deliberate releases (17 species); unknown entry vectors (14 species); and multiple entry mechanisms (27 species). About 55 percent of these species are native to Eurasia; 13 percent are native to the Atlantic Coast. Approximately 10 percent of the Great Lakes' nonindigenous aquatic species have resulted in significant negative ecological and economic impacts. The NOAA online Great Lakes Aquatic Nondigenous Species List currently provides 162 species known from these ecosystems. Although the obvious impacts of some of the most abundant species are being determined, most of the aquatic nuisance species and their direct and indirect impacts are not known.

No comprehensive survey of invasive species has been conducted for the state of Indiana. However, a number of researchers, district biologists, and aquatic plant management companies have contributed to lists provided in the appendices of this document. Ecological information on several of the species is given in the following sections by taxon (i.e., fish, insects and crustaceans, mussels and snails, and plants). A compilation on information on aquarium species found over the past few years in state waters is also provided. A list of high priority ANS species for Indiana are provided in Table 1. Several of the fish species on the Indiana watch list are from a set of 56 fish species predicted as being potential invaders that could be transported in the ballast water of ships from the Ponto-Caspian region of Eurasia (Kolar and Lodge, 2002). A similar analysis has not been conducted for other groups of plants or animals.

Table 1. Aquatic nuisance species on the watch list (not yet detected in Indiana waters) and ANS species detected in parts of the state but not distributed statewide. The common and scientific names are given, along with the primary paths of introduction. For watch list species, the standard abbreviation for the nearest state, province or region known to have the species is provided. (ONT = Lake Ontario; EA = Eurasia).

#### Watch list (not yet detected in Indiana waters)

<u>Common name(s)</u>	<u>Scientific name or taxon</u>	<u>Pathway(s) and nearest infestation</u>
Black carp	<i>Mylopharyngodon piceus</i>	aquaculture (IL, AR)
Black sea silverside	<i>Atherina boyeri</i>	ballast water (EA)
Eurasian minnow	<i>Phoxinus phoxinus</i>	ballast water (EA)
European perch	<i>Perca fluviatilis</i>	ballast water, aquaculture (EA)
Eurasian ruffe	<i>Gymnocephalus cernuus</i>	ballast, fish transfer (MI, WI)
European frogbit	<i>Hydrocharis morsus-ranae</i>	bait bucket, trailer (MI)
Fourspine Stickleback	<i>Apeltes quadracus</i>	bait bucket, fish transfer (PA)
Heterosporis parasite	<i>Heterosporis</i> sp.	fish transfer, bait bucket (WI)
Hydrilla	<i>Hydrilla verticillata</i>	aquarium, bait bucket (PA, TN)
Giant cladoceran	<i>Daphnia lumholtzi</i>	ballast water, bait bucket (IL)
Giant salvinia	<i>Salvinia auriculata</i> complex	aquarium, bait bucket (TX, GA)
Monkey goby, Sand goby	<i>Neogobius fluviatilis</i>	ballast water (EA)

## Nonrule Policy Documents

New Zealand mudsnail	<i>Potamopyrgus antipodarum</i>	bait bucket, trailer (ONT, ID, UT)
Roach	<i>Rutilus rutilus</i>	ballast water (EA)
Snakehead fish	Channidae	fish transfer, food (FL, NC)
Spring viremia of carp	<i>Rhabdovirus carpio</i>	fish transfer, bait bucket (WI)
Tyulka, Kilka shad	<i>Clupeonella cultriventris</i>	ballast water (EA)
Walking catfish	<i>Clarias batrachus</i>	fish transfer (CT, FL, GA, MA)
Whirling disease in salmon	<i>Myxobolus cerebralis</i>	mud on waders, fish transfer (MI)
Zander	<i>Stizostedion lucioperca</i>	ballast water, aquaculture (NY)

### Detected species (found in the State of Indiana)

<u>Common name(s)</u>	<u>Scientific name or taxon</u>	<u>Pathway(s)</u>
Alewife	<i>Alosa pseudoharengus</i>	ballast water, fish transfer
Asian tiger mosquito	<i>Aedes albopictus</i>	containers holding water, tires
Asiatic clam	<i>Corbicula fluminea</i>	bait bucket, trailer
Bighead carp	<i>Hypophthalmichthys nobilis</i>	fish transfer
Bluegreen algae	<i>Cylindrospermopsis</i> spp.	bait bucket, trailer
Fishhook water flea	<i>Cercopagis pengoi</i>	ballast water, bait bucket, trailer
Flowering rush	<i>Butomus umbellatus</i>	wetland plant transfer
Brazilian elodea	<i>Egeria densa</i>	aquarium, bait bucket, trailer
Cabomba	<i>Cabomba caroliniana</i>	aquarium, bait bucket, trailer
Chinese mystery snail	<i>Cipangopaludina</i> spp.	aquarium, bait bucket
Common carp	<i>Cyprinus carpio</i>	fish transfer, bait bucket
Common waterweed	<i>Egeria densa</i>	aquarium, bait bucket, trailer
Eurasian watermilfoil	<i>Myriophyllum spicatum</i>	trailer, bait bucket
Gizzard shad	<i>Dorosoma cepedianum</i>	fish transfer, bait bucket
Grass carp	<i>Ctenopharyngodon idella</i>	fish transfer from private pond
Largemouth bass virus	virus	fish transfer, bait bucket, live well
Common reed, Giant reed	<i>Phragmites australis</i>	wetland plant transfer
Purple loosestrife	<i>Lythrum salicaria</i>	wetland plant transfer
Reed canary grass	<i>Phalaris arundinacea</i>	wetland plant transfer
Round goby	<i>Neogobius melanostomus</i>	ballast water, bait bucket
Rudd	<i>Scardinius erythrophthalmus</i>	fish transfer, bait bucket
Rusty crayfish	<i>Orconectes rusticus</i>	bait, native in southern Indiana
Sea lamprey	<i>Petromyzon marinus</i>	ballast water
Silver carp	<i>Hypophthalmichthys molitrix</i>	fish transfer
Spiny water flea	<i>Bythotrephes cederstroemi</i>	ballast water, bait bucket
Tench	<i>Tinca tinca</i>	fish transfer, bait
Threespine Stickleback	<i>Gasterosteus aculeatus</i>	bait, fish transfer
Water hyacinth	<i>Eichhornea azurica</i>	trailer, private ponds
West Nile virus	Flaviviridae	containers holding water, birds
White perch	<i>Morone Americana</i>	fish transfer, bait bucket
Zebra mussels	<i>Dreissena polymorpha</i>	bait bucket, trailer, ballast

Much of the information for the descriptions in this section was derived from Indiana DNR publications, the USGS Nonindigenous Aquatic Species website (<http://nas.er.usgs.gov/>), and publications from Illinois-Indiana Sea Grant.

### Nuisance fish

Fisheries in Indiana support both leisure activities and commercial enterprises. The 1991 National Hunting and Fishing Survey reported that anglers made over 1,846,300 fishing trips to Indiana streams at an annual economic value of \$57 million. An average of 502 inland commercial fishing licenses and 1,782 net tags were sold annually in the state of Indiana from 1977 to 1994 (Carnahan 1995). The average inland commercial fishing harvest was 165,360 pounds annually. By 2003, the rapidly growing number of charter boat companies, that take people fishing for hire, had reached over 75 businesses in Indiana. Canoe liveries, campgrounds, and other support services for recreational users also rely on high quality aquatic systems. As an example, the Department of Natural Resources has a multi-million dollar investment in the waters of the St. Joseph River as a salmonid stream. Public attention to the

St. Joseph River in South Bend and Mishawaka has resulted in long-term development of a unique salmon fishery in a \$15 million joint effort with the state of Michigan that annually generates about \$6 million in income to local communities. These investments in quality of life along rivers in urban areas and other parts of the state may be jeopardized by lack of sufficient control on invasive species.

Recreational and commercial users of state waters recognize the critical importance of protecting these resources. Eighty-one percent of anglers polled in 1994 felt that the Division of Fish and Wildlife should increase the emphasis on protecting Indiana streams and rivers from pollution. Introduction of exotic species can have a longer-term and more irreversible impact on important fish communities than other kinds of pollution. At least 45 invasive fish species are known from the Great Lakes. A few examples of nuisance fish are described below. A complete list of all known exotic fish and crayfish is provided in Appendix A.

**Sea lamprey:** The invasion of the sea lamprey in the 1940s has resulted in substantial economic losses to recreational and commercial fisheries, and has required annual expenditures of millions of dollars to finance control programs. During the 1940s and 1950s, the sea lamprey, a top predator which kills fish by attaching to its prey and feeding on body fluids, devastated populations of whitefish and lake trout. Their aggressive feeding behavior contributed significantly to the collapse of fish species that were the economic mainstay of a vibrant Great Lakes fishery (Great Lakes Fishery Commission, undated). For example, before sea lampreys entered the Great Lakes, Canada and the United States harvested about 15 million pounds of lake trout in lakes Huron and Superior annually. By the early 1960s, the catch was only about 300,000 pounds. In 1992, annual sea lamprey control costs and research to reduce its predation were approximated at \$10 million annually. Ongoing control efforts have resulted in a 90% reduction of sea lamprey populations in most areas, creating a more amenable environment for fish survival and spawning. The total value of the lost fishing opportunities plus indirect economic impacts in the Great Lakes could exceed \$500 million annually (Office of Technology Assessment, 1993).

**Silver and bighead carp:** Similar to the closely-related silver carp, the bighead carp is a filter feeder that prefers large river habitats. These so-called Asian carps have been used in many parts of the world as a food fish and sometimes introduced in combination with silver carp into sewage lagoons and aquaculture ponds (Jennings 1988). Approximately 176,400 pounds per month of live food fish, mostly Asian carp species, are sold in Toronto markets (Dennis Wright, Fisheries and Oceans Canada, pers. comm., July 22, 2003). Many of these fish may be transported live through Indiana from fish farms in the southern states, especially Arkansas. The impact of these two species in the United States is not adequately known. The largest bighead carp reported from Indiana waters was 53.5 pounds, but they are known to reach 90 pounds elsewhere in the United States. Silver carp reach lengths of three feet and weights of 60 pounds. Because bighead carp and silver carp are planktivorous and can attain a large size, Laird and Page (1996) suggested these carp have the potential to deplete zooplankton populations. As Laird and Page pointed out, a decline in the availability of plankton can lead to reductions in populations of native species that rely on plankton for food, including all larval fishes, some adult fishes, and native mussels. In some of the big pools along the Mississippi River, Asian carps have multiplied so quickly that in less than a decade they make up 90 percent or more of the fish life. Several species of fish with high recreational and commercial value are most at risk from such competition in large rivers and Lake Michigan including paddlefish, bigmouth buffalo, salmon, walleye, and perch. To date, populations of bighead carp have been reported in every large river system up to the first dam that blocks upstream movement, including lower portions of the Wabash River and some tributaries up to Huntington Dam, on the Tippecanoe River up to Oakdale dam (forms Lake Freeman), lower portions of the White River to Williams Dam on the East Fork of White River and up to dams at Martinsville or higher along the West Fork of White River, and in embayments along the Ohio River. Silver carp are likely to be distributed similarly to bighead carp. Silver carp have been taken from the lower portions of the Wabash River at least to Lafayette, along portions of the Ohio River, and the West Fork of White River in Greene County.

**Black carp:** The black carp is a bottom-dwelling molluscivore that has been used by U.S. fish farmers to prey on and control disease-carrying snails in their production ponds. Black carp are superficially very similar in appearance to the grass carp. The grass carp is legal to use for aquatic plant control in private ponds in Indiana as a genetically modified fish that cannot reproduce. As such, Nico and Williams (1996) expressed concern that if black carp become more common in U.S. aquaculture, there will be an increased risk that the species be misidentified and unintentionally introduced to some areas. It is highly probable that black carp would feed on and reduce populations of native mussels and snails (Nico and Williams 1996). There are 26 species of mussels listed as endangered or threatened in Indiana, including 10 federally endangered species, which would likely be further affected by black carp introductions. Sterilization of black carp for aquaculture use does not eliminate the ecological risk posed by these fish (USFWS 2002). A sterile adult black carp is capable of eating 3 to 4 pounds of mollusks a day and can live up to 15 years. The methods used to produce sterile fish do not guarantee 100 percent sterility, meaning that a small percentage of fertile fish may be found among groups of sterile fish. To date, there have been no reports of black carp found in Indiana waters.

**White perch:** White perch are naturally found in brackish waters of the Atlantic coast, but invaded the lower Great Lakes during the late 1980s. The fish is a food fish and provides angling opportunities, but tends to stunt and become undesirable when over-population occurs in freshwater lakes (Scott and Crossman 1990). Through competition with native species, predation on fish eggs, preying on young fish, and hybridization with white bass, white perch can quickly become the dominant species in freshwater lakes. White perch are thought to cause declines in walleye (Schaeffer and Margraf 1987), yellow perch (Parrish and Margraf 1990), and white bass (Todd 1986) in the Great Lakes region. White perch have been collected in Indiana from Lake Michigan and more recently from Wolf Lake and Cedar Lake in Lake County and Koontz Lake in Marshall County. Although white perch may have migrated from Lake Michigan to Wolf Lake, this fish was probably illegally stocked in Cedar Lake and Koontz Lake within the past five years. The invasion by white perch can degrade fishing quality. A 2001 fisheries survey showed that white perch had rapidly overwhelmed the fish community in Cedar Lake, constituting eighty-eight percent (88%) by number and 67% by weight of the fish caught. Similar to Cedar Lake, white perch was the most abundant fish by number (49%) and weight (25%) in a 1999 survey of Wolf Lake. White perch in these Indiana lakes grow to a maximum size of 11.5 inches and average weight of 7-13 ounces. This species must not be confused with the native freshwater drum, which may commonly be referred to as a “white perch” in parts of southern Indiana.

### Nuisance insects and crustaceans

**Asian tiger mosquito:** Public health threats can result from the introduction of insects and other animals that serve as vectors for the parasites and diseases of humans and domesticated or native animals. For example, the Asian tiger mosquito is a tropical insect from Asia and Africa that was most likely brought into the country through the worldwide transport of used tires. It is now established in most states east of the Mississippi River (Dr. Robert Novak, Associate Professional Scientist for the Illinois Natural History Survey and Associate Professor, University of Illinois, Champaign/Urbana). It is solely a container breeder, with the larval stage living in discarded tires, pails, flower pots, and any pool of water that lasts longer than a few days, and does not breed in naturally-occurring water bodies. It can serve as the intermediate host for many mosquito-borne diseases, including dengue hemorrhagic fever, dog heartworm, and possibly West Nile virus. According to state medical entomologist Dr. Michael J. Sinsko, the Asian tiger mosquito was first discovered in Indiana in Vanderburgh County on September 15, 1986. Since that time, they have been documented in the following counties: Vanderburgh, Marion, Dearborn, Shelby, Daviess, Gibson, Dubois, Perry, Warrick, Posey, Jackson, Spencer, Lawrence, Greene, Knox, Clark, Martin, Bartholomew, Washington, Crawford, Pike, Floyd, Orange, Ohio, Harrison, Sullivan, Scott, Owen, and Jefferson.

**Giant cladoceran:** An exotic zooplankton species, *Daphnia lumholtzi*, is native to Africa, Asia, and Australia and was most likely brought to North America with African fish imported for the aquarium trade or to stock reservoirs. Since 1995, it has been found in the Illinois River and a connecting channel to Lake Michigan through Chicago and now appears close to invading Lake Michigan. Cladocerans, also known as water fleas, are small zooplankton that are an important food source for larval and early juvenile stages of nearly every species of North American fish. *Daphnia lumholtzi* is much larger and has more numerous spines than similar native species. The large spines make it difficult for young fish to eat this exotic. Protection from predation could give it a competitive advantage over the more edible native species. This could result in reduction of food available in lakes, streams, and fish hatcheries where this zooplankton invades. Sportfish susceptible to impacts would be late-spawning species such as bass and other sunfish.

**Rusty crayfish:** Rusty crayfish are invasive crustaceans that are native to southern Indiana within the Ohio River drainage, but have been spreading to lakes, rivers, and streams in other parts of North America and Ontario. They are more aggressive than other native crayfish, better able to avoid fish predation, and can harm native fish populations by eating their eggs and young. They can displace native crayfish, hybridize with them, and graze on and eliminate beneficial aquatic plants. They have likely spread by bait buckets and aquariums, activities of commercial bait harvesters, and live study of specimens purchased from biological supply houses. Females can carry fertilized eggs or a male's sperm, so even the release of a single female could establish a new population. Eradicating established infestations is currently impossible.

**Spiny water flea and fishhook water flea:** The spiny water flea, a likely ballast water introduction, is a tiny crustacean (related to shrimp and crabs) with a sharply barbed tail spine. The northern European native was first found in Lake Huron in 1984. The spiny water flea is now found throughout the Great Lakes, including Lake Michigan, and in some inland lakes in nearby states. Another invasive zooplankton, called the fishhook water flea, was first found in Lake Ontario in 1998. It has since been reported from the southern waters of Lake Michigan and was most likely transported in the ballast water of ships. Many other predatory fish avoid them as prey and most smaller fish cannot effectively consume them because they cannot ingest the long hooked tail spine. These large zooplankton are nearly a half inch long and may compete for food with young fish, such as yellow perch, that also eat small zooplankton. The long tail spine of these two water fleas is irritating to anglers whose lines become entangled with “globs”

of the fishhook flea. Anglers and other recreational water users can avoid transferring these species by emptying water from live wells, bait buckets, and other equipment before using them in inland waters of the state.

### Nuisance mussels and snails

**Zebra mussel:** The zebra mussel, another ballast water introduction, is one of the best known invaders of the Great Lakes region and other areas of the country where it has spread. This aquatic nuisance species has caused serious economic and ecosystem impacts. The zebra mussel, a highly opportunistic mollusk, reproduces rapidly and consumes microscopic aquatic plants and animals from the water column in large quantities. The potential impact on the fishery can be profound due to changes in food availability and spawning areas, to name a few. Economic impacts are as pervasive as the ecosystem impacts. Due to the infestation of zebra mussel in their intake and discharge pipes, Great Lakes municipalities, utilities, and industries have significant costs associated with monitoring, cleaning, and controlling infestations. According to a recent economic impact study, each of 84 Great Lakes water users reported average total expenditures of \$513,600 over the five-year period from 1989 to 1994 (Hushak et al., 1995). By the end of this century, water users across the country are expected to spend between \$2 billion and \$3 billion cleaning clogged water intakes (Ruiz et al., 1995). Commercial and recreational vessels and beach areas also are vulnerable to the negative impacts of the zebra mussel.

**Oriental mystery snails:** The Chinese (or Japanese) mystery snail is native to Burma, Thailand, South Vietnam, China, Korea, and Asiatic Russia in the Amur region, Japan, the Philippines, and Java. These snails have been collected from Fall Creek and West Fork of White River, Marion County, Indiana; and five drainages in Illinois. The closely related Japanese trap door snail has been found on the west coast of North America but has not been collected from Indiana. Chinese mystery snails live partially buried in the mud or silt of lakes, ponds, rice paddies, irrigation canals, roadside ditches or slower portions of streams. They prefer quiet water where there is some vegetation and a mud substrate. This species was probably introduced through accidental or intentional releases from the aquarium industry. It can serve as a vector for various parasites and diseases, some of which may infect humans. Shells of large exotic snails have been clogging intake screens at the IPALCO Stout and Perry K power generating plants in Marion County (Terry Hogan, pers. comm. Cinergy Corporation, 2 October 2000). The snails have not been found at the Pritchard power plant in Morgan County. The large conically shaped shell creates a troublesome problem for the plant maintenance, as the shells clog the cooling water condenser tubes. The snails are an operculated species, having a “trap door” over their entrance and thus, can simply close up and wait for an intermittent biocide to pass by without controlling the snails.

**New Zealand mudsnail:** The New Zealand mudsnail is a small aquatic snail, about one-eighth of an inch long. As its name states, this species is native to freshwater lakes and streams of New Zealand. Like many organisms today, it is being incidentally carried to many locations around the world such as Europe, Asia, and North America. In the U.S., this snail was first detected in the mid-1980s in the Snake River region of Idaho. Since then, it has spread to waters of Montana, Wyoming, California, Arizona, Oregon, and Utah. The only known population in the eastern U.S. is in Lake Ontario where a population was discovered in the early 1990s. Mudsnail densities of over one-half million per meter square in western streams are a cause for concern. Because the West is known for abundant trout and productive fishing spots, there is concern that the mudsnails will impact the food chain for native trout and the physical characteristics of the streams themselves. Research is needed to determine the impacts of large populations of mudsnails on the native fauna, such as aquatic insects and native snails, and on any changes in the physical environment.

### Diseases, pathogens, and parasites

Although not many diseases of coldblooded aquatic animals are zoonotic (transferable to humans), there are some diseases transmitted by mosquitoes (e.g., West Nile virus) or other waterborne vectors (e.g., cholera). To date, the greatest threat of disease has been affects on domestic, commercial, and recreational fish stocks. Since the 1980s, all trout and salmon brought into Indiana under aquaculture or importation permits must be inspected for a number of diseases. Infected fish or fish showing signs of disease cannot be stocked into state or private waters. Diseases of trout and salmon that are unknown from the Great Lakes basin and strictly regulated include viral hemorrhagic septicemia, infectious hematopoietic necrosis virus, ceratomyxosis, and proliferative kidney disease. Other salmonid diseases known from the Great Lakes but not found in Indiana waters are infectious pancreatic necrosis virus, bacterial kidney disease, furunculosis, enteric redmouth disease, and EED virus. Anglers are advised to remove all mud and water from waders and other fishing equipment, if they have been fishing in lakes or streams in other states, and not to transfer live fish or fish parts between waters. Aquarium fish must not be released to state waters, as they may be carrying diseases or parasites. The Indiana DNR contracts with the Animal Disease Diagnostic Lab (ADDL) at Purdue University to examine fish suspected of disease. Large fish kills and strange behaviors in populations of fish should be reported to the DNR for investigation.

**Heterosporis:** The fish parasite, *Heterosporis* sp., was found in fish muscle tissue from yellow perch in Wisconsin, Minnesota and

Ontario in 2000 (Wisconsin DNR, 2002a; Wisconsin DNR, 2002b). Previously, this genus of parasites was unknown from North America and had only been reported from aquarium species such as angelfish, bettas and cichlids, and the Japanese eel. This infection does not seem to cause direct mortality, but when an infected fish dies, other fish may eat infected muscle or the infected muscle may break down, releasing spores into the water, which are then acquired by other fish. In severely infected fish, almost 90% or more of the fillet is actually made up of the parasite's spores, rather than muscle tissue. There is no evidence that *Heterosporis* can infect people. However many people discard infected fish because changes in texture and quality of the flesh make the fish appear to be freezer burned even as a fresh fillet. The disease has been seen in walleye, yellow perch, sculpin, and northern pike. In the laboratory, rainbow trout, channel catfish, walleye and fat head minnows also readily hosted the parasite. Largemouth bass and bluegills could be infected, but the degree of infection was less severe. Fisheries biologists in Indiana are interested in any similar reports in fish from state waters.

**Largemouth bass virus (LMBV):** Largemouth bass virus (LMBV) ceased being a "southern phenomenon" when it caused a kill at 565-acre Lake George, along the border between Indiana and Michigan, in August 2000. Previously, LMBV had only been documented from kills during the heat of the summer at southern U.S. reservoirs. To date, LMBV has been detected in bass from five northeast Indiana natural lakes and Dogwood Lake in Daviess County. LMBV first gained attention in 1995, when it was implicated in a fish kill on Santee-Cooper Reservoir in South Carolina. Scientists do not know how the virus is transmitted between fish or how it is activated into a fatal disease. Along with hot weather, stress factors might include poor water quality caused by pollution and frequent handling by anglers. Most bass infected with LMBV appear completely normal. The LMBV appears to attack the swim bladder, so diseased fish will be near the surface, have trouble swimming in an upright position, and may appear bloated. Adult bass of two pounds and more seem to be the most susceptible to disease, or at least the most visible. Although largemouth bass die-offs have received considerable attention, LMBV-related kills have been minor in comparison to kills prompted by other causes, such as pollution. Fisheries biologists in Indiana continue to monitor populations where largemouth bass die-offs occur. Scientists know of no cure, as is commonly the case with viruses. Transmission may be prevented by avoiding transfer of water or fish between waters and reducing stress on fish where possible.

**West Nile virus:** Since West Nile virus (WNV) was first isolated in 1937, it has been known to cause asymptomatic infection and fevers in humans in Africa, West Asia, and the Middle East. Human and animal infections were not documented in the Western Hemisphere until 1999. In 1999 and 2000, outbreaks of WNV encephalitis (inflammation of the brain) were reported in persons living in the New York City metropolitan area, New Jersey, and Connecticut. The Centers for Disease Control reported that the disease grew rapidly from an initial U.S. outbreak of 62 disease cases in 1999 to 44 states reporting 4,156 cases, including 284 deaths, in 2002 (CDC, 2003). The USGS database reports 312 cases from Indiana in 2002 and predominantly in the northeastern quadrant of the state (USGS, undated). West Nile virus may be transmitted when an infected mosquito bites a human to take in blood. Mosquitoes become infected when they feed on infected birds, which may circulate the virus in their blood for a few days. In addition, recent investigations confirmed WNV transmission through transplanted organs and transfused blood. The recent introduction of routine WNV screening of blood donations should greatly reduce the risk of spread of WNV through transfused blood. Only about two persons of every 10 who are bitten by an infected mosquito will experience any illness. Although illness from WNV is usually mild, serious illness and death are possible, particularly for persons over the age of 50. West Nile virus is spread by a "filth mosquito," referred to as such because it prefers to reproduce in stagnant standing water. A survey in Indiana showed that two-thirds of the breeding sites for the mosquito consisted of discarded tires that held small pools of water (NRCS, 2003). Three simple actions can help prevent infection: avoiding mosquito bites by using insect repellants with DEET and wearing light, long-sleeved clothing, mosquito-proofing properties by emptying standing water and installing screens, and reporting dead birds to local health authorities.

**Whirling disease (WD):** Whirling disease is caused by *Myxobolus cerebralis*, which is a native myxosporidean fish parasite in salmonids from Europe. The parasite penetrates the head and spinal cartilage of fingerling trout, where it reproduces rapidly, causing the fish to swim erratically, negatively affecting feeding ability and predator avoidance behavior. Severe infections can result in high rates of mortality and skeletal deformities that persist in adult fish. Spores released when the fish dies are nearly indestructible and can survive in sediments for 20 to 30 years. It was unintentionally introduced to the eastern United States in the late 1950s in shipments of frozen trout that harbored spores of this fish parasite (Markiw 1992). The parasite devastated rainbow trout populations in Colorado, Montana, and other western states in the 1990s. The life cycle of the parasite can only be completed in earthen-bottomed rearing ponds inhabited by Tubifex worms, the second host of the parasite. Fish transfers probably spread the disease to other states. Whirling disease has not been detected in Indiana, although it is known from several rivers and private hatcheries in Michigan and has occurred in adjacent states of Ohio, Pennsylvania, and New York (Whirling Disease Foundation, undated).

**Spring viremia of carp (SVC):** An exotic fish virus, spring viremia of carp, was suspected of killing more than 10 tons of carp in a lake in northwestern Wisconsin (Wisconsin DNR, 2002c). The diagnosis was the first documented occurrence in wild fish in the United States. Spring viremia of carp (SVC) was previously diagnosed in a North Carolina fish farm that raises an ornamental carp variety called koi. The virus, which is widespread in Europe and found in Russia, Asia and the Middle East, cannot infect humans. The disease is an international animal health concern, however, and covered under an international treaty that requires confirmation of the virus by a designated laboratory, reporting to international animal health authorities, and other measures. Only members of the minnow family, which include carp, are naturally susceptible to the virus, but northern pike fry also have been infected in laboratory studies. Effects on other species can create problems for fisheries and aquaculture production, potentially affecting large areas, if the virus has passed to downstream waters in the Mississippi River basin. Spring viremia in carp strikes primarily in the spring or fall, when fish immune systems are suppressed due to very cold water temperatures. Signs of the fish disease include a fluid buildup in the body cavity, small hemorrhages on the skin, the belly, and hemorrhages on the swim bladder. Infected fish become diseased and can die within 10 to 17 days. Fisheries management agencies and the USDA APHIS program are monitoring wild carp and aquaculture facilities to determine any distribution of the disease in other areas.

### **Aquarium pets caught from Indiana waters**

Keeping pets in home aquaria and backyard ponds is a relatively recent venture. It is also posing unforeseen risks when aquarists and aquaculture farms do not properly manage these pets. The earliest known keepers of captive fish were the Sumerians, who kept fish in artificial ponds at least 4,500 years ago. Although the English kept goldfish in glass containers during the 1700s, keeping a thriving aquarium was not common until the relationships between oxygen, animals, and plants were understood a century later and technology was developed to maintain adequate water quality conditions in small tanks. The circus entrepreneur P.T. Barnum opened the first display aquarium on this continent in 1856 at the American Museum in New York City.

Species that make good aquarium fish are tough survivors. Trying to keep fish alive in a tank can be difficult unless those species are adaptable to a wide range of water quality, variable temperatures, and possess fairly general feeding habits. Aquarium fish must tolerate being shipped in containers having low dissolved oxygen or which are exposed to fluctuating temperatures. They have fairly general food habits, eating prepared artificial diets rather than requiring a particular form of prey or plant. Aquarium fish may reproduce rapidly under fairly general conditions, allowing them to be economically raised on fish farms.

Several decades ago, the only fish available were the few species carried by the local dime store, usually goldfish or guppies. With the advent of global commerce and the internet, it is now possible for a home aquarist to order one of hundreds of species of fish and have it shipped from nearly anywhere in the world. Fish shipped for aquarium purposes are generally exempt from state importation laws, so the state has no way of tracking which species are coming into Indiana and which ones might be problematic if released into the wild.

Many of the tropical fish and other species sold in pet stores will not survive an Indiana winter. Even if a single individual survives, it would need others of its kind to reproduce. Many tropical species like Tilapia (cichlids) die in water temperatures below 50 degrees. However, evidence suggests that as generations of fish and plants are kept in aquaria, some of them can become more adapted to the conditions of northern waters. Strains of various tropical species are under development for aquaculture so that they will survive lower temperatures or saltier water. These species that normally would not survive in colder waters may have become domesticated and now have a better chance of survival in new environments. Some species may be tropical distributions, not because they could not survive in cold water, but because they never had the opportunity to move to cold areas. Threats associated with the parasites and diseases that the pets may be carrying could be even greater than direct problems related to the animal itself.

A number of Indiana residents overwinter or visit in Florida or other southern states. When Hoosiers are south for the winter, they should keep in mind that problems with releases of aquarium fish are extreme in warmer states. While Indiana currently hosts over 40 species of introduced fish, established exotic fish in Florida number over 120 species. Nationwide, about 1 in 4 new species originates from the aquarium trade. In Florida, about 75 percent were introduced from aquaria or farms raising aquarium fish.

Moving fish from one waterbody to another is stocking fish. This includes fish from an aquarium, backyard pond, and live fish from a bait bucket. It is illegal to stock fish without a permit. Most native fish do not need a boost from stocking. Fish like bass, bluegill, and catfish will generally reproduce and thrive in areas where the water quality and habitat are available to sustain them. The DNR fisheries biologists carefully survey lakes and rivers before determining where stocking might help establish a new fishery without damaging the existing fish community.

Moving fish around can cause serious problems for the resident fish. The difficulty with detecting and tracking fish diseases makes

it hard to predict the impacts of transferring sick fish. Fish may be carrying diseases or parasites without looking or acting sick. Bacteria, viruses, parasites, and the microscopic young of other species may be contained in the water dumped along with the fish. Largemouth bass virus, previously thought to be only in southern lakes and rivers, was recently discovered in Lake George along the Indiana-Michigan border and may be in other lakes or rivers. The impacts of this new disease are not completely understood but it has been implicated in fish kills in southern states. Zebra mussels are easily transported to previously clean waters without even being aware of it. The baby mussels, called veligers, are microscopic and nearly colorless.

The most cost-effective, and often the only, defense against introduced species is prevention. While laws can be passed that affect ownership or release of species, they can be difficult to enforce. Indiana relies mostly on the ethics of aquarium owners in properly caring for their pets to keep our native fish and wildlife populations safe and healthy. It is up to the aquarium owner and dealers to be the first line of defense.

If anglers do catch an unusual fish, the IDNR asks that they measure its length, take a close-up photograph, save it by freezing, and report the find to a district fisheries biologist. By tracking exotic fish, state natural resource managers may be able to identify potential problems before they develop. The following aquarium fish and other aquatic pets were caught from Indiana waters within the last few years. Nearly all were identified by professional biologists with the exception of some of the “piranha,” that were probably actually pacu.

- Three live alligators several feet in length were recovered from the Wabash River, Huntington County in July 2001 and one from a creek in Parke County on August 30, 2003.
- A 48-inch caiman was found in a private pond in Marion County on June 30, 2002.
- Two specimens of the Oriental weatherfish, family Cobitidae (loaches) *Misgurnus anguillicaudatus*, were caught near the Hammond WTP outfall on the West Branch of the Grand Calumet River, Indiana, on 11/4/02. The native range of this popular aquarium fish is eastern Asia, including Russia, North Korea, Japan, China, Myanmar/Burma, and North Vietnam.
- A 20-inch long Aruana was caught in Lake George, Lake County, on October 15, 2000 and another Aruana from Deep River, Lake County, September 2003.
- Dead shells of Oriental Mystery Snails clogging intake screens at two power plants along the West Fork of the White River. The snails are used in aquaria and backyard ponds.
- A 10-inch dead tiger oscar was found in Blue Lake, Whitley County on January 27, 2003.
- A 5.9-inch bala shark was captured in a gill net by DNR biologists from Diamond Lake in July 1995.
- Piranha or pacu were caught by anglers as follows:
  - ▶ 14-inch pacu from Praxair dam on the East Branch of the Little Calumet River, Porter County, August 2003;
  - ▶ piranha from Cedar Lake, Lake County, August 2002;
  - ▶ 15-inch pacu from Lake Shafer, White County, August 2002;
  - ▶ 2.7-pound pacu from St Joseph River, St Joseph County, July 2002;
  - ▶ two 10-inch piranhas White River, Delaware County, August 2002;
  - ▶ 8.75-inch pacu private pond, Delaware County, August 2000;
  - ▶ several unconfirmed piranha were reportedly caught from ponds in Clay County;
  - ▶ seven piranha city park pond, Boone County, July 2002;
  - ▶ 14-inch pacu Griffy Lake, Monroe County, July 2001; and
  - ▶ 15-inch pacu gravel pit, Johnson County.
- A 9.9-inch tinfoil barb (*Barbus schwanefeldi* or *Barbodes schwanenfeldii*) was caught in a District 6 Fisheries survey in West Brazil Pond, Clay County, in 2001.

Many large tropical fish can be kept, as long as the owner complies with the law and is prepared to care properly for the pet. Oversized, unwanted aquarium pets should be traded with someone or dispose of properly. Release of large aquarium fish may be mostly related to buying species that grow to unmanageable sizes. Most of these fish are very small—the size of a quarter—in the pet store, but can get as big as a dinner plate within a year or two. The 20-inch long Aruana caught in Lake George near Hobart last year was probably only two inches long when the aquarist bought it. Most people do not own an aquarium that can handle a two-foot long fish and would not be able to keep it fed properly.

Some of them have feeding habits that are difficult to accommodate unless the pet owner has a steady supply of minnows or goldfish for the pet to devour. Most of these pets will chase and kill other fish in the tank until only one big fish is left. Finding a way to dispose of a big dead fish may not be pleasant.



Pacu, piranha, arowana, and some tropical catfish are among the species require extra care and grow to large sizes. While the scientific names of fish don't change, the common names that a fish is sold by may vary. There are at least 15 species of piranha sold in aquarium stores. Pet owners must conduct some research on the species they are thinking of buying or get fish from a store where the sales people will tell the pet owner how large it will get and what it will need to eat. Responsible pet owners are the first and possibly only line of defense to prevent problems associated with release of these species. Further investigation of the educational and regulatory needs surrounding this issue are most likely necessary.

### Nuisance plants

Nonindigenous aquatic plants also have been introduced to the Great Lakes region and inland waters. These plants can be unintentionally transported, as fragments hanging on boat trailers or floating in live wells and bait buckets. They may be dumped intentionally from aquaria or drift due to flooding of backyard ponds. Sales in the aquatic gardening industry are now reaching approximately \$1 billion per year (Kay and Hoyle, 2001). The IDNR Division of Entomology and Plant Pathology licenses over 5,000 nurseries and other facilities that sell terrestrial and aquatic plants. In an investigation of aquatic plant sales from vendors across the United States, supported by the Minnesota Sea Grant and Minnesota DNR, 90 percent of the shipments contained a mixture of species that were not part of the order. Additionally, out of 14 attempts to order prohibited or noxious weeds, they were received 13 times (93 percent), including plants that were illegal to ship across state lines (K. Maki and S. Galatowitsch, unpublished manuscript). A more extensive list of nuisance aquatic plants that may be problematic for Indiana is provided in Appendix B.

**Bluegreen algae:** There are more than 50 major types of freshwater blue-green algae, and about one-third of them can produce some form of toxin. Blue-green algae are generally a harmless, natural part of the water system in small numbers. But when they dominate the plant community, the algae can interfere with the ecological health and human use of the water by producing offensive taste and odor compounds and sometimes forming a thick scum on the surface. One of the bluegreen algae species, *Cylindrospermopsis*, originally found in Australia, Brazil, and more recently in Florida and North Carolina, was thought to be a subtropical organism. However, the species was found blooming and producing toxin in Ball Lake, Steuben County, Indiana, in August of 2001. The organism has since been identified in several other large reservoirs around the state. Along with many other exotic and nuisance organisms, *Cylindrospermopsis* could potentially be spread by human or natural influences. People exposed to blue-green algal blooms by swimming in affected lakes or rivers have experienced skin irritations, allergic reactions, gastrointestinal symptoms, and respiratory problems. Several other bluegreen algae species release compounds into the water that can cause taste and odor to be so objectionable that the water is deemed unfit for consumption. Standard methods of treating drinking water are thought to remove these toxins. Filtration of taste and odor problems at high levels can require more expensive or cost-prohibitive treatment methods. In 1989 and for several years since 2000, all major surface sources of drinking water for the city of Indianapolis have been chemically treated to reduce populations of bluegreen algae, at a high cost to the utility and its customers, as well as incurring the risks to the ecosystem associated with use of herbicides.

**Brazilian elodea:** Brazilian elodea has been found in Indiana waters, including a thriving population in Griffy Lake in Bloomington, Indiana. The plant looks very much like a larger, more robust version of its commonly-found native relative, *Elodea canadensis* (waterweed). Stems are erect, cylindrical, simple or branched and grow until they reach the surface of the water where they form dense mats. In Griffy Lake, the Brazilian elodea appears to be overtaking established populations of another nuisance exotic, Eurasian watermilfoil.

**Common reed:** Common reed (*Phragmites*) is a widely distributed wetland plant found on five continents. It can grow up to 20 feet high in dense stands in wetlands and is long-lived. This plant is capable of reproduction by seeds, but primarily does so asexually by means of rhizomes. Research has shown that native and introduced varieties of this species currently exist in North America. The species is invasive in eastern states along the Atlantic Coast and increasingly across much of the Midwest and in parts of the Pacific Northwest. The plant has been common along roadside ditches in northwest Indiana, but appears to be spreading throughout the state. Where it occurs in abundance, it can change a diverse wetland community to a monoculture, decreasing the wildlife habitat value of the area.

**Hydrilla:** Hydrilla is a European species that is thought to have been introduced to Florida sometime during the 1950's. It is an aggressive, invasive species and has spread throughout Florida and most southern states, as well as California, Delaware, and the District of Columbia. Hydrilla has been categorized as one of the world's worst weeds and is certainly among the most notorious of submerged aquatic plant species. It may be found in all types of water bodies. Hydrilla is a submersed plant that can grow to the surface and form dense mats. The plant stems are slender, branched and up to 25 feet long. Infestations of Hydrilla are extremely severe and can completely choke entire lakes and public water supplies. There are no effective control measures against Hydrilla

once it has become established in a region. The plant is not known from Indiana waters.

**Eurasian watermilfoil:** Eurasian watermilfoil is an exotic aquatic plant that rapidly invades shoreline areas by forming dense mats across the surface of the water and can grow into fairly deep water. The plant is suspected to have been an accidental release from an aquarium and was first detected in Washington, D.C. in 1942. By 1950, it was found in Arizona, California, and Ohio. There are about 616 lakes in northern Indiana. Eurasian watermilfoil is currently reported from 175 Indiana lakes and reservoirs in this natural lakes region (compared to 75 in Minnesota and 190 in Wisconsin). This plant affects recreational and source water use in at least 58,981 acres in northern Indiana and 67,438 acres in southern Indiana. This nonnative milfoil crowds out desirable native vegetation, provides no desirable food for waterfowl or wildlife, and makes waterways unsuitable for boating, fishing, and swimming.

Traditional control methods may be less effective than biological control for this particular plant. Mechanical harvesting actually spreads milfoil, because the plant reproduces through fragmentation. Herbicides that are effective against milfoil are also very expensive and may have secondary effects on other plants or animals in the water. During 1998, 160 permits were issued for herbicide treatment of nuisance aquatic plants, the vast majority of which targeted milfoil (84 percent of the treatment area). Nuisance filamentous algae was a common target statewide. The average permit in northern Indiana was for treatment of 11 percent of the surface area, while 52 percent of the surface of southern Indiana lakes was treated.

Lakes treated for nuisance plant growth were three times larger than average for the region, averaged 310 acres in size, had more shallow areas, a greater number of lakefront homes, and tended not to be dominated by bluegreen algae. A report on the St. Joseph River basin indicated that "lakes with public access sites have a greater tendency to have problem densities of weeds, because species are transferred by boats and trailers" (Wesley and Duffy, 1998). This pattern was also indicated in the statewide survey in 1998. Eurasian watermilfoil and curly-leafed pondweed were prevalent in lakes in northern tier of counties and all northeastern counties in natural glacial lakes. Eurasian watermilfoil occurred in reservoirs across the central portion of the state that were generally located in state parks with high recreational use and near large metropolitan areas. Exotic aquatic plants were not reported from reservoirs in the upper Wabash River watershed in north central Indiana or from southern counties in the Ohio River and lower Wabash River watersheds. Control by any method is usually temporary due to repeated introduction of the plant via fragments transported by boat trailers from infested lakes.

Lake associations and water utilities in Indiana spend an estimated \$803,041 each year for aquatic plant control in Indiana lakes. Reward and 2,4-D constituted over 60 percent of the cost of chemicals with over 60,000 pounds of 2,4-D indicated on permit applications. Based on the surface area of lakes where presence of Eurasian watermilfoil was reported and current application rates, the annual demand for nuisance plant control in Indiana lakes could be over \$1,224,000. This number may be a very conservative estimate of the actual cost of controlling exotic plants that interfere with recreation and drinking water supplies and does not include state resources spent on treating plants on state-owned properties or treatment of private lakes where no permit is required.

Biological control of weeds can provide long-term control that only affects target plants without harming beneficial plants. Once established, biological controls can be self-maintaining, reducing the need for repeated treatments. Applications to lakes in Minnesota, Vermont, Illinois, and Ohio show that a native weevil (*Euhrychiopsis lecontei*) actually prefers the exotic species of milfoil over the native milfoil and has provided a successful means of milfoil control. The weevil lays its eggs on the tips of the milfoil plant. When the young hatch, they burrow down the stem, eating their way through the plant and slowing plant growth or shearing the top of the plant below the water surface. The weevil occurs in Minnesota, Wisconsin, and Illinois, and was discovered in northern Indiana at Saugany Lake, Laporte County, in 1997. Several lakes in Indiana have hired the application of weevils, but results have not been reported.

**Purple loosestrife:** Purple loosestrife, known for its beautiful purple flowers and landscape value, is a wetland plant from Europe and Asia that was introduced to the east coast of North America in the 1800s. It has become a serious pest to native wetland communities where it out-competes native plants. Purple loosestrife invades marshes and lakeshores, replacing cattails and other wetland plants. This nonindigenous plant is unsuitable to meet habitat needs such as cover, food or nesting sites for a wide range of native wetland animals including ducks, geese, rails, bitterns, muskrats, frogs, toads and turtles. Each year, more than a million acres of wetlands in the U.S. are taken over by this plant. To control the spread of purple loosestrife, a state law was enacted on July 1, 1996, that prohibits the sale of all forms of purple loosestrife (any variety, species, horticultural variety, cultivar), or other members of the genus *Lythrum*, whether reportedly sterile or not. The Department of Natural Resources has also been releasing insects to control purple loosestrife where it has invaded wetlands. Releasing the insects that control loosestrife in Europe can bring it under control. At a typical site, the amount of purple loosestrife around the boat ramp at Pleasant Lake in St. Joseph County

decreased dramatically only one year after releasing the insects in July 1998.

**Reed canary grass:** Reed canary grass is a cool-season, sod-forming, perennial wetland grass native to temperate regions of Europe, Asia, and North America (Wisconsin DNR, undated). The Eurasian ecotype has been selected for its vigor and has been planted throughout the U.S. since the 1800's for forage and erosion control. It has become naturalized in much of the northern half of the U.S., and is still being planted on steep slopes and banks of ponds and created wetlands. Invasion is associated with disturbances including ditching of wetlands, stream channelization, deforestation of swamp forests, sedimentation, and intentional planting. Over time, it forms large, monotypic stands that harbor few other plant species and are subsequently of little use to wildlife. Once established, reed canary grass dominates an area by building up a tremendous seed bank that can eventually erupt, germinate, and recolonize treated sites. Once established, reed canary grass is difficult to eradicate without removing other beneficial plants.

### **Which programs are engaged in management of invasive species?**

Numerous aquatic nuisance species have been introduced and dispersed in the Great Lakes, Mississippi River basin, and associated inland waters of the state by various pathways. The environmental and socio-economic costs resulting from ANS infestations will only continue to rise with further ANS introductions. Although an awareness of the problems caused by aquatic nuisance species is emerging, the solutions are not readily apparent. This comprehensive state management plan for nonindigenous aquatic nuisance species provides guidance for management actions to address the prevention, control and impacts of aquatic nuisance species that have invaded or may invade the Great Lakes region and inland state waters. State programs are described here and other related regional or federal programs are described in Appendix C.

#### INDR Division of Entomology and Plant Pathology (DEP)

The Division of Entomology and Plant Pathology manages plant and apiary pests for the preservation and protection of cultivated and natural resources, to facilitate trade, and to enhance the quality and appreciation of the environment. The division inspects and certifies 4,000 licensed dealers and 500 plant nursery facilities in Indiana to protect state resources from pests and pathogens (Robert Waltz, DEP, pers. comm., July 29, 2003). They work with federal agencies such as the U.S. Department of Agriculture's Animal and Plant Health Inspection System (APHIS), the North American Plant Protection Organizations's Phytosanitary Alert System, and other organizations to identify and track diseases, conduct surveys, inspect shipments and nursery stock, and eradicate or control species on the list of federal noxious weeds. Some aquatic plants on this list include hydrilla (*Hydrilla verticillata*), Chinese waterspinach (*Ipomoea aquatica*), giant salvinia (*Salvinia auriculata*), and anchored water hyacinth (*Eichhornia azurea*). Alerted by the public and a district fisheries biologist, the division has taken action to eradicate a population of water hyacinth found in a southern Indiana pond.

#### IDNR Division of Fish and Wildlife

The Division of Fish and Wildlife is charged with the management and protection of fish, game, and nongame animals in the state of Indiana. The Fisheries Section spends a total of about \$1.5 million per year on projects or programs related to exotic species. Regulatory programs address the use of fish and wildlife through permitting by imposing disease-monitoring requirements on imported fish and controlling use of high-risk exotic species that are not legal for possession without a permit. Most of the \$750,000 Lake Michigan program is oriented to exotic species management (Randy Lang, DFW, pers. comm., August 12, 2003). The division additionally supports a one-quarter million dollar monitoring project on yellow perch, a species that may be in peril partially due to interactions with exotics such as zebra mussels and round gobies in Lake Michigan. Additionally, division biologists conduct surveys of fish and wildlife including the identification and control of exotic species in certain circumstances. Exotic species management on inland lakes could conservatively cost another \$250,000 per year. Surveying and controlling exotic species on streams can amount to an additional \$100,000 to \$200,000 annually. In more extreme cases, the district fisheries biologists periodically use chemicals to eradicate fish where the fishery is irreversibly damaged by invasive species, such as gizzard shad or carp, and then restock the water with game and occasionally nongame fish species. Most of the predatory fish stockings are aimed at making the best use of ANS forage bases or to replace native species lost because of ANS. The hatchery and fish management annual grant agreements run about two million dollars each for a total of four million. Approximately half of that, or \$2 million, is a direct result of managing against or around the impacts of ANS on recreational and commercial fisheries in Indiana (Tom Flatt, DFW, pers. comm., August 12, 2003). Fish and wildlife biologists, working with private land owners, have enrolled 2,500 acres in the wildlife habitat improvement program, 78,000 acres in the classified wildlife habitat program, and 1,500 acres in the wildlife habitat cost-share program. Much of the stability of these areas depends upon active management and resistance to invasion by nuisance species.

#### IDNR Division of Law Enforcement

Conservation officers are trained in the detection and identification of exotic species that are illegal for possession, as well as

inspection of facilities that are permitted for use of certain controlled fish or other aquatic wildlife, and investigation of fish and wildlife damages caused by pollution. Information on preventing the spread of zebra mussels and other invasive species is included in Boater Education courses administered by the division.

### IDNR Lake and River Enhancement program (LARE)

The Division of Soil Conservation's Lake and River Enhancement Program (LARE) was developed to ensure the continued viability of public-access lakes and streams. The program's goal is to utilize a watershed approach to reduce nonpoint source sediment and nutrient pollution of Indiana's and adjacent states' surface waters to a level that meets or surpasses state water quality standards. The program funds aquatic plant management plans for lakes. In 1999, the State Soil Conservation Board (SSCB) approved grants of up to \$92,816 in supplemental funding as a 25 percent cost-share to fund nuisance plant control at 17 lakes in northern Indiana and provided up to \$43,650 to fund a demonstration project using milfoil weevils in two lakes in northern Indiana and a reservoir in southern Indiana. In the same year, staff from the Purdue University Pesticide Programs and the Division co-authored a 19-page brochure to inform lake associations and others about treatment methods and land use management to prevent overabundant aquatic plant growth. Continued interest in state funding for nuisance aquatic plant control resulted in the state legislature approving doubling of LARE fees associated with boat registration for additional funding of these activities, raising about \$700,000 per year for control of exotic species in state waters (Jim Ray, LARE, pers. comm., July 29, 2003).

### IDNR Division of Nature Preserves (DNP)

Indiana's system of Nature Preserves was established by a 1967 act of the General Assembly. The system's purpose is to provide permanent protection for significant natural areas within the state. A natural area is an area of land and/or water that has retained or re-established its natural character, or has unusual flora or fauna, or has biotic, geological, scenic or paleontological features of scientific or educational value. Nature Preserves are actually living museums, natural resources that contain a record of Indiana's original natural character. Like other museums, they serve as a valuable record for scientific study and increase understanding of the natural and historical heritage of the state. Natural areas can become dedicated nature preserves only with the agreement of the landowner, the Department of Natural Resources, the Natural Resources Commission, and the Governor. Once a preserve is dedicated, it is protected in perpetuity from development that would harm its natural character. Unfortunately, it may continue to be difficult and costly to protect dedicated nature preserves from invasion by exotic species. The Division is charged with insuring that the natural qualities of preserves are protected. This may include prescribed burning, removing non-native plants, or other management provided for in the Master Plan, and maintaining boundaries and trails. The IDNR Division of Nature Preserves provides technical support costing \$27,438 for the volunteer biocontrol project for distribution of purple loosestrife beetles, has spent \$51,787 on contract work and \$20,000 on seasonal labor per year for control of invasive species (e.g., *Rhamnus*, *Phragmites*, *Lythrum*) in nature preserves, and assists with publication and distribution of brochures on encouraging the use of native species in landscapes rather than exotics in both private and public lands (John Bacone, DNP, pers. comm., August 6, 2003). The Division is also actively involved in inventorying the state for previously unknown natural areas and has information on the distribution of a number of exotic species.

### Indiana Department of Transportation (InDOT)

Permits associated with road construction require the InDOT to monitor and maintain mitigation wetlands for five years after construction. They spend approximately \$2,500 to \$5,000 per acre to control invasive species in these wetlands (Rick Phillabaum, InDOT, pers. comm., July 29, 2003). The agency expends staff resources to explore more effective tools for invasive species control in wetlands and disturbed sites, especially for control of purple loosestrife, common reed, and aggressive native species such as cattails, until adequate native diversity is established in the mitigation wetland.

### Indiana State Office, Natural Resources Conservation Service (NRCS)

The NRCS provides technical information and financial assistance regarding impacts and control of exotic species on agricultural lands. The office produced a publication on wetlands and West Nile Virus (NRCS, 2003). The Wildlife Habitat Incentives Program (WHIP) is a voluntary program for people who want to develop and improve wildlife habitat primarily on private land. Through WHIP USDA's Natural Resources Conservation Service provides both technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP agreements between NRCS and the participant generally last from 5 to 10 years from the date the agreement is signed. The WHIP program provides funds for control of exotic species on land and waters dedicated to management for wildlife habitat. The NRCS spends an estimated \$3,000 to \$5,000 per year on control of reed canary grass along wetlands, drainage ways, and riparian areas (Dave Stratman, NRCS, pers. comm., July 29, 2003).

### State Health and Environment Officials (ISDH, IDEM, OISC, BOAH, ADDL)

Several state health agencies become involved in situations where parasites or pathogens of humans or domestic livestock are

introduced into the state. Epidemiologists at the Indiana State Department of Health (ISDH) assist with diagnosis, tracking, and public information on diseases. They have most recently been involved in the introduction of exotic diseases such as monkey pox, West Nile Virus, Chronic Wasting Disease (CWD), and health warnings associated with the discovery of toxin-producing bluegreen algae. Drinking water utilities are regulated by the Indiana Department of Environmental Management (IDEM) which issues permits that may monitoring and filtration of toxins produced by introduced algae in public source water. The Office of the Indiana State Chemist (OISC) reviews and registers pesticide products that might be needed for control efforts in Indiana, and incorporates specific invasive pest species materials into their pesticide applicator training materials and certification exams. The State Board of Animal Health (BOAH) promotes and encourages the prevention, suppression, control and eradication of infectious, contagious and communicable diseases affecting the health of domestic or wild animals within Indiana and trade in animals and animal products in and from Indiana. Animals suspected of infection are examined and tested by specialized veterinarians at the Animal Disease Diagnostic Laboratory (ADDL) at Purdue University. Introduced diseases for which the ADDL has tested have included largemouth bass virus, spring viremia of carp, and several diseases of trout and salmon. Researchers at the Southern Indiana-Purdue Agricultural Center (SIPAC) in Dubois County have a history of intense research in production and utilization of forages and agronomic crops, management of beef and dairy cattle, and catfish production. The Southern Indiana Disease Diagnostic Laboratory serves the agricultural industry in this part of the state.

#### Aquatic management and plant control companies

The DNR Division of Fish and Wildlife provides a complementary list of 18 companies in Indiana that provide lake management and plant control services. There are 34 companies listed as commercial fish suppliers, which sell to private property owners. Invasive plant control and renovation of fisheries on private waters due to ANS infestation can amount to 50 to 80 percent of company income (Scott Shuler, Aquatic Control, pers. comm., July 29, 2003). Estimates for the statewide industry are unknown.

#### Invasive Plant Species Assessment Working Group (IPSAWG)

Many Indiana agencies and organizations have joined together to form the Invasive Plant Species Assessment Working Group (IPSAWG). The goal of the group is to assess which terrestrial and aquatic plant species may threaten natural areas in Indiana. Through the assessment, recommendations will be developed for specific plant species concerning their recommendation, sale, and planting within the state. While the focus of the effort so far has been terrestrial, aquatic plants will also be evaluated as appropriate. The IPSAWG's goal is that all partner agencies and organizations would utilize the species assessment when recommending or selling plants.

#### University of Notre Dame

Researchers at the University of Notre Dame are developing risk assessments for freshwater taxa that will allow the prediction of likely invasive species in the Great Lakes region. Once these species are identified, efforts can be made to keep them out of Indiana. A risk assessment protocol for fishes in the Great Lakes has been completed, and similar analyses for molluscs and aquatic plants are underway. With these tools, it is possible for regulators to assess species before they arrive and determine whether it is in the best interests of the state for them to be allowed. Risk assessments can be applied to organisms that may be introduced intentionally (e.g. aquarium and watergarden trades) or unintentionally (e.g. ballast). In future work, risk assessments already formulated will be refined, and risk assessments will be developed for additional taxa.

#### The Nature Conservancy, Indiana Chapter

Together with our members and conservation partners, the Indiana Chapter of The Nature Conservancy has protected over 43,000 acres of irreplaceable forest, wetland and prairie habitats in the state. The chapter works with the IDNR Division of Nature Preserves to prevent and control the invasion of exotic species in these areas, spending an estimated \$30,000 annually in salary and material costs along with an additional \$5,000 annually to develop site conservation plans (Ellen Jacquart, pers. comm., August 27, 2003). They also support a statewide biocontrol project using beetles that feed on purple loosestrife. The chapter assisted with development of the brochure *Landscaping with Plants Native to Indiana: Recommended Plants and Their Sources*, which encourages individuals and landscapers to use native species rather than invasive species in both terrestrial and aquatic settings.

#### Indiana Lakes Management Society (ILMS)

The ILMS promotes and encourages the understanding and comprehensive management of lakes and reservoirs and their watershed ecosystems. Indiana is blessed with over 500 natural (glacial) lakes greater than 5 acres in area. These are located primarily in the three northernmost tiers of counties. Besides the natural lakes, there are 25 public reservoirs larger than 300 acres. In addition, the state contains at least 10,000 artificial ponds of various sizes. Total area of lake habitat in Indiana is estimated to be almost 300,000 acres. The southern tip of Lake Michigan makes up about half this amount. All together, a little more than 1% of Indiana's total area is composed of "lake water." Approximately 120 lake associations provide information on issues of concern to residents around

private and public lakes in Indiana. For instance, the 15 lake associations working within the Tippecanoe Environmental Lake and Watershed Foundation (TELWF) and over 120 lake associations involved with the ILMS have raised private funds for aquatic plant herbicide control and biocontrol demonstration projects, as well as distributing 5,000 newsletters each quarter and answering about 100 visits and calls each week with information on permits and other ANS issues (Lynn Stevens, TELWF and ILMS, pers. comm., July 29, 2003). The cost of these services, if provided by a private sector contractor, would amount to approximately \$30,550 annually.

### Indiana Native Plant and Wildflower Society (INPAWS)

The INPAWS promotes the appreciation, preservation, conservation, utilization and scientific study of the flora native to Indiana and to educate the public about the values, beauty, diversity and environmental importance of indigenous vegetation. Together with the Indiana Chapter of The Nature Conservancy and IDNR Division of Nature Preserves, they sponsored development of brochures on exotic and native plant species for landscape use. They also organize and host volunteer control efforts to remove invasive species from nature preserves. Other statewide aquatic gardening societies also provide information to property owners and retailers that address invasive species concerns.

### Indiana-Illinois Sea Grant

The Indiana-Illinois Sea Grant offices are located on the campuses of the University of Illinois and Purdue University. Sea Grant produces a number of outreach materials on exotic species, including a CD-ROM with a compendium of brochures and other information, exotic species advisory signs that are posted at public access sites and boat ramps throughout Indiana, "Don't Dump Bait" stickers and informative signs for bait shops, zebra mussel citizen monitoring kits, videos, and posters.

### Indiana Lake Michigan Coastal Zone Management

The purpose of the Indiana Lake Michigan Coastal Program is to enhance the State's role in planning for and managing natural and cultural resources in the coastal region and to support partnerships between federal, state and local agencies and organizations. The Indiana Lake Michigan Coastal Program relies upon existing laws and programs as the basis for achieving its purpose. Indiana's most challenging coastal issues include public access to the shore, beach closures, water quality, brownfields dredging, shoreline erosion, and preservation of natural areas. Coastal industries are significant to Indiana's economy. The Lake Michigan shore is home to the fifth largest oil refinery in the world, 25% of the nation's steel production, and the busiest port in the Great Lakes (Port of Indiana, 1994). Tourism and recreation are also important, especially in the extensive Indiana Dunes State and National Lakeshore. In 2003, Indiana received \$1.171 million as the state's share of the federal Coastal Zone Management Program funds for projects to protect and restore natural resources in Indiana's Lake Michigan coastal region. Approximately \$975,000 of this funding is being used as for the Indiana Coastal Grants program and is available to local entities for projects meeting the program criteria. The program can provide funds for exotic species management in this region.

### Circle City Aquarium Club, Indianapolis, Indiana

Established in Indianapolis in 1991, the Circle City Aquarium Club promotes a higher educational level of the aquarium hobby to the membership and public at large; stimulates an interest in the hobby; increases knowledge of environmental concerns related to the hobby and means of affecting those concerns; and develops social friendships of the members. They have monthly meetings, host a chat room, feature speakers, and produce a newsletter for members that could include information on the risks of releasing fish to public waters or on other ANS issues. An officer of the aquarium club participated in development of the state ANS management plan.

### Other programs

A number of other programs include an invasive species outreach or funding component. The Indiana Commissioner of Agriculture's office supports control of disease and weeds that affect agriculture. Purdue University is initiating a new curriculum on invasive species, based on the efforts of Dr. Carol Lembi on aquatic plants and Dr. Steve Yaninek on aquatic insects. The Illinois-Indiana regional chapter of the North American Native Fishes Association (NANFA) supports appreciation for and use of native fishes rather than exotics in the aquarium and pet trade. The Indiana Karst Conservancy is exploring the impact of ANS on dedicated nature preserves and other karst areas with ground water sources (Kriste Lindberg, IKC, pers. comm., July 29, 2003). The Sierra Club in Indiana is increasingly involved in outreach to members on these issues (John Ulmer, Sierra Club, pers. comm., July 29, 2003). The City of Bloomington parks department has participated in state cost-share biocontrol projects using weevils on Eurasian watermilfoil, funded plant control, and contracted for plant surveys to detect problematic invaders (Steve Cotter, City of Bloomington, pers. comm., July 29, 2003). In 2003, the International Association of Fish and Wildlife Agencies (IAFWA) funded a multiyear project to facilitate communication on ANS issues between state fish and wildlife agencies in each region of the nation and supporting a pilot state communication project that will provide the agencies with model plans for public outreach on ANS issues.

### **What regulatory authorities control management of exotic species?**

The prevention and control of aquatic nuisance species have global implications that require policies and programs at various levels of government. The federal Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646, also known as NANPCA) delineates the basic role of federal, regional and state government in the implementation of the act. The NANPCA provides a foundation for the implementation of state plans.

#### **Federal Role**

The NANPCA is the federal legislation which calls upon each state to develop and implement a comprehensive state management plan for the prevention and control of aquatic nuisance species. The act, established for the prevention and control of the unintentional introduction of nonindigenous aquatic nuisance species, is based on the following five objectives as listed in Section 1002 of NANPCA:

- to prevent further unintentional introductions of nonindigenous aquatic nuisance species;
- to coordinate federally funded research, control efforts and information dissemination;
- to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions;
- to understand and minimize economic and ecological damage; and to establish a program of research and technology development to assist state governments.

The NANPCA was primarily created in response to the zebra mussel invasion of the Great Lakes, where this ballast water introduction has caused serious ecological and socio-economic impacts. Although the zebra mussel invasion of the Great Lakes has played a central role in prompting passage of the federal legislation, NANPCA has been established to prevent the occurrence of new ANS introductions and to limit the dispersal of aquatic nuisance species already in U.S. waters.

The national Aquatic Nuisance Species (ANS) Task Force, co-chaired by the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, was established under Section 1201 of NANPCA to coordinate governmental efforts related to nonindigenous aquatic nuisance species in the United States with those of the private sector and other North American interests. An important role of this federal group in the implementation of NANPCA is to facilitate national policy direction in support of the act. The ANS Task Force (consisting of seven federal agency representatives and eight ex officio members representing nonfederal governmental entities) has adopted the Aquatic Nuisance Species Program under Section 1202 of the act which recommends the following essential elements:

Prevention: Establish a systematic risk identification, assessment and management process to identify and modify pathways by which nonindigenous aquatic nuisance species spread.

Detection and Monitoring: Create a National Nonindigenous Aquatic Nuisance Species Information Center to coordinate efforts to detect the presence and monitor the distributional changes of all nonindigenous aquatic nuisance species, to identify and monitor native species and other effects, and to serve as a repository for that information.

Control: The Task Force or any other potentially affected entity may recommend initiation of a nonindigenous aquatic nuisance species control program. If the Task Force determines, using a decision process outlined in the control program, that the species is a nuisance and control is feasible, cost effective and environmentally sound, a control program may be approved.

The ANS Task Force recommends research, education and technical assistance, and rapid response planning as strategies to support the elements listed above.

The ANS Task Force also provides national policy direction as a result of protocols and guidance that have been developed through the efforts of the following working committees: Research Protocol/Coordination Committee, Intentional Introduction Policy Review Committee, Great Lakes Panel on Aquatic Nuisance Species, Ruffe Control Committee, Risk Assessment and Management Committee, Detection and Monitoring Committee, Zebra Mussel Coordination Committee and the Brown Tree Snake Control Committee.

One role of the federal government in the prevention of unintentional introductions of aquatic nuisance species is defined under Section 1101 of NANPCA, which mandates the establishment of regulations for ballast water management aimed at limiting introductions through transoceanic shipping. U.S. regulations control the discharge of ballast from all vessels entering Great Lakes

waters, thus far the only region in the United States to be regulated. The regulations have been enforced by the U.S. Coast Guard since May 1993, with active assistance from the Canadian Coast Guard and Seaway authorities. (The Canadian federal government has yet to enact federal ballast water management regulations; voluntary guidelines are in place.) The need has been identified for a federal research program to develop innovative technology for ballast water management.

The U.S. Fish and Wildlife Service administers the Lacey Act, which prohibits importation and interstate delivery of listed species. The list of injurious live or dead fish, mollusks, crustaceans, or their eggs (50 CFR 16.13) include the following aquatic nuisance species:

- walking catfish, family Clariidae
- mitten crabs, genus *Eriocheir*
- zebra mussels, *Dreissena polymorpha*
- live or dead uneviscerated salmonid fish, live fertilized eggs, or gametes of salmonids are prohibited unless accompanied by a certification that the ensures they are free of *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia and infectious hematopoietic necrosis, and meet the conditions in 50 CFR 16.13
- Any live fish or viable eggs of snakehead fishes of the genera *Channa* and *Parachanna* (or their generic synonyms of *Bostrychoides*, *Ophicephalus*, *Ophiocephalus*, and *Parophiocephalus*) of the Family Channidae.

The U.S. Department of Agriculture also regulates the importation and interstate transport of aquatic pests and pathogens that can have a negative impact on crop production, horticulture, silviculture, and aquaculture. The federal noxious weed list has authority through the Plant Protection Act (Title IV) of the P.L. 106-224 (2000). Included in the list are 19 aquatic or wetland species as of September 8, 2000. These species include mosquito fern (*Azolla pinnata*), anchored water hyacinth (*Eichhornia azurea*), and hydrilla (*Hydrilla verticillata*).

Application of pesticides for control of exotic species must be conducted under FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act. In response to the Talent Decision in the 9<sup>th</sup> Circuit Court and ensuing actions, G. Tracy Mehan, III, Assistant Administrator for Water, and Stephen Johnson, Assistant Administrator for Prevention, Pesticides and Toxic Substances, signed a memorandum on July 11, 2003, that provides interim guidance on whether certain pesticide uses may legally occur without issuance of a permit under the National Pollution Discharge Elimination System (NPDES) of the Clean Water Act. The Interim Guidance states that the application of a pesticide to waters of the United States consistent with relevant requirements of Federal Insecticide, Fungicide, and Rotencide Act (FIFRA) does not constitute the discharge of a pollutant that requires a NPDES permit in the following circumstances: (1) the application of pesticides is directly to waters of the United States in order to control pests (for example mosquito larvae or aquatic weeds that are present in the water) and (2) the application of pesticides is to control pests that are present over waters of the United States that result in a portion of the pesticide being deposited to water bodies (for example when insecticides are aerially applied to a forest canopy where water may be present below the canopy or when insecticides are applied for control of adult mosquitoes). EPA will solicit comments on this interim statement and guidance through the Federal Register prior to determining a final Agency position.

On July 11, 2003, G. Tracy Mehan, III, Assistant Administrator for Water, and Stephen Johnson, Assistant Administrator for Prevention, Pesticides and Toxic Substances, also signed a “Charge to the NPDES/Pesticides Work Group” that directed an EPA workgroup to compare the risk management/risk mitigation measures that have been adopted as a result of the Federal Insecticide, Fungicide, and Rotenticide Act (FIFRA) label relative to actions that would be required as a result of an NPDES permit. The workgroup was also directed to identify any recommendations that could be made under either FIFRA/FQPA (Food Quality Protection Act) or Clean Water Act (CWA) that would assist in better coordination, integration and increased efficiencies between the programs and continued protection of the aquatic environment. For example, these could include modifications that could be made in the pesticide registration process or changes in the approach to risk management under the CWA and/or FIFRA.

### Regional Role

Two major basins incorporate waters of the state of Indiana—the Mississippi River, including the Ohio and Wabash River drainages, and the Great Lakes, including the St. Joseph and other rivers draining to Lake Michigan in the northwest and with a smaller portion of the northeastern part of the state draining to Lake Erie. Fisheries related activities in the Ohio and Mississippi River basins have been regionally coordinated by two organizations—the Mississippi Interstate Cooperative Resource Association (MICRA), established in 1991, and Ohio River Valley Water Sanitation Commission (ORSANCO), established in 1948. The Ohio River Fish Management Team (ORFMT) is a multi-state effort to collaborate on research and regulations along the length of the Ohio River system. The Great Lakes ANS Panel provided early leadership for developing state ANS management plans, including model guidance on invasive species regulations. Although none of these organizations has direct regulatory authority within Indiana, they



all have been instrumental in generating discussion between states in the respective regions regarding common regulatory interests and concerns. Indiana has had one or more state agency representatives participating in activities of these two groups over the past decade.

### **State Role**

The comprehensive state management plans for aquatic nuisance species are addressed in Section 1204 of NANPCA. Section 1204 requires that the management plan “identifies those areas or activities within the state, other than those related to public facilities, for which technical and financial assistance is needed to eliminate or reduce the environmental, public health and safety risks associated with aquatic nuisance species.” The content of each state plan is to focus on the identification of feasible, cost-effective management practices and measures to be pursued by state and local programs to prevent and control aquatic nuisance species infestations in a manner that is environmentally sound. As part of the plan, federal activities are to be identified for prevention and control measures, including direction on how these activities should be coordinated with state and local efforts. Section 1204 also states that in the development and implementation of the management plan, the state needs to involve appropriate local, state and regional entities, as well as public and private organizations that have expertise in ANS prevention and control.

The state management plans are to be submitted to the national ANS Task Force for approval. If the plan meets the requirements of the ANS Task Force, the plan becomes eligible for federal cost-share support. If not, the plan is returned to the state with recommended modifications. Plans may be implemented with other funds supplied by state and cooperative agencies. Further details on the state management plans can be found in Section 1204 of the act.

Regulations in many states were initially designed to address particularly high risk species and activities for which species are imported and sold. Other nuisance or exotic species are addressed within the context of pests or pathogens that affect agricultural crops or aquaculture production. An annotated listing of all Indiana regulations pertaining to prevention and control of aquatic nuisance species is provided in the Appendix E.

### **Designing an integrated, comprehensive regulatory approach: Issues for further examination**

As invasive exotic species and global trade introduce more pervasive problems, a more integrated and comprehensive approach to state, regional, and federal authority will be needed to avert the economic and aesthetic changes that could occur. Invasive species and exotic pests and pathogens may be transported together, indicating a need for consistent and coordinated jurisdiction across all nuisance species. A comprehensive approach may consist of either: (1) modification of a number of existing definitions and authorities in state statutes and administrative rules to include additional invasive species; or (2) development of a state statute to specifically provide for addition and modification of sections of code addressing all invasive species, similar to Minnesota Chapter 84D on Harmful Exotic Species and based on the Great Lakes ANS Panel model statute recommendations.

Some of issue areas that may require additional examination are described below. Significant contributions to this analysis were derived from *Analysis of Laws & Policies Concerning Exotic Invasions of the Great Lakes: A Report Commissioned by the Office of the Great Lakes, Michigan Department of Environmental Quality* by Eric Reeves, March 15, 1999.

**Definition and classification of invasive exotics:** Adequate regulatory authority is based on clear and defensible definitions that classify the characteristics of plants and animals considered by an invasive species program. Regulatory authority could address species that are both invasive and exotic (nonnative). They may need to distinguish between exotic and naturalized nonnative species (i.e., species that have been present in Indiana for so long or are so widely distributed that control measures would be ineffective). Certain invasive species may be regulated as a pest in a particular area, even if the species is widespread in other parts of the state. Exotic species may not be invasive or harmful. Regulation of benign exotics would be an inefficient use of authority. In contrast, there are also native species that are invasive nuisances in situations where the area has been disturbed or is being managed for a particular purpose. Therefore, most regulatory authorities are often built on the concept of “harmful exotics”.

Examples of terms that may require definition are: nuisance, invasive, harmful exotic, incapable of perpetuation, confined for research, indigenous, and naturalized species are not specifically defined in state law or administrative code. Worms (i.e., annelids, oligochaetes, trematodes, cestodes, planarians), lower invertebrates and microorganisms that can be pests or pathogens of fish and wildlife are not included in either the plant pest lists, licensing of bait dealers or wild animal importation permits. A specific statute regulates the control of nuisance aquatic plants, including exotic and native species in public waters. Exotic species that have a negative impact on other types of commercial facilities or animals that affect recreational uses of water, such as clogging of intake

pipes by zebra mussels, are not directly defined or regulated as pests in state law. Release of organic or inorganic matter that pollutes aquatic communities and limits uses of water is prohibited under state water pollution control laws in IC 13-18-4. Effluents from certain fish hatchery systems are required to have a National Pollution Discharge Elimination System (NPDES) permit. However, exotic species in these effluents are not generally monitored or prosecuted. In comparison, the Pennsylvania law specifies that discharges be “rendered incapable of containing self-perpetuating living organisms...” (Pennsylvania Consolidated Statutes, 3PCS Sect 4219.c). Several states, including Minnesota, Wisconsin, and New York have specifically included “biological materials” as a form of pollution under state pollution control laws. However, it is not clear whether release of exotic plants, animals, microorganisms, or viable genetic material falls within the jurisdiction of state pollution control laws in Indiana, as indicated by a recent inquiry about regulation of “bacterial remediation” in public lakes. A procedure for classifying exotic species by using a designated criteria or a risk assessment method could institute consistency, predictability, and responsibility for justifying risk management decisions and authorities.

**Jurisdiction:** As with other exotic species issues, consistency between states where trade occurs regularly or where watersheds overlap jurisdictions is essential for effective control. Ability to enter into cooperative agreements and powers of quarantine to manage pests and pathogens, as currently defined in state law, may need to be extended to address other aquatic nuisance species and terrestrial invasive species. The department would need the ability to respond to an introduction by protecting a particular uninfested area or waters that are particularly sensitive to exotics. For instance, specific policies may need to be developed to address management and release of invasive species on state properties. The impacts of invasive species may be different for sensitive properties that are maintained by the state for particular reasons (e.g., nature preserves, recreational fisheries), requiring more specific regulations than the rules that cover general use statewide. Agencies may need to review their policies through an intradepartmental oversight mechanism to ensure that different division policies and actions regarding invasive species are not contrary to each other within the same agency.

**Interjurisdictional issues and interstate commerce laws:** Prevention and control of invasive aquatic species may require careful evaluation and effective use of interjurisdictional authorities. Although management of invasive species by waterway or watershed makes sense ecologically, watersheds are not a legal entity. However, regulations within a state may overlay the counties on the watershed and designate a portion of the county that nearly matches watershed boundaries. State laws are constrained by federal interstate commerce laws. Regulations may need to clarify or extend control of interstate shipments by stating that animals must not be unloaded or leave the control of a common carrier. A mechanism for interstate agreements to regulate fish and game management on boundary waters is available in IC 14-22-10-9. Extension of this authority to include agreements regarding invasive species that move along waterways that cross state lines may be beneficial. Authority in IC 14-24-2-2 to enter into agreements with the federal government or other states for the purpose of controlling pests and pathogens of plants and bees should possibly be extended to cover management of invasive species.

Under IC 14-22-34-14, the department may enter into agreements with federal agencies, political subdivisions or private individuals for the purpose of managing an area used by endangered species, possibly including removal of invasive species that threaten habitat used by the protected species. The ability to prohibit the importation of an animal from an area with an epidemic disease under IC 15-2.1-18 could be extended to importation of aquatic animals from waters known to contain particularly harmful invasive species. Relationships between state agencies, such as the Department of Commerce, Board of Animal Health, Office of the State Chemist, Office of the Commissioner of Agriculture, Department of Health, Department of Environmental Management, and Department of Natural Resources may need to be better integrated to effectively and efficiently address invasive species and their impacts on wild and domestic aquatic organisms.

**Invasive species council:** The Department of Natural Resources is working with other state agencies and representatives to explore the needs and development of a state invasive species council to coordinate a number of programs that address management of aquatic and terrestrial invasive species. The Division of Fish and Wildlife is funding a facilitator to develop an Indiana State Aquatic Nuisance Species (ANS) Management Plan for approval by the ANS Task Force. However, there is no legislatively created council or program to guide and coordinate overall management of aquatic or terrestrial invasive species. Continuation of the ANS Advisory Council, as an outgrowth of the ANS Plan Work Group, would facilitate further implementation of the plan and provide a pilot process for the larger council.

**Enforcement:** Additional funding for patrols and training of law enforcement officers in detection of nuisance species may be essential to ensure that well-designed regulatory authority can be implemented. Due to the extreme cost associated with the remediation of damage caused by exotic species, if remediation is even possible, fines must be commensurate with potential damages. Civil penalties associated with misdemeanors are low (up to \$500 for unlicensed possession of a prohibited species)

indicating that the fines are not intended as a major deterrent for major commercial ventures such as aquaculture, the pet trade or commercial shipping. No criminal penalties exist for the violations. Existing authorities to assess and recover costs related to civil liability resulting in wildlife damage assessments under IC 14-22-10-6 may be construed or extended to cover death of fish or game resulting from negligent or intentional release of nuisance exotic species. Clarity may be needed to ensure that definitions of jurisdictional (e.g., “public” or “private”) waters adequately address risks to public and commercial resources.

**Approved and illegal species lists:** Regulations also include several sets of species that are prohibited for importation, possession or sale for any use, as well as a list of approved fish species for sale for release under permits. These lists were developed as the department becomes aware of individual species that are known to pose a serious risk to natural and commercial resources in Indiana. The department has not undertaken a comprehensive risk assessment to proactively identify species for these lists.

Risk assessments that describe the level of threat associated with the life history characteristics, probability of introduction and establishment, and use or containment of the species could be a standard science-based procedure for permitting authorities. Risk assessments must be driven by the best available data and refereed science, not just expert opinion, anecdotal data, or unpublished scientific data without adequate peer review. Use of a published decision support tool creates a process that can be replicated, periodically evaluated and updated, and defended both legally and publicly.

Determining the level of risk for particular species may be very complex. Risk posed by some species may be difficult to assess due to a lack of scientific information on the life history, invasive character or adaptability of the species. Some states use the concept of a “clean list” that identifies allowable species and places the burden of proof on the applicant for species posing unknown levels of risk. Some states, such as Pennsylvania, broadly exempt tropical or saltwater fish under the assumption that these species will not survive winters in the fresh waters of the northern United States. Importers of colder water fish that may survive could be required to submit information on the ecological and economic risk of the species prior to approval for implementation under statutes addressing the sale of fish in Indiana. It is possible for an introduced species to be benign until it reaches a threshold level and then suddenly creates a nuisance for reasons that may or may not be understood. A significant lag time may exist from the time the invasive is recognized to the time when it attains critical mass and becomes problematic.

The effectiveness of illegal species lists in states that are joined by common waters or shared introduction pathways may be seriously compromised if they differ in which species they address. At a regional level, the Reeves’ (1999) analysis suggests that it would be more effective to develop such lists for use in all Great Lakes basin states under the auspices of the Great Lakes Fishery Commission and the Great Lakes ANS Panel. Regional and national structures are in place for dealing with agricultural pests between state and federal jurisdictions. It may be necessary to develop or improve similar infrastructure for adequate enforcement regarding invasive species that have impacts on other natural and cultural resources.

**Genetic modified organisms:** Genetic engineering has become a tool for developing species with enhanced characteristics, such as faster growth or higher quality. State regulations have gradually incorporated references to use of genetically altered (or genetically modified) species, including biological control by release of sterile individuals. Some regulations have been extended to address importation of eggs, gametes or other genetically viable material. A risk analysis could be developed and implemented to determine acceptable use of biotechnology and genetic engineering in aquatic systems.

**Pests and pathogens:** Taxa that are controlled in the entomology and plant pathology code include arthropods, nematodes, microorganisms, fungus, parasitic plants, mollusks, plant diseases, or exotic weeds that are injurious to plants or bees. Pests or pathogens of fish or other wildlife are addressed in importation requirements of the fish and wildlife code. Most of the focus has been on diseases of fish. In cooperation with regional guidelines developed by the Great Lakes Fishery Commission in their *Great Lakes Fish Disease Control Policy and Model Program* (Hnath, 1993), the Division of Fish and Wildlife places conditions on permits for verifying and controlling the health status of all lots of stocked fish or fish sold for release with special emphasis on diseases of trout and salmon. Some states also provide for fish health certification requirements in administrative code or statute. Because discovery or introduction of new diseases can change quickly, regulations must be flexible enough to incorporate additional coverage.

Diseases of aquatic animals and water-borne pests and pathogens are addressed by several agencies in Indiana. Most of the legal structure regulating aquaculture facilities reside with the Department of Natural Resources. Aquaculture production is not represented on the state Board of Animal Health under IC 15-2.1-3-2. However, the state Animal Disease Diagnostic Laboratory (ADDL) at Purdue University has retained the services of aquatic veterinarians who provide assistance to state and private fish hatcheries. The ADDL has investigated diseases introduced into the state such as Largemouth Bass Virus (LMBv) and regularly conducts fish health inspections on shipments of trout and salmon. The state department of health has been involved in the

epidemiology of diseases transmitted by nuisance aquatic species, such as West Nile virus, water-borne diseases or toxin-producing organisms, such as cholera or the bluegreen alga *Cylindrospermopsis*, and in diseases spread by terrestrial exotic pets, such as monkey pox. The commissioner of agriculture's office primarily provides assistance in markets and financing of aquaculture facilities. The Indiana Aquaculture Association has been somewhat variable in its strength as an organization for bridging agency policies and private aquaculture issues. As other species become increasingly common in aquaculture and production of aquatic organisms increases in Indiana, state capacity to assist aquatic production facilities and address additional invasive species and disease risks may need to be examined. The state of Michigan and several other states maintain aquaculture advisory committees that coordinate information transfer and policy recommendations. A similar body may be useful in Indiana.

**Aquaculture and bait dealers:** State regulations may not adequately address ANS risks associated with industries that are not specifically related to use of exotic fish in aquaculture production and sale for release. Because the regulations were developed within the fish and wildlife code, the primary concern was for reducing risks posed to natural resources by fish and other aquatic animals directly introduced into public waters. For this reason, most of the regulations cover only fish that are released or sold for release such as aquaculture, stocking, and use of bait in public waters. Property regulations may need to specifically address release of invasive species or vectors of disease on public property. Bait dealers licenses cover relatively few taxa (i.e., "minnows" and crayfish) and do not address earthworms or other species that may be sold as bait. Approximately 500 bait dealers are licensed in the state by the DNR. No specific public education programs or requirements exist for record-keeping on sources and species or inspection of bait dealers to ensure that prohibited species or other harmful exotics are not introduced. Several species of fish on the "clean" list are exotic species that may have invasive tendencies (e.g., mosquitofish) and may merit reexamination and removal from that list. Some states have implemented policies and training in HACCP procedures to ensure that bait is checked for ANS. Although wild animal possession permits (312 IAC 9-11-2(e)) anticipate the possibility and require a plan for the quick and safe recovery of an escaped animal, aquaculture permits do not. At a regional level, the Reeves (1999) analysis suggests that it would be more effective to develop interagency agreements for inspection and certification of bait fish production ponds as a primary control point in the potential spread of ANS by that pathway.

**Private aquaria, ornamental fish ponds, aquascapes, food fish, and pet trade:** Under the assumption that fish purchased as pets or for food will not be released into outdoor waters, most of the regulations exempt food markets and the aquarium and pet trade. Public exhibits, such as zoos and aquariums, are also exempt from most permit requirements. Nurseries that sell aquatic plants and snails for backyard ponds are regulated to the extent that some species, such as purple loosestrife, are described or prohibited as plant pests or federal noxious weeds. Stocking of private ponds is only indirectly regulated by controlling the species which may be sold under a Haulers and Suppliers Permit or Aquaculture Permit. Most regulations exempt the aquarium and pet trade, sale of live fish for food, and other activities that may directly or indirectly spread nuisance exotics. Rules describing containment may need to be extended from aquaculture facilities and fish to other situations and species, especially for organisms held in backyard ponds, outdoor pens, having an external effluent, or in flood plains. Ironically, classifying certain pets as illegal without a permit, such as crocodilians over five feet in length or snakehead fish, may result in release of these specimens by pet owners who do not recognize an alternative means of dispossession. In response to heightened concern about introduction of Asian carp into Lake Michigan, the Chicago City Council passed a municipal ordinance banning any possession of these fishes without a permit and requiring retail food establishments to kill any live Asian carp before the fish is sold or provided to the customer (Title 7, Chapter 12 of the Municipal Code of Chicago, City Council Journal, April 9, 2003).

Education plays a key role in enforcement affecting private activities. There should be a link between the regulatory authorities, outreach organizations, and the public that encourages citizens to become a part of monitoring compliance and to take ownership in the impacts and control of invasive species.

**Other pathways:** Some states have regulations regarding additional pathways, such as recreational boating and transportation of aquatic recreation devices between waters. Existing authority over activities that aid in the spread of exotics (e.g., fragmentation by boat harvesters, habitat disturbance caused by shoreline construction) could include review and action to address impacts of the activity on risks related to exotic species. Ballast water regulations have not been proposed at the state level, but the department of natural resources has voiced political support for use of coordinated regional or federal regulations through comments on proposed federal legislation and participation in the Great Lakes ANS Panel.

**Early detection and rapid response activities:** Other activities related to aquatic nuisance species may be added to existing mandates for state agencies. These new program activities may include screening and monitoring for early detection of ANS introductions. State or regional authorities must be adequate to develop and implement rapid response activities. Recent incidents involving discovery of exotic toxin-producing cyanobacteria (blue-green algae) in public waters used for drinking and recreation

suggest that better communication and prior establishment of roles and relationships between state agencies regulating animal and human health may be warranted. The IDEM works with DNR and other agencies to respond to emergency spills of toxic substances. Several of these staff are already trained in the identification of some aquatic nuisance species, particularly fish. Additional resources for training of the same team or implementation of a similar model could be acquired to react to emergency releases of invasive organisms. These regulations may include authority for preapproved methods of eradication, cooperative functions between agencies, entry onto private property, quarantines or other required verification and control activities.

Emergency rulemaking authority can be a critical tool for rapid response. For example, when state authorities attempted to address pesticide applicator competency issues related to the potential spread of West Nile Virus during 2002 to 2003, they discovered too late that the agency did not have emergency rulemaking authority (Dave Scott, Office of the Indiana State Chemist, pers. comm., August 15, 2003). As a result, the state may have missed out on an entire, and possible critical, mosquito pesticide application season. Emergency rule authority by signature of director of DNR can be used in the event of introduction of an invasive or to prevent an impending introduction, rather going through the normal rule process which usually takes nine months. Emergency rules must be followed by permanent rules to stay in effect beyond the initial period of not more than a year. This authority may need to be extended to other agencies with regulatory jurisdiction over invasive species introductions.

### **What can Hoosiers do to prevent and control the impacts of ANS?**

The goals of this state management plan are designed to address different stages of ANS invasion:

1. preventing the introduction of new nonindigenous species transported from water bodies in other parts of the continent or world;
2. limiting the spread of established, reproducing ANS populations to other water bodies in Indiana and other states; and
3. mitigating the harmful ecological, economic, social, and public health impacts of colonization of ANS populations within water bodies, including the harmful impacts resulting from colonization.

The plan includes the following goals and actions. Approximately 180 strategies and actions are listed under each of 32 objectives. The information for this section was derived from a number of agency meetings, a public meeting on April 15, 2003, and interviews with 43 stakeholders. The list of project reviewers totals over 120 individuals who represent industries, agencies, and organizations with an interest in aquatic nuisance species management. The management actions were made available for public review and comment to determine which tasks should be modified, eliminated or added, and which tasks should be highest priority for the next five-year planning cycle. The group voted at the meeting, and project reviewers not present were allowed an absentee ballot by email, to identify their individual top five priority objectives. Objectives that received at least 50% of the highest number of votes are indicated by a diamond in the *Index to the Strategic Management Plan*. Comments were submitted by attending the second public meeting on July 29, 2003, at The Garrison Conference Center in Indianapolis, Indiana, or by sending comments to the project facilitators prior to August 15, 2003.

The Strategic Management Plan for the Indiana ANS plan outlines all strategies and actions that have been deemed useful for prevention and control of ANS in the state. However, recognizing the limitations of budgets and resources, the state has selected a subset of higher priority actions to focus on initially. The Implementation Table gives the primary and cooperating entities, as well as actual costs for each of the past two fiscal years (FY01-02) and costs for proposed highest priority management actions for the first five years of the program (Appendix F). The Implementation Schedule provides a sequence for high priority actions to be completed within the first two years of project management (Appendix G).

### **Index to the Strategic Management Plan: Goals, Strategic Actions, Tasks, and Subtasks**

Goals and objectives are indicated in bold type. Strategies that received at least 50% of the highest number of votes for priority rating during the public review are indicated by a diamond (◆).

#### **Goal I. Coordination**

##### **◆ I.A. Develop an integrated management plan**

- I.A.1. Develop a statewide internet web site
- I.A.2. Prioritize activities and adhere to timelines
- I.A.3. Prioritize enforcement actions

##### **◆ I.B. Integrate the state plan with regional and national initiatives**

- I.B.1. Influence regional and national policies

- I.B.2. Participate in regional activities of the Great Lakes basin
- I.B.3. Participate in regional activities of the Mississippi River basin

### ◆I.C. Develop a baseline understanding of ANS issues by the public

- I.C.1. Understand and influence public perception
  - I.C.1.a. Survey public opinion
  - I.C.1.b. Inform the public about risks and responsibilities
  - I.C.1.c. Develop a common language
  - I.C.1.d. Establish relationships with various sectors
- I.C.2. Provide the public with current information
  - I.C.2.a. Explain the criteria that define harmful exotics
  - I.C.2.b. Develop a publicly-accessible ANS “alert system”
  - I.C.2.c. Invasive species in statewide conservation initiatives
  - I.C.2.d. Use primary contact points for educating water users

### ◆I.D. Build institutional capacity to implement the plan

- I.D.1. Institute a state program on ANS management
  - I.D.1.a. Hire a full time coordinator and staff
  - I.D.1.b. Create a central clearinghouse
  - I.D.1.c. Support a statewide interagency task force
- I.D.2. Build capacity within professional and citizen organizations
  - I.D.2.a. Hold public meetings or conferences at least annually
  - I.D.2.b. Involve citizens in education and management processes

### ◆I.E. Generate baseline funding to implement the plan

- I.E.1. Determine cost-effective principles and priorities for funding
  - I.E.1.a. Develop tools to assess economic impact
  - I.E.1.b. Only areas with a budget have intact natural communities
  - I.E.1.c. Early response to initial infestations
  - I.E.1.d. Supplementary funding for emergency actions
- I.E.2. Consistently fund the plan and programs for long-term benefit
  - I.E.2.a. Apply existing funding and strategies
  - I.E.2.b. Support and develop dedicated sources of funding
  - I.E.2.c. Develop and support private and corporate funding
  - I.E.2.d. Fund law enforcement for increased focus on ANS

## Goal II. Prevention

### II.A. Conduct risk assessments

- II.A.1 Examine pathways
  - II.A.1.a. Ballast in Lake Michigan; bilge on the Ohio River
  - II.A.1.b. Commercial sales of exotic species
  - II.A.1.c. Global trade and internet sales
  - II.A.1.d. Remove and replace recreational structures
  - II.A.1.e. Native species that could spread invasive species
- II.A.2 Prioritize species
  - II.A.2.a. Origin of the species
  - II.A.2.b. Invasiveness of the species
  - II.A.2.c. Control points due to physiology, ecology, or use
- II.A.3 Analyze impacts
  - II.A.3.a. Threats to natural resources
  - II.A.3.b. Calibration and use of analytical tools
  - II.A.3.c. Threats to commercial use of water
  - II.A.3.d. Threats to human health
  - II.A.3.e. Threats to domestic animals and plants
  - II.A.3.f. Threats to recreational use of water
- II.A.4 Prioritize threatened locations
  - II.A.4.a. Conduct an inventory of uninfested waters
  - II.A.4.b. Predict vulnerability of certain waters
  - II.A.4.c. Establish balance of attention across habitat types

II.A.4.d. Public access and spread of exotics

**◆II.B. Regulate introduction of exotics**

II.B.1. Examine effectiveness of regulation versus education

II.B.1.a. Global trade and internet sales

II.B.1.b. Release of unwanted aquarium pets

II.B.2. Effective state regulations to prevent introductions

II.B.2.a. Participation of state and congressional legislators

II.B.2.b. Enact comprehensive and protective legislation

II.B.2.c. Permitting system that allows controlled use

II.B.2.d. Effects of fragmented or degraded habitat

II.B.2.e. Consider boat trailer laws

**II.C. Implement compliance tools**

II.C.1. Provide the public with alternatives

II.C.1.a. Identify native species that can be substitutes

II.C.1.b. Encourage pet suppliers to develop policies

II.C.1.c. Dispossession of unwanted pets

II.C.2. 100th Meridian and other national programs

II.C.2.a. Travelers taking species to other states

II.C.2.b. Track the contribution of Indiana travelers

II.C.2.c. Support international efforts

II.C.3. Use HACCP prevention plans and training materials

II.C.3.a. Update Indiana DNR containment policies

II.C.3.b. Plans for monitoring programs

II.C.3.c. Plans for earth-moving construction programs

II.C.3.d. Private aquaculture, bait, and live food fish

**II.D. Enforce prevention measures**

II.D.1. Formalize and train county lake patrols in ANS issues

II.D.2. Enforcement actions and fines

**◆II.E. Educate the public on prevention**

II.E.1. Unintentional introduction

II.E.1.a. Notify incoming travelers of current distributions

II.E.1.b. Notify Indiana of problems in other areas

II.E.1.c. Use common entry points for education

II.E.1.d. Notify anglers of illegal species

**Goal III. Early detection**

**III.A. Maximize the efforts of monitoring programs**

III.A.1. Survey high priority species in at-risk locations

III.A.1.a. Identify high priority species and locations

III.A.1.b. Create an accessible statewide database

III.A.1.c. Current list of exotic and native nuisance species

III.A.1.d. Information on distribution, abundance, and ecology

III.A.1.e. Develop capacity to verify identification of exotics

III.A.1.f. Develop a system to voucher specimens

III.A.2. Develop official coordination between monitoring programs

III.A.2.a. Agency and volunteer water quality monitoring efforts

**III.B. Use monitoring for enforcement and control**

III.B.1. Validate the presence and urgency of ANS discoveries

III.B.2. Measure the effectiveness of enforcement and education

**III.C. Inform and educate on early detection**

III.C.1. Progression of species invasions and identify control points

III.C.2. Avoid confusing the public by sending mixed messages

**Goal IV. Rapid response**

**◆IV.A. Plan for rapid response activities**

IV.A.1. Coordinate programs

IV.A.1.a. Inventory programs and authority

- IV.A.1.b. Identify a lead agency and cooperators
- IV.A.2. Develop institutional capacity
  - IV.A.2.a. Response plans from other states and regions
  - IV.A.2.b. Regulatory and administrative authorities
- IV.A.3. Develop, implement, and evaluate rapid response plans
  - IV.A.3.a. Identify, classify, and prioritize species
  - IV.A.3.b. Inventory all available control options
  - IV.A.3.c. Select the most appropriate methods
  - IV.A.3.d. Act on species and populations
  - IV.A.3.e. Use monitoring to evaluate the success
  - IV.A.3.f. Do not rely on initial project success

**IV.B. Inform and educate on rapid response**

- IV.B.1. Prior to the need for actions, explain to the public
- IV.B.2. Use state agency education programs
- IV.B.3. Use fishing and hunting program materials

**Goal V. Control****◆V.A. Research and develop control methods for priority species**

- V.A.1. Identify and prioritize species
  - V.A.1.a. Use risk analysis tools and public input
  - V.A.1.b. Prioritize control efforts in publicly funded areas
- V.A.2. Develop plans to depress populations
  - V.A.2.a. Fully study management options for milfoil
  - V.A.2.b. Control of nuisance Cyanobacteria
  - V.A.2.c. Control of toxin producing nonindigenous algae
  - V.A.2.d. Control of plants that limit flow in canals
  - V.A.2.e. Fisheries techniques for renovation and restocking

**V.B. Evaluate effectiveness of control measures**

- V.B.1. Explore impacts on target and nontarget species
  - V.B.1.a. Conduct surveys on native communities
  - V.B.1.b. Support development of taxonomists
- V.B.2. Capacity for preventing impacts to nontarget species
  - V.B.2.a. Aquatic plant control and native species
  - V.B.2.b. Rare aquatic plants competing with milfoil
  - V.B.2.c. Treatment for whole-lake milfoil infestations

**◆V.C. Coordinate control programs**

- V.C.1. Control efforts into all land use management plans
  - V.C.1.a. Develop watershed level criteria
  - V.C.1.b. ANS control in cleanup of contaminated sites
  - V.C.1.c. Habitat restoration plans
- V.C.2. State permitting programs for control methods
  - V.C.2.a. Aquatic plant control permits
  - V.C.2.b. Piscicide permits
  - V.C.2.c. Drinking water supply permits
  - V.C.2.d. Ensure proper use of pesticides
  - V.C.2.e. Research on restricted species and tools

**◆V.D. Regulate the spread of exotics**

- V.D.1. State permitting programs to restrict spread of exotics
  - V.D.1.a. Private stocking permits in public waters
  - V.D.1.b. Fish health conditions
  - V.D.1.c. Limits on use of controlled species
  - V.D.1.d. Periodic review of illegal species possession list
  - V.D.1.e. Assess role of live food fish trade

**◆V.E. Inform and educate on control programs**

- V.E.1. Incorporate the public directly in control programs
  - V.E.1.a. Expand capacity for volunteer biocontrol programs



- V.E.2. Inform the public on legal and effective control methods
  - V.E.2.a. Nuisance pest control companies
  - V.E.2.b. Educate public on ecological effects on nontarget species
- V.E.3. Implement educational programs to reduce the transfer
  - V.E.3.a. Communicate a sense of urgency
  - V.E.3.b. Communicate economic costs, especially to legislators
  - V.E.3.c. Improve awareness among boaters and anglers
  - V.E.3.d. Negative impacts of misguided and illegal stocking
  - V.E.3.e. Communicate why the agency stocks certain exotic fish
  - V.E.3.f. Message received by invasives in the record fish program
  - V.E.3.g. Eradicating an exotic that provides the only habitat
  - V.E.3.h. Participate in national education campaigns
  - V.E.3.i. Avoid mixed messages in fish kill damage assessments

#### **Goal VI. Mitigation**

##### **VI.A. Identify naturalized species with no effective control methods**

- VI.A.1. Determine the distribution, rate and mechanism of spread
- VI.A.2. Explore eradication or control of naturalized aquatic species
- VI.A.3. Identify invasive species having recreational or other uses

##### **VI.B. Encourage use of existing invasive species**

- VI.B.1. Develop markets for commercial and recreational fisheries
  - VI.B.1.a. Eliminate size and bag limits
  - VI.B.1.b. Use existing exotic species, not introducing new ones

##### **VI.C. Develop technology to allow use of contaminated waters**

- VI.C.1. Treatments to remove offending species or their byproducts
  - VI.C.1.a. Develop drinking water treatment processes
  - VI.C.1.b. Treatments of source water for hatcheries
  - VI.C.1.c. Develop methods of treating fish diseases
- VI.C.2. Develop a technology transfer system

#### **Goal VII. Plan evaluation**

##### **VII.A. Provide an annual evaluation of the plan**

- VII.A.1. The ANS program coordinator will prepare an annual report
  - VII.A.1.a. Facilitate documentation and track actions
  - VII.A.1.b. Distribute the annual report

##### **VII.B. Conduct a cost-benefit analysis**

- VII.B.1. The coordinator will track costs of implementing the plan
  - 7.B.1.a. Track use of state general, dedicated, and federal funds
- VII.B.2. The coordinator will track benefits of implementing the plan
  - 7.B.2.a. Abatement and control costs estimate the fiscal benefits
- VII.B.3. Annual and five-year fiscal analyses of the cost-benefit ratio

##### **VII.C. Use analyses to make mid-course adjustments**

- VII.C.1. The ANS coordinator will facilitate review of the actions
- VII.C.2. These groups will provide recommendations on changes

##### **VII.D. Produce an update to the plan every five years**

- VII.D.1. Use annual updates and public input

#### **Description of the Strategic Management Plan:**

##### **Goals, Actions, Tasks, and Subtasks**

**Goal I. Coordinate all efforts among agencies and organizations both within Indiana and with other states and nations to manage aquatic nuisance species.**

**Problem description:** Because aquatic nuisance species issues cross the gamut of nearly all natural resource, commercial, recreational, and human health programs, it can be difficult to coordinate efforts. Fragmentation of programs can result in duplication of effort and lack of efficiencies or even conflicting policies in controlling invasive species. Pathways of entry cross state and other jurisdictional lines. Many problem species are located in boundary waters. Coordination of efforts among state agencies and across

the region is essential to effectively prevent and control problems associated with invasive species. Actions that control species in Indiana also prevent the export of problems to other states in the region.

**Objective I.A. Develop an integrated state aquatic nuisance species management plan to inform and direct efforts among all entities in the state of Indiana.**

Strategy I.A.1. Develop a statewide internet web site for invasive species and post information on plan implementation.

Strategy I.A.2. Prioritize activities and adhere to timelines for implementation.

Strategy I.A.3. Prioritize enforcement actions to have maximum impact.

**Objective I.B. Integrate the state plan with regional initiatives in the Great Lakes and Mississippi River basins by supporting federal and interjurisdictional regulatory and educational approaches that prevent ANS from entering Indiana.**

Strategy I.B.1. Influence regional and national policies by informing decision-makers of ways in which Indiana's ability to prevent and control ANS are affected by regional, federal, and international jurisdiction, policies, and regulations.

Strategy I.B.2. Participate in meetings and activities of the Great Lakes Aquatic Nuisance Species (ANS) Panel, International Joint Commission, Council of Great Lakes Governors, Great Lakes Fishery Commission by attending annual meetings and working with subcommittees, such as the Lake Michigan Committee and Fish Health Committee, and other similar organizations by attending meetings and contributing to policy-making discussions.

Strategy I.B.3. Participate in meetings and activities of the Mississippi Interstate Cooperative Resource Association (MICRA) and especially the Mississippi River Basin Panel (MRBP) on ANS issues, Ohio River Valley Water Sanitation Commission (ORSANCO) and their Ohio River Fish Management Team (ORFMT), and similar organizations by attending meetings and contributing to policy-making discussions.

**Objective I.C. Develop a baseline understanding of ANS issues by the public.**

Strategy I.C.1. Understand and influence public perception of ANS issues.

Action I.C.1.a. Survey public opinion on the perception of the threat posed by invasive aquatic species.

Action I.C.1.b. Inform the public about the risks and responsibilities associated with invasive species on a similar level with the public perceptions of other forms of water pollution and human health threats.

Action I.C.1.c. Develop a common language for use in all sectors of public education and media. Use photographs, descriptions, and explanations to inform the public about the impacts of invasive species. Create an adequate distribution system for news releases and other public information on the web site and in handouts.

Action I.C.1.d. Establish relationship with and create specific messages for various sectors with special emphasis on the media and less regulated industries such as the pet trade.

Strategy I.C.2. Provide the public with current information on the definition, distribution, and risks of invasive species.

Action I.C.2.a. Explain the criteria used by public agencies to distinguish between and define beneficial and harmful exotic species.

Action I.C.2.b. Develop a publicly-accessible ANS "alert system" with a list of nuisance species existing in and not known from each region. Include public education, not just about which invasive species exist in Indiana, but also about what species are problematic in other parts of the country. Increase public awareness of which species they should avoid transporting across state lines.

Action I.C.2.c. Address invasive species as part of statewide conservation initiatives, such as the natural region assessments in the Indiana Biodiversity Initiative.

Action I.C.2.d. Make better use of primary contact points for educating water users, such as boater registration procedures

through the Bureau of Motor Vehicles and Boater Education programs, to distribute information on ANS.

**Objective I.D. Build institutional capacity to implement the plan. Although a number of organizations and agency programs address invasive species, these organizations need a central point of contact to focus and coordinate their efforts.**

Strategy I.D.1. Institute a state program on ANS management.

Action I.D.1.a. Hire a full time coordinator and staff for implementation of the ANS plan.

Action I.D.1.b. Create a central clearinghouse for ANS information, including updates to the statewide invasive species web page.

Action I.D.1.c. Support the development of a statewide interagency task force on invasive species. Use the plan to guide efforts on aquatic species and as a model for efforts to address terrestrial species.

Strategy I.D.2. Build capacity within professional and citizen organizations to represent and address constituents information needs (e.g., ILMS, lake associations).

Action I.D.2.a. Hold public meetings, conferences, or workshops at least annually to get updates from state agencies and ensure that all stakeholders understand the issues, participate in prioritization, and know where they can get information. Provide training for local level citizen leaders, including grassroots technical information and communication training. Develop and provide handouts that assist with the transfer of key information.

Action I.D.2.b. Involve citizens in education, prevention, reporting, and control processes by distributing educational kits that are like a little tackle box, having a CD or video in it and collection vials so people could preserve samples, as well as phone numbers and contact information to get samples identified. Currently, the 15 lake associations served by the TELF and ILMS design, print, and distribute 5,000 newsletters each quarter and respond to 100 visits or calls each week, many of which address nuisance plant management and other invasive species issues.

**Objective I.E. Generate baseline funding to implement the plan.**

Strategy I.E.1. Determine cost-effective principles and state priorities for funding.

I.E.1.a. Develop tools to assess economic impact of invasive species, including species that are not yet known from the state, introduced but not established, and established populations. Use this information to develop funding support for ANS programs.

I.E.1.b. Recognize and communicate to the public that only areas with a budget and commitment to ongoing maintenance will continue to have intact natural communities.

I.E.1.c. Convince the public and implementing agencies that proactive early response to initial infestations will be more cost effective than waiting for severe infestation.

I.E.1.d. Ensure that agencies are provided with adequate supplementary funding and other necessary resources to conduct rapid response actions rather than expecting the agency to absorb unanticipated emergency actions into existing budgets.

Strategy I.E.2. Consistently fund the plan and programs statewide for long-term benefit of the state's economic, ecological, and public health. Target funding and use resources in ways that are the most philosophically or ecologically appropriate from a management standpoint. Adequately fund all necessary aspects of prevention, control, monitoring, early detection, rapid response, and evaluation practices.

Action I.E.2.a. Apply existing funding and strategies to the state plan, including efforts by state agencies and nongovernmental organizations.

Action I.E.2.b. Support and develop dedicated sources of funding for implementation of invasive species activities, such as the LARE boating fees and federal funding through the national Strategy Force.

Action I.E.2.c. Develop and support private funding for implementation. Cultivate corporate sponsors to fund prevention messages.

Action I.E.2.d. Use increases in funding for law enforcement patrols to include more focused efforts on ANS issues and prevention awareness.

**Goal II. Prevent new introductions of nuisance aquatic species into the Lake Michigan and Mississippi River basins of Indiana.**

**Problem description:** Aquatic nuisance species may be difficult or impossible to eradicate after they have become established. Therefore, prevention is the most cost-effective, and sometime the only means to avoid damaging results. Often the costs associated with managing a new species are not known, making it difficult to raise support for prevention actions, especially if they limit commercial or recreational activities. A delayed “crisis-response” approach may limit the vision and opportunity for avoiding problems that could be economically costly, technically challenging, and frequently irreversible. Although the state may have to accept some impacts of existing species, the state should make every attempt to hold the line on the introduction of new invasive species.

**Objective II.A. Conduct effective risk assessments to assist in classifying new organisms according to the potential for damage and possibility of controlling the species.**

Strategy II.A.1 Examine the pathways by which ANS are introduced into Indiana and identify control points that can be addressed by education or regulation. The risk assessment would determine the potential of various pathways to introduce species and identify major control points where intervention could limit transmission or establishment of invasive species.

Action II.A.1.a. Determine the risk associated with ballast water in Lake Michigan and explore the transport of materials in bilge water on the Ohio River.

Action II.A.1.b. Determine the risk associated with commercial sales of exotic species. Some of the risks to be examined would include the use of Asian carps and other exotic fish in aquaculture, nurseries that promote the use of non-native vegetation to pond owners in the increasing backyard pond industry, and importation of species by aquarium dealers.

Action II.A.1.c. Examine the effect of global trade and internet sales.

Action II.A.1.d. Examine risks associated with removal and replacement of recreational structures (e.g., boat lifts; piers; buoys; diving equipment).

Action II.A.1.e. Identify native species that could spread invasive species. For instance, waterfowl may carry exotic algae or plant fragments between water bodies.

Strategy II.A.2 Prioritize species to address invasive organisms with the greatest invasive potential, potential cost, and difficulty of control. Develop or adapt existing standardized risk assessment tools with criteria for rating the invasiveness, cost, and control complications associated with particular species not yet known to be established in Indiana. Predictive factors in the tool would include characteristics of the species such as:

Action II.A.2.a. Origin of the species, including natives introduced outside their range, transfer of natives with altered genomes, and native species that become undesirable species due to changes in conditions.

Action II.A.2.b. Invasiveness of the species, based on other areas in the nation or world that have been colonized.

Action II.A.2.c. Identify trigger points or control points of invasive species introduction, release, and establishment related to the physiology, ecology or use of the species.

Strategy II.A.3. The tool must analyze impacts on natural resources and water use, including:

Action II.A.3.a. Threats to natural resources, including biodiversity, state and federal T&E species, habitat degradation including native plant communities. For instance, wetland communities are impaired by buckthorn, hybrid cattails, phragmites, and other invasive plants.

Action II.A.3.b. Influence of the presence of exotic species on calibration and use of analytical tools used to assess the integrity

of water and ecological communities.

Action II.A.3.c. Threats to commercial use of water, including reduced operating efficiencies and control costs, impairment of water conveyance, withdrawal, and drinking water treatment processes. For instance, live zebra mussels and dead shells of oriental mystery snails increase the cost of maintaining intakes for cooling water at power plants and source water piping for other utilities. Eurasian watermilfoil and curly-leafed pondweed interferes with the flow of water in conveyance canals (e.g., drinking water supply, drainage and stormwater management). Bluegreen algae (cyanobacteria) can compromise drinking water quality due to taste and odor or toxin production.

Action II.A.3.d. Threats to human health through direct or indirect introduction. Conduct a risk analysis regarding the human health impacts of nonindigenous algae species (e.g., *Cylindrospermopsis*) that can produce toxins in drinking water and recreational use waters. Animal vectors may transmit zoonotic pathogens and parasites to humans (e.g., mosquitoes carrying West Nile virus; infective parasites consumed in uncooked fish flesh).

Action II.A.3.e. Threats to domestic animals and plants used in aquaculture and nurseries. Exotic animals may spread parasites and pathogens through the source water for state or private fish hatcheries. Costs to the producer can include costs of disinfection or limits on the sale of infested animals or plants.

Action II.A.3.f. Threats to recreational use of water. Examine impairment of lakes and reservoirs by Eurasian watermilfoil and impacts of zebra mussels on use of swimming beaches.

Strategy II.A.4. The tool must prioritizing threatened locations, such as:

Action II.A.4.a. Conducting an inventory of uninfested waters and prioritizing them for protection with particular attention to source waters for human consumption and aquaculture production.

Action II.A.4.b. Predicting vulnerability of certain waters to new ANS, including an analysis of the progression of new species in Lake Michigan.

Action II.A.4.c. Establishing an appropriate balance of attention to effects on various habitat types, including lakes, wetlands, and streams, possibly with a need to increase attention to river and stream communities.

Action II.A.4.d. Analyzing association between public access and spread of exotics (e.g., boat launches, boating activities fragmenting milfoil). The analysis should address ill feelings among lake residents toward state government where Indiana's public accesses have resulted in destructive exotic introductions, but the state has provided little assistance in controlling the resulting problems.

## **Objective II.B. Regulate the introduction of exotics, including education, regulation, compliance tools, and enforcement.**

Strategy II.B.1. Examine effectiveness of regulation versus education in the following areas:

Action II.B.1.a. Determine an effective strategy for reducing the release of species acquired through pet stores, global trade, and internet sales, and determine the risk of these species transmitting associated pathogens and parasites to humans.

Action II.B.1.b. Determine an effective strategy for controlling release of unwanted aquarium pets (e.g., reducing the "dump and flush" mentality).

Strategy II.B.II. Develop effective state regulations to prevent introductions of invasive species.

Action II.B.II.a. Acquire participation of state and congressional legislators in implementation of the ANS plan.

Action II.B.2.b. Enact comprehensive and protective legislation, using state regulation to prevent movement from Lake Michigan to inland waters and regional or national regulations for movement within the Great Lakes. Legislation must include appropriate definitions for ANS in statutes and administrative rules.

Action II.B.2.c. Institute a permitting system that allows controlled use of fish in production facilities for aquaculture, food, research on warmwater and coldwater fish for aquaculture use, and stocking of beneficial exotic species in public waters for

recreational and commercial use.

Action II.B.2.d. Address the effects of fragmented or degraded habitat resulting from aquatic and riparian habitat modification as a precursor to invasion by exotics in all state and local permitting programs, including aquatic plant control, lake shoreline construction, maintenance of drainage ditches, and construction in and around wetlands.

Action II.B.2.e. Consider the use of boat trailer laws to avoid spreading Eurasian watermilfoil, zebra mussels, and other species that cling to hard surfaces and propellers. Preventive regulations should focus on discouraging interstate travelers from bringing invasive species into the state.

### **Objective II.C. Develop and implement compliance tools that enable better adherence to regulations and minimize practices that could introduce invasive species.**

Strategy II.C.1. Provide the public with alternatives to using or releasing invasive exotic species.

Action II.C.1.a. Identify native species that can be substitutes for invasive species in aquaculture, the pet trade, and landscaping.

Action II.C.1.b. Encourage dealers and educational institutions to develop policies on selling risky species as pets or for educational use.

Action II.C.1.c. Create a safe and accessible means for the dispossession of unwanted pets.

Strategy II.C.II. Participate as a state in the 100th Meridian Initiative, Protect Our Waters, and other targeted regional, national, and international programs.

Action II.C.2.a. Institute policies and educational programs that discourage Indiana travelers from taking nuisance species to other states, either intentionally or accidentally.

Action II.C.2.b. Participate in tracking activities to determine the contribution of Indiana travelers to distribution of invasive species. Available data shows that people from Lake and Cass Counties in Indiana have crossed the 100<sup>th</sup> Meridian with boats. There is a risk that they and others from those counties could transport zebra mussels from Indiana to waters west of the 100<sup>th</sup> Meridian.

Action II.C.2.c. Support international efforts to control movement of new species by participating in national and international education, law enforcement, and regulatory activities at the Indianapolis international airport and other venues.

Strategy II.C.3. Use HACCP prevention plans and training materials for each introduction pathway used by private entities, public agencies, and land use programs.

Action II.C.3.a. Update Indiana DNR containment policies on zebra mussels to include other invasive species that could be spread by activities such as fish hatchery, survey, and stocking practices.

Action II.C.3.b. Develop prevention plans for monitoring and survey practices of the Indiana Department of Environmental Management, local health or resource management agencies, and volunteer monitoring programs.

Action II.C.3.c. Develop policies for the Indiana Department of Transportation, IDNR property management, and other agencies that use earth-moving construction practices that may introduce ANS into new development sites or create amenable environments for invasion of nuisance species.

Action II.C.3.d. Develop and institute training for prevention plans in the private aquaculture, bait, and live food fish industry.

### **Objective II.D. Enforce prevention measures.**

Strategy II.D.1. Formalize county lake patrols funded by local property owners with better training, better reporting, and agency-directed focus on critical issues such as ANS education and training.

Strategy II.D.II. Determine appropriate use of enforcement Objectives for “bad actors” who refuse education and voluntary

compliance with fines that would be a deterrent.

**Objective II.E. Educate the public on the benefits of preventing introductions of invasive species.**

Strategy II.E.1. Provide the public with information that reduces the chance of unintentionally introducing new species into or from Indiana.

Action II.E.1.a. Use the invasive species “alert system” to identify the current distribution of species and notify incoming travelers of species that could pose a problem for Indiana.

Action II.E.1.b. Use the invasive species “alert system” to notify travelers leaving Indiana of species present in this state that could pose a problem for other states or regions.

Action II.E.1.c. Use common entry points, such as kiosks at airports and in welcome stations and information on state highway maps, to inform travelers of high-risk invasive species.

Action II.E.1.d. Notify anglers of species that are illegal to possess live through information in the annual fishing regulation guidebook (*Fishing Guide*).

**Goal III. Conduct monitoring programs to enhance early detection of introductions or invasions.**

**Problem description:** Monitoring programs often get short shrift in prioritization of agency or organizational activities due to the delay in realizing the benefits of the program. However, early cost-effective control or eradication of an invasive species or associated pathogen cannot be achieved without early detection of the offending organism. Various agencies and organizations are monitoring water bodies for their own purposes. Coordination between these efforts would maximize the use of limited resources. Because costly or controversial eradication or enforcement Objectives may result, training is essential to verify that the species was properly identified in the monitoring effort.

**Objective III.A. Maximize the efforts of monitoring programs to ensure that detections of invasive species are properly detected, verified, and reported.**

Strategy III.A.1. Survey and catalogue high priority species in at-risk locations.

Action III.A.1.a. Use the risk assessment to identify high priority species and locations thought to be particularly at risk of introduction or invasion.

Action III.A.1.b. Create an accessible statewide database for monitoring information.

Action III.A.1.c. Maintain a current list of exotic and native nuisance species that occur in Indiana.

Action III.A.1.d. Compile basic information on the distribution, abundance, and ecology of priority and established invasive species.

Action III.A.1.e. Develop institutional capacity or access to individuals who can verify identification of critical invasive species.

Action III.A.1.f. Develop a system to verify the identification of exotic species and ensure vouchering of specimens in appropriate scientific institutions.

Strategy III.A.2. Develop official coordination mechanisms to reduce duplication of effort or gaps in coverage.

Action III.A.2.a. Coordinate existing agency and volunteer water quality monitoring efforts to ensure maximum coverage of high priority waters in Indiana where ANS could potentially invade. Efforts may include extension of the annual DNR-sponsored fish sampling coordination meeting to include other aquatic sampling efforts, review of applications for Scientific Purposes Permits (previously called “Collectors Permits”) to identify efforts in or near high priority at-risk areas, periodic hosting of training workshops to enable identification of new ANS, and other mechanisms.

**Objective III.B. Use monitoring information to enhance and evaluate the effectiveness of enforcement and control efforts.**

Strategy III.B.1. Use monitoring information as a mechanism to validate the presence and urgency of ANS discoveries before acting to conduct further investigations, inform the public, control the populations, or take enforcement Objectives.

Strategy III.B.2. Use monitoring information as a tool to measure the effectiveness of enforcement and education programs, after distinguishing between species that are distributed by human activities rather than moving naturally through waterways.

**Objective III.C. Inform and educate the public on the benefits and reasons for early detection programs.**

Strategy III.C.1. Use monitoring information to show the public the progression of species invasions and identify control points for reducing the introduction of new species.

Strategy III.C.2. Avoid confusing the public by sending mixed messages on the severity of problems associated with newly introduced species.

**Goal IV. Institute rapid response Objectives to limit the cost of controlling new introductions.**

**Problem description:** Many techniques for eradicating or controlling invasive species are either very labor intensive (e.g., removing individual plants by hand) or nonselective (e.g., use of piscicides to kill invasive fish; destruction of an entire lot of infected fish and disinfection of the hatchery). Therefore, it is much more cost-effective and acceptable to apply these techniques when the infested area is small. However, the nature of the treatment methods may require use of techniques that would normally involve significant education of the public to obtain their approval, may involve intrusion on private property, and intensive coordination between agencies with differing authorities. If the plans are not developed and approved prior to emergency use, the conflicts that result could severely hamper the implementation and effectiveness of the early control or eradication.

**Objective IV.A. Plan for rapid response activities.**

Strategy IV.A.1. Coordinate programs available to conduct rapid response activities.

Action IV.A.1.a. Inventory programs and authority available for rapid response in each region of the state.

Action IV.A.1.b. Identify a lead agency and responsibility of other cooperating agencies.

Strategy IV.A.2. Develop institutional capacity for rapid response activities.

Action IV.A.2.a. Review response plans from other states and coordinate the plans with efforts of other regional organizations.

Action IV.A.2.b. Establish all regulatory and administrative authorities needed for effective and timely response to aquatic invasive species on public and private property.

Strategy IV.A.3. Develop, implement, evaluate, and adjust rapid response plans for particular species to effectively control new invasions when necessary and feasible.

Action IV.A.3.a. Identify, classify, and prioritize species that under certain conditions may be amenable to eradication through rapid response Objectives.

Action IV.A.3.b. Inventory all available chemical, physical and biological control options for each high priority species that could invade an area.

Action IV.A.3.c. Select the most appropriate methods given physical, institutional, and social constraints. Ensure that the impacts of the treatment on nontarget organisms are commensurate with the overall likelihood of negative effects if the target invasive species becomes established.

Action IV.A.3.d. Act on species and populations requiring rapid response.

Action IV.A.3.e. Use monitoring to evaluate the success of control measures and make adjustments to response plans.



Action IV.A.3.f. Do not rely on initial project success to solve a problem that will likely require diligence for over a long period of time.

**Objective IV.B. Inform and educate the public on the need for rapid response Objectives.**

Strategy IV.B.1. Prior to the need for Objectives, explain to the public the reasons for conducting rapid response measures, which may include impacts on nontarget organisms.

Strategy IV.B.2. Use state agency education programs to encourage volunteer monitoring and reporting, such as Riverwatch, Lake Volunteer Monitoring, Project WILD, Project WET, conservation and recreational sporting clubs, and Adopt-a-Wetland programs.

Strategy IV.B.3. Use fishing and hunting program materials to encourage volunteer monitoring and reporting.

**Goal V. Limit the spread of established populations of aquatic nuisance species into uninfested waters of the state.**

**Problem description:** Any aquatic nuisance species that has successfully become established in a large ecosystem is unlikely to be eradicated by currently available control methods. Limiting the spread of established species into uninfested waters must receive top priority in research, education, and enforcement programs. Often a species is unnecessarily spread simply by routine activities of uninformed water resource users. The public must understand how species are spread, why it is important to limit their spread, what methods are available for control, and how those control measures can have unintended adverse consequences.

**Objective V.A. Research and develop control methods for priority species.**

Strategy V.A.1. Identify and prioritize species requiring control Objectives.

Action V.A.1.a. Use risk analysis tools and public input to identify high priority species for control. Priority species that have been identified by the project reviewers include:

- zebra mussels affecting cooling water plants;
- toxin-producing algae (*Cylindrospermopsis*) in water used for drinking and recreation;
- purple loosestrife;
- Asian carps; and
- giant cane grass (*Phragmites*).

Action V.A.1.b. Prioritize control efforts that target invasive species that reduce the value of resources that are maintained by public funds (e.g., sport fisheries, threatened and endangered species, public properties) and accessible to the public.

Strategy V.A.2. Develop plans to either depress populations of established species or to slow the rate of range expansion of established species.

Action V.A.2.a. Fully study management options for milfoil (e.g., harvesting, weevil biocontrol techniques).

Action V.A.2.b. Analyze and implement control of nuisance Cyanobacteria (e.g., *Pseudoanabaena*) blooms creating taste and odor problems in drinking water supplies (e.g., Geist, Morse and Eagle Creek reservoirs). Control can include nutrient management in watersheds, herbicide treatment, and filtration or other chemical treatments in the water supply facility.

Action V.A.2.c. Develop effective control methods for nonindigenous algae species (e.g., *Cylindrospermopsis*) that can produce toxins in drinking water and recreational use waters.

Action V.A.2.d. Develop effective control methods for plants (e.g., Eurasian watermilfoil) that limit flow in canals to large drinking water treatment plants and in drainage ditches.

Action V.A.2.e. Continue the use of fisheries techniques (e.g., exclusionary devices, renovation and restocking, habitat protection and restoration) that control the spread of harmful exotic fish in public access waters.

**Objective V.B. Evaluate the effectiveness of control measures in preventing or reducing the spread of established invasive species.**

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Strategy V.B.1. Explore impacts on target and nontarget species. Examine the short- and long-term effects to ensure that the cure will not be worse than the disease.

Action V.B.1.a. Conduct surveys on native communities adequate to predict and track the impacts of control measures on nontarget species.

Action V.B.1.b. Support development of taxonomists who can identify native and exotic species.

Strategy V.B.2. Develop capacity for preventing impacts to nontarget species.

Action V.B.2.a. Conduct research on impacts of aquatic plant control in lakes on native species composition in order to avoid effects on rare, threatened or endangered species.

Action V.B.2.b. Explore methods of conservation for rare aquatic plant species succumb to competition with milfoil.

Action V.B.2.c. Support research and development of treatment and eradication options for severe whole-lake milfoil infestations. Existing tools are becoming limited because whole lake herbicide treatments may have unacceptable adverse impacts.

### **Objective V.C. Coordinate control efforts to maximize effectiveness of programs.**

Strategy V.C.1. Incorporate exotic species control efforts into all land use management plans.

Action V.C.1.a. Develop watershed level criteria for use of control methods to reduce the possibility the species will be eradicated from one part of the watershed and be reintroduced from another area upstream or downstream.

Action V.C.1.b. Include exotic species control in plans for cleaning up sites that were contaminated by other pollutants.

Action V.C.1.c. Address invasive species as part of habitat restoration plans, including the USFWS Partners for Fish and Wildlife program, NRCS wetland reserve program, and IDNR certified wildlife habitat or forestry projects.

Strategy V.C.2. Establish effective and responsive state permitting programs for control of ANS.

Action V.C.2.a. Include effective means of controlling invasive plants in review criteria for permits for use of herbicides in public waters.

Action V.C.2.b. Include effective means of controlling invasive fish in review criteria for permits for use of piscicides in public waters.

Action V.C.2.c. Ensure that drinking water supply permits provided by the Department of Environmental Management account for an effective means of controlling invasive aquatic plants and animals, while protecting safe water supplies.

Action V.C.2.d. Ensure that pesticides used are registered with the Office of the State Chemist, used according to label directions, and applied by competent and licensed handlers.

Action V.C.2.e. Implement a permitting system that allows research to be conducted on restricted species, biocontrol methods, and innovative tools for limiting the spread of invasive exotics.

### **Objective V.D. Implement and enforce regulations to control the spread of invasive species within Indiana.**

Strategy V.D.1. Establish effective and responsive state permitting programs that prevent the spread of ANS.

Action V.D.1.a. Ensure that review criteria for private stocking permits assess risks associated with use of potentially invasive game species.

Action V.D.1.b. Ensure that conditions on private stocking permits prevent the spread of pests and pathogens associated with stocked fish.

Action V.D.1.c. Implement regulations for the use of controlled species, such as grass carp, that are adequate to ensure that fish will not be released into public waters or damage private resources.

Action V.D.1.d. Conduct periodic evaluations of the rules listing species that are illegal to possess live to ensure that any high risk species are included to limit distributions in Indiana.

Action V.D.1.e. Assess volume of trade in the live food fish industry to identify invasive species sold, risks of introduction, and need for regulation including containment, disposition, and treatment of holding tank water.

Strategy V.D.2. Provide adequate resources for the enforcement of all regulations that control the spread of invasive species in Indiana.

**Objective V.E. Inform and educate the public on control programs.**

Strategy V.E.1. Incorporate the public directly into implementation and management of invasive species control projects whenever feasible to develop a sense of ownership.

Action V.E.1.a. Expand existing capacity to add educational institutions, lake associations, and other organizations in volunteer biocontrol projects using purple loosestrife beetles.

Strategy V.E.2. Inform the public on legal and effective means of controlling invasive species.

Action V.E.2.a. Provide information and training to companies involved in nuisance pest control that includes brochures and other materials to use in educating the public on invasive species issues.

Action V.E.2.b. Educate public on ecological effects on nontarget species when nonselective tools are used to eradicate ANS.

Strategy V.E.3. Implement educational programs to reduce the transfer of invasive species.

Action V.E.3.a. Communicate a sense of urgency and concern about introduction of aquatic aquaculture (e.g., fish) and human (e.g., West Nile virus) diseases using models from other terrestrial diseases (e.g., CWD, monkey pox).

Action V.E.3.b. Communicate economic costs associated with bringing in ANS for commercial use, especially to legislators, possibly through workshops.

Action V.E.3.c. Provide information to improve awareness among boaters and anglers that move from one water to the next.

Action V.E.3.d. Provide information regarding the negative impacts of misguided and illegal stocking of known nuisance species by anglers (e.g., gizzard shad as a forage base for sport fish) and divers (e.g., zebra mussels in anticipation of clearer water).

Action V.E.3.e. Clearly communicate to the public why the agency stocks certain exotic fish but limits private stocking of other exotics.

Action V.E.3.f. Evaluate the message received by the public when state agencies recognize invasive exotic species in the record fish program.

Action V.E.3.g. Provide public forum for discussion of costs of eradicating an exotic that is providing the only available habitat (e.g., milfoil monocultures in lakes).

Action V.E.3.h. Participate in or adapt materials from national education campaigns, including the International Association for Fish and Wildlife Agencies (IAFWA) ANS communication project, "Stop Aquatic Hitchhikers" program for recreational boaters and anglers, and a similar forthcoming Sea Grant educational campaign for aquarium and pet owners.

Action V.E.3.i. Avoid sending mixed messages in natural resource damage assessments by communicating with the public that liability for fish kills in a pollution event includes impacts on ecosystems that contain or even primarily consist of invasive species. These Objectives do not imply that those species or communities are preferred conditions.

**Goal VI. Mitigate harmful ecological, economic, social, and public health impacts resulting from infestations of aquatic nuisance species.**

**Problem description:** A number of harmful exotic species have become established in public waters and have few if any cost-effective or technologically viable means of controlling or eradicating the species. In recognition of the irreversible changes in these systems, the most rational approach to dealing with these species may be to develop recreational or commercial uses. Where the species are interfering with water uses, technology must be implemented or developed to allow continued use of the water.

**Objective VI.A. Conduct an analysis to identify species that are naturalized and for which no means of eradication or control is feasible.**

Strategy VI.A.1. Determine the distribution, rate of spread, and mechanism of spread for species that are widely distributed and naturalized in the state.

Strategy VI.A.2. Explore all means of eradicating or eliminating naturalized aquatic species.

Strategy VI.A.3. Identify invasive species that may have recreational or other uses

**Objective VI.B. Encourage recreational use of naturalized aquatic nuisance species.**

Strategy VI.B.1. Develop markets for recreational fisheries for naturalized species having no viable control methods, such as common carp. Fisheries development must be used only as a means of eradicating or controlling invasive species, not an incentive to propagate or reintroduce these species.

Action VI.B.1.a. Eliminate size and bag limits on all invasive exotic species, but require all such species to be killed immediately upon capture.

Action VI.B.1.b. Encourage use of existing species of carp as food fish rather than introduction of new species or varieties of carp.

**Objective VI.C. Develop and implement technology to allow continued use of irreversibly contaminated waters.**

Strategy VI.B.1. Conduct research and development on cost-effective treatments to remove offending species or their byproducts that spoil the quality of water for particular uses.

Action VI.B.1.a. Develop drinking water treatment processes to remove toxic or repugnant substances produced by nonnative algae.

Action VI.B.1.b. Develop chemical or physical treatments of source water for hatcheries that removes zebra mussel veligers without affecting fish eggs and fry.

Action VI.B.1.c. Develop methods of treating diseases of trout and salmon, such as whirling disease and bacterial kidney disease.

Strategy VI.B.2. Develop a technology transfer system through cooperative efforts of universities, agencies, and trade organizations to encourage the use of mitigating techniques.

**Goal VII. Evaluate the effectiveness of the plan and use adaptive management strategies to update the plan during initial implementation and after the five-year period of use.**

**Problem description:** Adequate evaluation processes are necessary to ensure that the management plan remains up to date and accommodates changes in the rapidly shifting field of aquatic nuisance species. Funding and implementation of the plan depend upon being able to demonstrate results and fiscal responsibility.

**Objective VII.A. Provide an annual evaluation on the implementation and effectiveness of the plan.**

Strategy VII.A.1. The ANS program coordinator will prepare an annual report on the effectiveness of the plan and.

Action VII.A.1.a. The coordinator will facilitate documentation and track Objectives by the agencies and organizations that implement activities under the plan.

Action VII.A.1.b. The coordinator will distribute the annual report to the agencies and public.

**Objective VII.B. Conduct a cost-benefit analysis for the ANS program.**

Strategy VII.B.1. The coordinator will track costs of implementing the plan.

Action VII.B.1.a. The coordinator will track the use of state general funds, dedicated funds, and return of federal funds to Indiana as they were used to implement the plan.

Strategy VII.B.2. The coordinator will track benefits of implementing the plan.

Action VII.B.2.a. The coordinator will use published literature and actual costs of abatement and control to estimate the fiscal benefits of the plan in conducting activities that resulted in avoiding costs associated with damages incurred from invasive species.

Strategy VII.B.3. The coordinator will prepare annual and five-year fiscal analyses indicating the cost-benefit ratio for implementing the plan.

**Objective VII.C. Use information from the evaluation to make mid-course adjustments to the plan.**

Strategy VII.C.1. The ANS coordinator will facilitate review of the Objectives by the state invasive species Strategy force and other constituencies.

Strategy VII.C.2. These groups will provide recommendations on any changes that should be made to improve implementation of the plan.

**Objective VII.D. Produce an update to the plan every five years.**

Strategy VII.D.1. The coordinator will use information from annual updates and input from implementing agencies, organizations, and the general public to produce an update to the long-term plan every five years.

**How will we know if we succeeded?**

The evaluation process of Indiana's State ANS Management Plan allows monitoring of progress toward prevention, limitation and abatement of ANS. Recognizing the volatile and unpredictable nature of ANS introductions, it is reasonable to believe that the plan will require periodic mid-course changes. The process will involve three components: 1) oversight, 2) evaluation, and 3) dissemination of information. The following will briefly discuss each of these components.

Oversight

An ANS Advisory Council will be composed of external publics (identified as interested parties during the review process), other state and federal agencies (e.g., IDEM, ISDH, Commissioner of Agriculture's Office, APHIS, USFWS), a representative from the Governor's office, and members from the original task force who authored this document. The role of this interagency council will be to examine progress on management actions focused on three goals of the state management plan. The committee can evaluate the success of each strategic action by examining the level of achievement of the tasks clearly defined within each action. The committee will also function in relation to the proposed state Invasive Species Council.

Evaluation

The evaluation effort should not only examine progress, but also place a special emphasis on identifying funding needs to successfully accomplish goals and associated tasks. Performance measures will be used to assess the effectiveness of management objectives. For instance, on an annual basis this might include:

- whether or not objectives are achieved;
- rate of spread along a river reach or coastline;

- change in total acreage of habitat occupied by the ANS or the displaced native species;
- changes in abundance of an invader and directly or indirectly impacted species; or
- changes to Federal and State T&E and extinct species lists due to ANS.

It is recognized that unforeseen factors may impact the progress of remedying a problem and this would be evident through program monitoring and evaluation. This information will prove useful in future program planning processes. Evaluation should also incorporate information from those groups affected by plan implementation. These include organizations (or individuals) involved with the responsibility of implementing management actions and resource user groups.

### Dissemination

An annual report will be prepared and distributed, highlighting the progress of strategic management actions. This report will include information on the successes in achieving the seven goals (i.e., coordination, prevention, early detection, rapid response, control, mitigation, and plan evaluation) of the ANS plan as well as future plans and directions. Successes, failures, and new directions within Indiana will be evaluated in comparison with other regional plans in the Great Lakes and Mississippi River / Ohio River basins. The annual report will be available to the members of the general public and local, state, and federal decision makers.

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## **Glossary of Terms**

aquatic nuisance species (ANS): An aquatic species that threatens the diversity or abundance of native species, the ecological stability of infested waters, or commercial, agricultural, aquaculture or recreational activities dependent on such waters. For purposes

of state ANS management plans, reference to an aquatic nuisance species will imply that the species is nonindigenous.

ballast water: any water and associated sediments used to manipulate the trim and stability of a vessel.

environmentally sound: methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures.

exotic species: any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country to another. Equivalent to “nonindigenous” species.

federal consistency (\*): a requirement under the Coastal Zone Management Act that stipulates that federal actions that are reasonably likely to affect land or water use or natural resources of the coastal zone be consistent with the enforceable policies of a coastal state’s federally approved coastal management program. A coastal state reviews the federal action to determine if the proposed action will be consistent with the program.

Great Lakes: Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary’s River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

nonindigenous species: any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country to another. Equivalent to “exotic” species.

waters of the United States: the navigable waters and the territorial sea of the United States.

unintentional introduction: an introduction of nonindigenous aquatic species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

watershed: an entire drainage basin, including all its living and nonliving components.

#### **List of agency and organization acronyms**

319: IDEM Watershed Management program providing grants under Section 319 of the Clean Water Act

AC: ANS Advisory Committee (all stakeholders)

APHIS: Animal and Plant Health Inspection Service

BASS: Bass Anglers Society Indiana

BOAH: Board of Animal Health

CLP: IU-SPEA and IDEM Clean Lakes Program

Coop Ext: cooperative extension service

CZM: Coastal Zone Management

DEP: Division of Entomology and Plant Pathology

DFW: Division of Fish and Wildlife

DNP: Division of Nature Preserves

DNR: Department of Natural Resources

DSC: Division of Soil Conservation

FWS: US Fish and Wildlife Service

GLC: Great Lakes Commission

IAA: Indiana Aquaculture Association

IAFS: Indiana Chapter of the American Fisheries Society

IBI: Indiana Biodiversity Initiative

IDEM: Indiana Department of Environmental Management

ILMS: Indiana Lakes Management Society

InDOT: Indiana State Department of Transportation

ISDH: Indiana State Department of Health

ISL: Indiana State Legislature

IUPUI: Indiana University - Purdue University



IUPUI-CEES: IUPUI Center for Earth and Environmental Science  
 IU-SPEA: Indiana University School of Public and Environmental Affairs  
 LARE: Lake and River Enhancement program  
 LE: Division of Law Enforcement  
 MICRA: Mississippi Interstate Cooperative Resource Association  
 MRBP: Mississippi River Basin Panel (on ANS)  
 NANPCA: Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646)  
 NRCS: Natural Resources Conservation Service  
 NRDA: Natural Resource Damage Assessments  
 OCA: Office of the Commissioner of Agriculture  
 ORFMT: Ohio River Fish Management Team  
 ORSANCO: Ohio River Valley Water Sanitation Commission  
 OISC: Office of the Indiana State Chemist  
 TELWF: Tippecanoe Environmental Lake and Watershed Foundation  
 TNC: The Nature Conservancy  
 TWS: The Wildlife Society

#### APPENDIX A: List of introduced fish and crayfish

List of Non-indigenous and exotic fish and crayfish species occurring in Indiana waters. *Range*: Statewide (I), north (N), south (S), west (W), east (E), and various combinations of these regions. *Relative abundance*: R = rare; C = common; O = occasional. *Conservation status*: NI = nonindigenous, E = exotic. Source: Tom Simon, U.S. Fish and Wildlife Service.

COMMON AND SCIENTIFIC NAME	RANGE	RELATIVE ABUNDANCE	STATUS
CLASS OSTEICHTHYES			
Order Petromyzontiformes (lampreys)			
Family Petromyzontidae (lamprey)			
<i>Petromyzon marinus</i> Linnaeus, sea lamprey	NW	O	NI
Order Clupeiformes (herring, shad)			
Family Clupeidae (herrings)			
<i>Alosa pseudoharengus</i> (Wilson), alewife	NW	A	NI
<i>Dorosoma petenense</i> (Gunther), threadfin shad	S	C	NI
Order Cypriniformes (carps and minnows)			
Family Cyprinidae (carps and minnows)			
<i>Carassius auratus</i> (Linnaeus), goldfish	I	C	E
<i>Ctenopharyngodon idella</i> (Valenciennes), grass carp	NW, C	O	E
<i>Cyprinella lutrensis</i> (Baird & Girard), red shiner	NW	O	NI
<i>Cyprinus carpio</i> Linnaeus, common carp	I	A	E
<i>Hypophthalmichthys molitrix</i> (Valenciennes), silver carp	SE, SW	R	E
<i>Hypophthalmichthys nobilis</i> (Richardson), bighead carp	SW	O	E
<i>Scardinius erythrophthalmus</i> (Linnaeus), rudd	NW	O	E
Order Siluriformes (bullhead and catfish)			
Family Ictaluridae (bullhead and catfish)			
<i>Ameiurus catus</i> (Linnaeus), white catfish	C, S	O	NI
Order Salmoniformes (trout, salmon, whitefish)			
Family Osmeridae (smelt)			
<i>Osmerus mordax</i> (Mitchill), rainbow smelt	NW	C	NI
Family Salmonidae (salmon and whitefish)			
<i>Oncorhynchus kisutch</i> (Walbaum), coho salmon	NW	C	NI

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<i>Oncorhynchus mykiss</i> (Walbaum), rainbow trout	N	C	NI
<i>Oncorhynchus tshawytscha</i> (Walbaum), chinook salmon	NW	C	NI
<i>Salmo salar</i> Linnaeus, Atlantic salmon	NW	O	NI
<i>Salmo trutta</i> Linnaeus, brown trout	N	C	E
Order Cyprinodontiformes (topminnows)			
Family Poeciliidae (live-bearing fishes)			
<i>Gambusia affinis</i> (Baird & Girard), mosquitofish	W	O	NI
Order Atheriniformes (silversides)			
Family Atherinidae (silversides)			
<i>Menidia beryllina</i> (Cope), inland silverside	S	R	NI
Order Mugiliformes			
Family Mugilidae (mulletts)			
<i>Mugil cephalus</i> Linnaeus, striped mullet	S	R	NI
Order Gasterosteiformes (sticklebacks)			
Family Gasterosteidae (sticklebacks)			
<i>Gasterosteus aculeatus</i> Linnaeus, threespine stickleback	NW	O	NI
Order Perciformes (basses, sunfish, perch, darters, gobies)			
Family Moronidae (temperate basses)			
<i>Morone americana</i> (Gmelin), white perch	NW	R	NI
<i>Morone saxatilis</i> (Walbaum), striped bass	S	O	NI
Family Gobiidae (gobies)			
<i>Neogobius melanostomus</i> (Pallas), round goby	NW	A	E
Order Decapoda			
Family Cambaridae (crayfish)			
Genus <i>Procambarus</i>			
Subgenus <i>Scapulicambarus</i>			
<i>Procambarus clarkii</i> (Girard), red swamp crayfish	NW, SW	R	NI
<b>NOTE:</b> <i>P. clarkii</i> is native to SW Indiana, but NI to NW portions of the state.			
Genus <i>Orconectes</i>			
Subgenus <i>Procericambarus</i>			
<i>Orconectes rusticus</i> (Girard), rusty crayfish	I	C	NI

**NOTE:** *O. rusticus* is native to the Whitewater and Maumee River basins, but NI elsewhere

### APPENDIX B: List of invasive aquatic plants

Below is a list of common and scientific names for nonindigenous aquatic plant species that are confirmed from Indiana by the U.S. Geological Survey (USGS). The information was provided by Scott Shuler, Aquatic Control, Seymour, Indiana.

Brazilian waterweed or Brazilian elodea (*Egeria densa*)

brittle naiad (*Najas minor*)

curlyleaf pondweed (*Potamogeton crispus*)

Eurasian watermilfoil (*Myriophyllum spicatum*)

European watercress (*Marsilea quadrifolia*)

flowering rush (*Butomus umbellatus*)

purple loosestrife (*Lythrum salicaria*)

watercress (*Nasturtium officinale*)

yellow floatingheart (*Nymphoides peltata*)

yellow iris (*Iris pseudacorus*)

**These are additional exotic species found within the state by staff of aquatic plant control companies:**

Asian lotus (*Nelumbo nucifera*) - the exact species has not been confirmed. However, this is the likely species and it is present in Oswego Lake per my survey last summer. There is a patch about 50 feet by 20 feet.

common reed (*Phragmites australis*) – originally most common in the northwest part of Indiana, now occurring statewide.

fanwort (*Cabomba carolinian*) - Not confirmed but most likely in two locations in northern Indiana according to Weed Patrol.

giant reed (*Arundo donax*) - The Center for Aquatic Plants lists this exotic for Indiana.

hydrilla (*Hydrilla verticillata*) - This plant will survive in Indiana, spreads easily and quickly and will typically out-compete Eurasian watermilfoil and take over a lake. This plant is not known from Indiana but represents a significant concern.

parrotfeather (*Myriophyllum aquaticum*) - This plant is established in several private lakes in northern Indiana. It can cause nuisance conditions. The plant is native to South American and is common in water gardens. This plant has a high potential for spread.

waterchestnut (*Trapa natans*) - Ball State may have a confirmed specimen in the herbarium collection from Tri-county Fish and Wildlife Area. This species has not caused any known problems in Indiana to date. However, this species has become a nuisance problem in some areas of the country, particularly in the northeast.

**APPENDIX C: List of High Priority ANS in the Great Lakes basin.**

The following list of high priority ANS was compiled by the Research Committee of the Great Lakes ANS Panel, based on the Great Lakes Aquatic Nonindigenous Species List compiled by the NOAA National Center for Research on Aquatic Invasive Species (NCRAIS) Great Lakes Environmental Research Laboratory with the assistance of the University of Michigan's Cooperative Institute for Limnology and Ecosystems Research, both in Ann Arbor, Michigan. (<http://www.glerl.noaa.gov/res/Programs/invasive/>). The list was presented in the document *ANS Research Priorities for the Great Lakes, Draft, July 2003*.

Grouping	Common Name	Taxon	Species	Origin	Date	Location	Mechanism
Fish	silver carp (Asian carp)	Cyprinidae	<i>Hypophthalmichthys molitrix</i>	Asia	???	???	Release (Aquaculture, Accidental)
	bighead carp (Asian carp)	Cyprinidae	<i>Hypophthalmichthys nobilis</i>	Asia	???	???	Release (Aquaculture, Accidental)
	black carp (Asian carp)	Cyprinidae	<i>Mylopharyngodon piceus</i>	Asia	???	???	???
	grass carp (Asian carp)	Cyprinidae	<i>Ctenopharyngodon idella</i>	Asia	???	???	Release (Deliberate)
	alewife	Clupeidae	<i>Alosa pseudoharengus</i>	Atlantic	1873	Lake Ontario	Canals, Release (Fishing)

## Nonrule Policy Documents

	blueback herring	Clupeidae	<i>Alosa aestivalis</i>	Atlantic N. Amer.	1995	Unknown	Unknown
	chinook salmon	Salmonidae	<i>Oncorhynchus tshawytscha</i>	Pacific	1873	All Lakes but S	Release (Deliberate)
	coho salmon	Salmonidae	<i>Oncorhynchus kisutch</i>	Pacific	1933	Lake Erie	Release (Deliberate)
	common carp	Cyprinidae	<i>Cyprinus carpio</i>	Asia	1879	Widespread	Release (Deliberate)
	Eurasian ruffe	Percidae	<i>Gymnocephalus cernuus</i>	Eurasia	1986	St. Louis River (S)	Shipping (Ballast Water)
	fourspine stickleback	Gasterosteidae	<i>Apeltes quadracus</i>	Atlantic	1986	Thunder Bay (S)	Shipping (Ballast Water)
	rainbow trout	Salmonidae	<i>Oncorhynchus mykiss</i>	Pacific	1876	Lake Huron (T)	Release (Deliberate)
	round goby	Gobiidae	<i>Neogobius melanostomus</i>	Eurasia	1990	St. Clair River (StC)	Shipping (Ballast Water)
	rudd	Cyprinidae	<i>Scardinius erythrophthalmus</i>	Eurasia	1989	Lake Ontario	Release (Fishing)
	sea lamprey	Petromyzontidae	<i>Petromyzon marinus</i>	Atlantic	1830s	Lake Ontario	Canals, Shipping (Fouling)
	tubenose goby	Gobiidae	<i>Proterorhinus marmoratus</i>	Eurasia	1990	St. Clair River (StC)	Shipping (Ballast Water)
	white perch	Perichthyidae	<i>Morone americana</i>	Atlantic	1950	Cross Lake (O)	Canals
Zooplankton	amphipod	Amphipoda	<i>Echinogammarus ischnus</i>	Black Sea	1995	Unknown	Unknown
	cladoceran	Clodocera	<i>Bosmina maritima</i>	Eurasia	<1980	Unknown	Unknown
	cyclopoid copepod	Copepoda	<i>Megacyclops viridis</i>	Europe	1994	Unknown	Unknown
	fish-hook waterflea	Clodocera	<i>Cercopagis pengoi</i>	Black Sea	1998	Unknown	Unknown
	harpacticoid copepod	Copepoda	<i>Nitocra hibernica</i>	Eurasia	1973	Unknown	Unknown
	harpacticoid copepod	Copepoda	<i>Nitocra incerta</i>	Black Sea	1998	Unknown	Unknown
	harpacticoid copepod	Copepoda	<i>Heteropsyllus cf. nunni.</i>	Black Sea	1999	Unknown	Unknown
	harpacticoid copepod	Copepoda	<i>Schizopera borutzkyi</i>	Unknown	1990s	Unknown	Unknown
	spiny water flea	Clodocera	<i>Bythotrephes cederstroemi</i>	Eurasia	1984	Lake Huron	Shipping (Ballast Water)
Plants	curly pondweed	Potamogetonaceae	<i>Potamogeton crispus</i>	Eurasia	1879	Keuka Lake (O)	Release (Deliberate, Fishing)
	Eurasian watermilfoil	Haloragaceae	<i>Myriophyllum spicatum</i>	Eurasia	1952	Lake Erie	Release (Aquarium, Accidental)
	European frog-bit	Hydrocharitaceae	<i>Hydrocharis morsus-ranae</i>	Eurasia	1972	Lake Ontario	Release (Aquarium, Deliberate), Shipping (fouling)
	purple loosestrife	Lythraceae	<i>Lythrum salicaria</i>	Eurasia	1869	Ithaca, NY (O)	Canals, Shipping (Solid Ballast)
	water chestnut	Trapaceae	<i>Trapa natans</i>	Eurasia	<1959	Lake Ontario (T)	Release (Accidental, Aquarium)
Macroinvert.	digenean fluke	Digenea	<i>Neascus brevicaudatus</i>	Unknown	1992	Unknown	Unknown
	digenean fluke	Digenea	<i>Acanthostomum sp.</i>	Black Sea	1994	Unknown	Unknown
	digenean fluke	Digenea	<i>Ichthyocotylurus pileatus</i>	Eurasia	1980s	Unknown	Unknown
	mudsnail	Gastropoda	<i>Potamopyrgus antipodarum</i>	New Zealand	1991	Unknown	Unknown
	quagga mussel*	Dreissenidae	<i>Dreissena bugensis</i>	Eurasia	1991	Lake Ontario	Shipping (Ballast Water)
	zebra mussel	Dreissenidae	<i>Dreissena polymorpha</i>	Eurasia	1988	Lake St. Clair	Shipping (Ballast Water)
Other	parasite		<i>Heterosporus sp.</i>		???	???	???
	furunculosis	Bacteria	<i>Aeromonas salmonicida</i>	Unknown	<1902	Unknown	Release (Fish)
	mixosporidian	Myxozoa	<i>Sphaeromyxa sevastopoli</i>	Black Sea	1994	Unknown	Unknown
	salmonid whirling disease	Protozoa	<i>Myxobolus cerebralis</i>	Unknown	1968	Ohio (E)	Release (Fishing)
Nonindigenous	n/a	n/a	n/a	n/a	n/a	n/a	n/a

### APPENDIX D: Regional and federal programs involved in ANS management.

#### Great Lakes Commission (GLC) and Great Lakes ANS Panel

Great Lakes regional coordination is addressed under Section 1203 of NANPCA, which first called upon the Great Lakes Commission to convene the Great Lakes Panel on Aquatic Nuisance Species in 1991. Panel membership is drawn from a wide range of federal, state, provincial and regional agencies, private sector user groups, Sea Grant programs and environmental organizations,

to ensure that the positions of the Panel provide a balanced and regional perspective on Great Lakes issues. The Panel's responsibilities for the Great Lakes region are fivefold: 1) identify Great Lakes priorities; 2) make recommendations to the national ANS Task Force; 3) assist the ANS Task Force in coordinating federal programs within the region; 4) advise public and private individuals on control efforts; and 5) submit annually a report to the ANS Task Force describing prevention, research, and control activities in the Great Lakes Basin.

The Great Lakes ANS Panel provided early leadership for developing state ANS management plans, including model guidance on plans and regulations. Six of the eight Great Lakes states (New York, Michigan, Ohio, Illinois, Wisconsin, and Minnesota) have or participate in federally approved plans. Indiana has had a state agency representative on the Great Lakes ANS Panel since its inception and is completing the process of developing a plan. In addition, Indiana state agencies have benefited from frequent communication and collaboration with the Illinois-Indiana Sea Grant offices in Illinois and at Purdue University.

#### Mississippi Interstate Cooperative Resource Association (MICRA)

The MICRA was established in 1991 to improve the conservation, development, management and utilization of interjurisdictional fishery resources (both recreational and commercial) in the Mississippi River Basin through improved coordination and communication among the responsible management entities. The Mississippi River Basin is the largest watershed in the nation, covering 1.25 million square miles, and draining 41% of the continental United States. Ninety-three of the Basin's rivers have been identified by the states as interjurisdictional waters, including the Ohio River and parts of the Wabash River in Indiana. The organization has recently decided to form a regional aquatic nuisance species panel (Mississippi River Basin Panel or MRBP) under the auspices of the federal task force and began meeting in July 2003. Twenty-eight states are located in the Mississippi River drainage, spanning from New York in the northeast to Montana in the northwest and Louisiana in the south. Member states include AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NY, NC, ND, PA, OH, OK, SD, TN, TX, VA, WV, WI, and WY. Seven of these states (Illinois, Iowa, Minnesota, Montana, New York, Ohio, and Wisconsin) either have state or interjurisdictional plans approved by the ANS Task Force.

#### Ohio River Valley Water Sanitation Commission (ORSANCO)

The Ohio River Valley Water Sanitation Commission (ORSANCO) was established in 1948. Member states have cooperated to improve water quality in the Ohio River Basin so that the river and its tributaries can be used for drinking water, industrial supplies, recreational purposes, and can support a healthy and diverse aquatic community. ORSANCO operates monitoring programs to check for pollutants and toxins that may interfere with specific uses of the river, and conducts special studies to address emerging water quality issues. Exotic species have not been a primary focus of ORSANCO, but a representative will participate on the MRBP on ANS. Member states in ORSANCO include: Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia. Three of these eight states have federally approved ANS plans.

#### Fish Health Committee, Great Lakes Fishery Commission (GLFC)

Established in 1973 under Article VI of the Great Lakes Fishery Commission Convention between the United States and Canada (1955), the Great Lakes Fish Health Committee serves as the instrument of the Commission in coordinating regional efforts in the Great Lakes basin to prevent introduction and dissemination of communicable fish diseases. The Committee consists of two representatives appointed by each agency formally cooperating with the Great Lakes Fishery Commission. Generally, the Indiana representatives include the state fish hatchery supervisor for IDNR and a state hatchery manager knowledgeable in technical management of fish health.

#### U.S. EPA Great Lakes National Program Office (GLNPO)

The U.S. Environmental Protection Agency's Great Lakes National Program Office (GLNPO) provided \$2.9 million in Fiscal Year 2002 funding, including \$300,000 earmarked for invasive species issues. GLNPO provided assistance to address invasive (non-indigenous) aquatic and terrestrial species in the Great Lakes Basin with an emphasis on prevention. The highest priority was given to proposals in three topic areas: 1) development and demonstration of strong and innovative programs (education and outreach, new technology, or biological) to prevent the introduction of new invasive species (aquatic or terrestrial) into the Great Lakes Basin; 2) development and demonstration of strong and innovative programs to control the spread of invasive species within and from the Great Lakes Basin; and 3) projects that allow for the prediction of new invaders into the Great Lakes Basin and the development of contingency plans to address these potential invaders. The program also funded development of an early detection and rapid response model program through actions of the Great Lakes ANS Panel.

#### Stop Aquatic Hitchhikers Campaign and Protect Your Waters Website

The "Stop Aquatic Hitchhikers!" campaign and [www.protectyourwaters.net](http://www.protectyourwaters.net) web site empower recreational users to become part of the solution in stopping the transport and spread of these harmful hitchhikers. The national Aquatic Nuisance Species (ANS) Task

Force, the U.S. Fish and Wildlife Service and the U.S. Coast Guard are the primary sponsors of this campaign. The website has links to news updates, provides an email notification service for emerging issues and news, and contact information for ANS publications and brochures. Campaign sponsors will use a variety of means, such as public service announcements, stickers, posters, magazine and newspaper articles, television and radio programs to make the public aware of this issue. Most material and announcements will include this web site address to direct individuals to visit and learn about how they can become part of the solution. Individuals and clubs/organizations are being called upon to spread the message. Support materials will be available to help those who want to get involved. News is disseminated to the press and available to the public and press through the web site. Media interested in running public service ads can contact the webmaster, and the campaign sponsors will provide appropriate formats.

### Department of Homeland Security

On November 25, 2002, Public Law 107-296 was passed to create a new US Department of Homeland Security. DHS is responsible for assessing the vulnerabilities of the nation's critical infrastructure and cyber security threats and will take the lead in evaluating these vulnerabilities and coordinating with other federal, state, local, and private entities to ensure the most effective response. These threats may include the introduction of invasive species as a means of bioterrorism. According to the DSH, more than 500 million people are admitted into the United States annually, of which 330 million are non-citizens. On land, 11.2 million trucks and 2.2 million rail cars cross into the United States, while 7,500 foreign-flag ships make 51,000 calls in U.S. ports annually. In 2003, the Bush Administration proposed an increase of \$2.2 billion from the previous year's budget for border security. This additional funding would allow border agencies to begin implementing a seamless air, land, and sea border that protects the United States against foreign threats while moving legitimate goods and people into and out of the country. Border patrols for invasive species of plants, animals, and diseases include the USDA's Animal and Plant Health Inspection Service (APHIS) and the Department of Transportation's Coast Guard, which prevent and control some of the most harmful invasive species through monitoring of pests in shipments and invasive species in ballast water of oceangoing vessels. These programs, among others, were transferred to the new DHS.

### Federal Interagency Committee for the Management of Noxious and Exotic Weeds (FICMNEW)

The FICMNEW was established through a memorandum of understanding between 16 federal agencies with invasive plant management and regulatory responsibilities. During monthly meetings, also attended by staff of the National Invasive Species Council, the committee coordinates information on the identification and extent of invasive plants and coordinates federal agency management of the species. The committee shares scientific and technical information, fosters collaborative efforts among federal agencies, and sponsors technical and education conferences and workshops regarding invasive plants.

### USDA Agricultural Research Service (ARS)

Projects related to ANS include: development and testing of user-friendly data entry systems for importation of foreign invertebrates and microbial biological control agents of invertebrate, weed, and microbial pests; development of cost-effective information management systems to compile connections to the Federal Departments and agencies responsible for the exclusion, early detection and eradication, and long-term management of invasive species and rehabilitation of affected areas; testing of behavior-modifying chemicals and biocontrol agents to disrupt reproduction and spread of invasive species.

### USFWS Branch of Invasive Species

The Service's Fisheries Program, through its Division of Environmental Quality, supports the implementation of these Acts and the Executive Order through its Invasive Species Program. This program provides national leadership preventing, eradicating, and controlling invasive species. The program provides funding for ANS Task Force personnel and numerous Task Force activities. It also funds seven FWS regional coordinators and their respective invasive species activities. These coordinators work closely with the public and private sector to develop and implement invasive species activities. Many of the Service's fishery resources offices also provide support for invasive species activities. The National Invasive Species Act (NISA) was passed in 1996 amending the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. The 1990 Act established the Aquatic Nuisance Species (ANS) Task Force to direct ANS activities annually. The Task Force is co-chaired by the U.S. Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration. Other members include the National Marine Fisheries Service, Environmental Protection Agency, Department of Agriculture, the U.S. Coast Guard, the U.S. State Department, and the Army Corps of Engineers. NISA furthered ANS activities by calling for ballast water regulations, the development of State management plans and regional panels to combat the spread of ANS, and additional ANS research. The Lacey Act was passed in 1900 and has since been amended to restrict import, export, and interstate transport of injurious fish and wildlife. Wildlife are considered injurious if importing them could impact negatively on agriculture, horticulture, forestry, the health and welfare of humans, and the welfare and survival of wildlife and wildlife resources in the nation. The USFWS also provides assistance for controlling ANS on federal lands,

including 93 million acres of wildlife refuges and 25 million acres controlled by the Department of Defense.

#### USFWS Habitat Conservation Programs

The North American Waterfowl Management Plan (NAWMP) and other habitat improvement programs provide funds for invasive species control on lands managed for wildlife habitat in Indiana. By 1985, approximately 3.2 million people were spending nearly \$1 billion annually to hunt waterfowl. By 1985, interest in waterfowl and other migratory birds had grown in other arenas as well. About 18.6 million people observed, photographed, and otherwise appreciated waterfowl and spent \$2 billion for the pleasure of doing it. As of the end of 2001, Plan partners have invested more than \$1.7 billion to protect, restore, and/or enhance more than 5 million acres of habitat. These wetland habitats and associated recreational uses may be threatened by invasion of exotics such as purple loosestrife, reed canary grass, and common reed.

#### Aquatic Ecosystem Restoration Foundation (AERF)

The Aquatic Ecosystem Restoration Foundation (AERF) in Lansing, Michigan, is a nonprofit, tax-exempt corporation created to conduct and support applied research in the management of aquatic pest species, with a focus on nuisance vegetation. The AERF supports research for the control of aquatic weed species and exotic plants such as Eurasian watermilfoil, hydrilla, water hyacinth, purple loosestrife, and other aquatic weeds found in lakes, ponds, reservoirs, rivers and streams.

#### Center for Aquatic Plant Research and Technology, US Army Corps of Engineers (CAPRT)

The CAPRT was established on 9 August 1993 (Permanent Order 8-1) and is assigned to the Environmental Laboratory located at the Waterways Experiment Station, Vicksburg, Mississippi. The CAPRT provides a single point of contact for coordination and facilitation for all aquatic plant research and resulting technology transfer to federal and state agencies, universities, and other users. Activities include: technical assistance, direct allotted R&D, technology transfer, workshops and seminars, work for others technical, guidance documents, general information requests, and coordination with special interest groups and organizations.

#### Invasive Species Program, U.S. Geological Survey (USGS)

The USGS plays an important role in Federal efforts to combat invasive species in natural and semi-natural areas through early detection and assessment of newly established invaders, monitoring of invading populations, improving understanding of the ecology of invaders and factors in the resistance of habitats to invasion, and development and testing of prevention, management and control methods. USGS research on invasive species includes all significant groups of invasive organisms in terrestrial and aquatic ecosystems. The Nonindigenous Plants and Animals Program tracks the status and distribution of introduced aquatic organisms and provides this information in a timely manner for research, management and education. There are two programs at the Gainesville Center that compliment each other. The nonindigenous fishes program conducts field and laboratory studies. The Nonindigenous Aquatic Species program is developing a database on all nonindigenous aquatic species and maintains one of the most comprehensive websites on invasive species distributions and descriptions.

### **APPENDIX E: Annotated listing of Indiana ANS regulations**

#### **General powers of the department (IC 14-11-1-1)**

Generally authorizes the department to conduct surveys, investigate, compile, and make recommendations concerning the natural resources of Indiana.

Administration: Indiana Department of Natural Resources

#### **Enforcement powers (IC 14-11-1-6)**

The department shall recommend and secure the enforcement of laws for the conservation and development of natural resources in Indiana.

Administration: Indiana Department of Natural Resources

#### **Definitions of private waters (IC 14-22-9-5(b))**

As used in the fish and wildlife code regarding the capture and transport of baitfish outside of Indiana, "private waters" means water wholly on the land of an individual that is not connected with public waters and will not allow the ingress of fish.

Administration: IDNR Division of Fish and Wildlife

**Definitions of pests, pathogens, and weeds**

For the purposes of IC 14-24, pest or pathogen organisms of listed taxa that may be injurious to nursery stock, agricultural crops, other vegetation, or bees are defined in IC 14-8-2-203. An exotic weed is defined in IC 14-8-2-87.5 as a weed that is not native to Indiana. Weeds are defined in IC 14-8-2-316 as any plant that is competitive, persistent, pernicious, and interferes with human activity, and as a result is undesirable.

Taxa: pests or pathogens include the arthropods, nematodes, microorganisms, fungus, parasitic plants, mollusks, plant diseases, or exotic weeds that are injurious to plants or bees

Uses: control of pests, pathogens, and weeds

Administration: IDNR Division of Entomology and Plant Pathology

**Powers regarding pests or pathogens (IC 14-24-2-1)**

The division director may cooperate with a person in Indiana to locate, check, or eradicate a pest or pathogen.

Administration: IDNR Division of Entomology and Plant Pathology

**Cooperation with federal government or other states (IC 14-24-2-2)**

The division director may, on behalf of the department, enter into a cooperative agreement with the United States government, an Agency of the United States, or a state government or state agency.

Administration: IDNR Division of Entomology and Plant Pathology

**Emergency action (IC 14-24-2-5)**

The division director has authority to order treatment of a pest or pathogen, or prevent the movement or require the destruction of pest or pathogen that may pose an environmental, health, or economic hazard to Indiana.

Administration: IDNR Division of Entomology and Plant Pathology

**Rulemaking authority (IC 14-24-3)**

The natural resources commission has authority to adopt rules to control pests or pathogens establish fees, declare species or subspecies to be pests or pathogens, and to establish quarantines.

Administration: Natural Resources Commission

**Control of pests or pathogens (IC 14-24-4)**

The division may inspect any site in Indiana where agricultural, horticultural, or sylvan products are grown, shipped, sold, or stored to determine if a pest or pathogen is present. The division may declare all or part of a township infested. All farms and premises located in an infested area must conform to standards of operation approved by the commission, including the destruction or treatment of infested material. The department may add costs incurred for non-compliance to the owner's tax bill.

Administration: IDNR Division of Entomology and Plant Pathology

**Duties regarding imported nursery stock (IC 14-24-5-5)**

A person receiving nursery stock from a foreign origin must hold the material unopened until it is inspected or released.

Administration: IDNR Division of Entomology and Plant Pathology

**Control of pests or pathogens (312 IAC 18-3)**



Provides specific regulatory authority over a pest or pathogen even if not associated with a plant. Includes survey and eradication activities, permits for movement, containment criteria, post entry requirements, honeybee issues, and various pests or pathogens.

Administration: IDNR Division of Entomology and Plant Pathology

**Trade secrets (312 IAC 18-6)**

Provides for the protection of trade secrets within the permitting system, particularly in reference to culture and use of genetically modified organisms or biocontrols.

Administration: IDNR Division of Entomology and Plant Pathology

**Beneficial organism defined (312 IAC 18-1)**

Administration: IDNR Division of Entomology and Plant Pathology

**Infested areas and quarantines (312 IAC 18-2)**

Includes procedures for declaring and managing infested areas and quarantine principles.

Administration: IDNR Division of Entomology and Plant Pathology

**Interstate agreements on boundary waters (IC 14-22-10-9)**

Provides for the state of Indiana to enter into an interstate agreement on boundary waters for the purpose of better protection of wild animals in the water.

Taxa: wild animals in boundary waters  
Uses: interstate agreements for better protection  
Administration: IDNR Division of Fish and Wildlife

**Entry onto property (IC 14-22-2-1; IC 14-22-2-5)**

Allows the director of the division of fish and wildlife or representative to enter into or upon private or public property for the purpose of killing or removing a wild animal that is considered a nuisance or detrimental to overall populations. The definition of “public or private property” does not include “barns, dwellings, or other buildings.”

Administration: IDNR Division of Fish and Wildlife

**Search of effects; entry onto property (IC 14-22-39-3)**

The director and conservation officers may:

- (1) search a boat, a conveyance, a vehicle, an automobile, a fish box, a fish basket, a game bag, a game coat, or other receptacle in which game may be carried; and
  - (2) enter into or upon private or public property for the purposes of patrolling or investigating;
- if the director or conservation officer has good reason to believe evidence of a violation of a law for the propagation or protection of fish, frogs, mussels, game, furbearing mammals, or birds will be obtained. Dwellings are not subject to this search authority and require a warrant to investigate gear or illegal possession of wild animals.

Taxa: fish, frogs, mussels, game, furbearing mammals, birds  
Uses: determination of violations of fish and game laws  
Exempts: dwellings  
Administration: IDNR Division of Law Enforcement

**Liability for destruction of wild animals by pollutant (IC 14-22-10-6)**

Any person either accidentally or intentionally releases waste materials, chemicals, or other substances that result in death of fish or wildlife

is liable for the damages. The department and attorney general shall recover damages by reaching a settlement with the person.

Taxa: fish and wildlife  
Uses: recovery of damages associated with release of a fatally toxic substance  
Administration: IDNR Division of Fish and Wildlife

#### **Sale of fish (IC 14-22-9-7 and 312 IAC 9-10-2)**

Approval from the department is required for importation and sale of any live species of fish. It is not legal to offer or actually sell, barter or exchange, or purchase any fish protected by law, whether taken in Indiana, the boundary waters of Indian, or taken in some other state and brought into Indiana, except as otherwise provided. Restaurants, hotels and similar facilities may prepare and serve fish to patrons and their families if the fish was lawfully taken in open season. The provisions do not apply to the sale of fish produced in private ponds, providing that the owner has an applicable permit from the department. The sale of packaged fish and parts must be prepared subject to regulations of the department of natural resources and health agencies and be accompanied by a tag or label indicating that the fish was legally acquired and a dated bill of lading.

Taxa: fish  
Uses: sale of live or processed fish  
Exempts: properly labeled hatchery reared fish or fish legally acquired from other states  
Administration: IDNR Division of Fish and Wildlife

#### **Transportation of fish and game outside the state (IC 14-22-10-3)**

A person can only legally transport a wild animal protected by state law outside of the state if the animal is legally possessed under an Indiana breeder's permit, license to fish, trap or hunt, or commercial fishing license. The wild animal shipment must be enclosed in a package on which there is clearly, legibly, and conspicuously marked information regarding the ownership, number, and kind of animals contained. Both the license and animal must be made openly available for inspection.

Taxa: all fish and game  
Uses: transport of fish and game outside the state of Indiana  
Administration: IDNR Division of Fish and Wildlife

#### **Transportation of wild minnows, crayfish or gamefish beyond limits of state (IC 14-22-9-5)**

Unless the animals have been commercially raised in private waters, an individual may not transport more than one hundred (100) minnows or one hundred (100) crayfish to other states from Indiana in a twenty-four (24) hour period.

Taxa: minnows, crayfish, sport fish  
Uses: transport outside of state of Indiana  
Exempts: production of fish or crayfish in private waters  
Administration: IDNR Division of Fish and Wildlife

#### **Importation statute (IC 14-22-25)**

Requires an importation permit to bring into Indiana, for the purpose of release or selling for release in Indiana, live fish, the fry of live fish, or any other living wild animal. Permits are granted for importation only upon satisfactory proof that the specific animals intended to be imported meet the following conditions: animals are free of a communicable disease at time of importation; that the animals will not become a nuisance; the animals will not cause damage to a native wild or domestic species. Import permits not needed for animals being imported into Indiana for the purpose of being confined and exhibited in a zoo or other public display of animals.

Taxa: live fish, fry of live fish or any other wild animal  
Uses: for release or sale for release  
Exempts: animals confined and exhibited in a zoo or other public display of animals.  
other animals that the department designates.  
Administration: IDNR Division of Fish and Wildlife

### **Wild animal importation permit (312 IAC 9-10-20)**

Requires a wild animal importation permit before importing a mammal, reptile, amphibian, mollusk, or crustacean for release or sale for release in Indiana. Application must be made not less than 10 days in advanced of proposed importation and be accompanied by the appropriate fee for each species or release site. Have to be able to show that species will not become a nuisance, and will not damage a native wild animal, domesticated species, or animal or a species of plant. A permit is not needed to ship through Indiana, or for a zoo, carnival, menagerie, animal dealer, pet shop, circus, or nature center licensed under 9 CFR, Chapter 1, Subchapter A, Parts I through IV or following import into Indiana for confinement and exhibit in a zoo or other public display.

Taxa: mammal, bird, reptile, amphibian, mollusk, crustacean  
 Uses: for release or sale for release  
 Exempts: during interstate shipment through Indiana.  
 zoo, carnival, menagerie, animal dealer, pet shop, circus, or nature center licensed under 9 CFR, Chapter 1, Subchapter A, Parts I through IV.  
 confinement and exhibit in a zoo or other public display.  
 Administration: IDNR Division of Fish and Wildlife

### **Fish importation permit (312 IAC 9-10-15)**

Assists in administration of the requirements relative to fish importation. Section 15(e) provides a “clean list” of fish species allowed without restriction. Genetically altered fish are not allowed under the clean list. Imported fish must be free of communicable diseases, not become a nuisance, and not damage a native wild species or domestic species of animal or plant.

Taxa: fish  
 Uses: importation of live fish for sale or release  
 Exempts: confinement and exhibit in a zoo or public display  
 aquarium pet trade  
 Conditions: free of communicable disease  
 not become a nuisance  
 not damage a native wild species or domestic species of animal or plant  
 Administration: IDNR Division of Fish and Wildlife

### **Fish haulers and suppliers permit (312 IAC 9-10-17)**

A Haulers and Suppliers Permit or an Aquaculture Permit is required to transport fish for release or sale for release. A list of automatically approved species is provided in the Haulers and Suppliers rule. The Aquaculture Permit is used for controlled species that carry a higher risk and require special conditions for use.

Taxa: includes the “clean list” in Sect 15(e) and adds five species  
 Uses: imports live fish from another state or country for sale  
 produces live fish for sale  
 Exempts: aquarium pet trade  
 holders of a bait dealers license  
 conditions: fish health certification is required as a condition of the permit for trout and salmon  
 Administration: IDNR Division of Fish and Wildlife

### **Aquaculture permit (312 IAC 9-10-17)**

The Aquaculture Permit controls fish species not explicitly allowed under the Haulers and Suppliers Permit as listed in 312 IAC 9-10-14(d) and 312 IAC 9-10-15(e). The permit is primarily used for regulation of grass carp and for research use of fish species that would otherwise be illegal for live possession under 312 IAC 9-6-7. The department may require a description or investigation of the production facility prior to approval of an aquaculture permit (312 IAC 9-10-17). A definition for a closed aquaculture system in 312 IAC 9-6-1(25) as a rearing facility designed to prevent the escape of cultured organisms to the wild. All diploid grass carp must be held in a closed aquaculture system according to 312 IAC 9-10-17(e)(4). The requirement may be applied as needed to other cultured species. Detailed quarterly reports of the number sold and stocking location of triploid grass carp are required for use of this fish in private ponds. Similar information or a prohibition against release in public or private waters may be required for sales

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## Nonrule Policy Documents

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of other controlled fish species under an Aquaculture Permit.

Taxa: any species not included on the “clean list” in Sect 15(e)  
Uses: imports, raises, sells or transports fish  
Exempts: confinement and exhibit in a zoo or public display  
aquarium pet trade  
Conditions: fish health certification is required for trout and salmon  
quarterly sales reports required for grass carp  
genetic certification required for triploid grass carp through USFWS  
permit holder must deliver and stock grass carp  
Administration: IDNR Division of Fish and Wildlife

### **Bait dealers statute (IC 14-22-16 and IC 14-8-2-167)**

Live minnows and crayfish may be sold as live bait under a Bait Dealers License. Minnows are defined in IC 14-8-2-167 as including all of the fish of the minnow family (Cyprinidae) and the young of all species of fish that are not protected by law.

Taxa: possession of over 500 live minnows or crayfish  
Uses: taking, catching, selling, or bartering species for bait  
Exempts: minnows, crayfish, or gamefish commercially raised in private waters for sale  
Administration: IDNR Division of Fish and Wildlife

### **Fish stocking permit (IC 14-22-9-8 and 312 IAC 9-10-8)**

Live fish cannot be transferred between or released live into state waters without a stocking permit. The department may issue to a person a permit to stock fish in waters containing state-owned fish, waters of the state or boundary waters of the state. In instances where stocking of grass carp has been allowed in public waters, all fish were required to be reproductively sterile (i.e., triploid). Fish stocking by the department of natural resources and review of private permits for stocking have been guided by a nonrule policy adopted in 1999.

Taxa: fish  
Uses: release in public water  
Exempts: stocking by the department  
Administration: IDNR Division of Fish and Wildlife

### **Disposal of fish parts and wanton waste (IC 14-22-9-6 and 312 IAC 9-6-3)**

Dead fish and associated diseases or parasites cannot be returned to the water in whole or part for any reason other than legal use as bait.

Taxa: fish  
Uses: disposal of carcasses in public water  
Administration: IDNR Division of Fish and Wildlife

### **Threatened and endangered species (IC 14-22-34 and 312 IAC 9-5-4)**

A person cannot take, possess, transport, export, process, sell, or offer for sale or shipment nongame species on the state endangered species list under IC 14-22-34-9. The department may enter into agreements with federal agencies, political subdivisions or private individuals for the purpose of managing an area used by endangered species under IC 14-22-34-14.

Taxa: threatened and endangered nongame species of mammals, reptiles and amphibians, fish  
Uses: possession of endangered species; agreements to manage habitat  
Administration: IDNR Division of Fish and Wildlife

### **Wild animal possession permits (312 IAC 9-11)**

Provides for a permit to possess animals protected under fish and wildlife codes but not legally acquired under other permits. The

animal must be free of disease, confined in a proper enclosure, and have a plan for the safe recapture or destruction of an escaped animal. Requirements for confining potential aquatic nuisance species (i.e., venomous reptiles and crocodilians over five feet in length) are listed in 312 IAC 9-11-13.5.

Taxa: wildlife not covered by other permits  
 Uses: possession  
 Exempt: zoos, carnivals, menageries, circuses, pet shops, animal dealers, nature centers  
 Administration: IDNR Division of Fish and Wildlife

#### **Possession, sale and transport of dangerous reptiles (312 IAC 9-5-8)**

Prohibits possession, sale, and transport of dangerous reptiles, including crocodilians over five feet in length unless otherwise exempted.

Taxa: dangerous reptiles  
 Uses: possession, sale, transport  
 Exempt: specimens transported through Indiana for interstate commerce to out-of-state destinations  
 possession under a Class III Wild Animal Permit (312 IAC 9-11) or by a zoo  
 Administration: IDNR Division of Fish and Wildlife

#### **Mussels permit (IC 14-22-17)**

Commercial and personal harvest of mussels has been closed since 1993. No license under IC 14-22-17-3(1) or IC 14-22-17-3(3) shall be issued to take, ship, sell, buy, or export mussels or mussel shells for personal or commercial use.

Taxa: mussels or mussel shells  
 Uses: take, ship, sell or offer to sell, buy or offer to buy, or export mussels or mussel shells taken from the water of the state  
 Administration: IDNR Division of Fish and Wildlife

#### **Illegal fish possession (312 IAC 9-6-7)**

Prohibits importation, possession, or release into public or private waters of specified live fish. As of December 1, 2002, an emergency rule was enacted to prohibit use of exotic catfish (Clariidae), bighead carp (*Hypophthalmichthys nobilis*), black carp (*Mylopharyngodon piceus*), silver carp (*Hypophthalmichthys molitrix*), white perch (*Morone americana*), snakehead fish (Channidae), rudd (*Scardinius erythrophthalmus*), ruffe (*Gymnocephalus cernuus*), round goby (*Neogobius melanostomus*) or tubenose goby (*Proterorhinus marmoratus*). An aquaculture permit may be provided for medical, educational or scientific research purposes. The Natural Resources Commission adopted a permanent rule to cover these species in 2003.

Taxa: live walking catfish, round goby, rudd, tubnose goby, ruffe, bighead carp, black carp, silver carp, white perch, snakehead fish or hybrids thereof.  
 Uses: import, possess, propagate, buy, sell, barter, trade, transfer, loan or release into public or private waters  
 Exempts: holders of an aquaculture permit for medical, educational, or scientific research  
 properly accredited zoological park as defined in 312 IAC 9-6-8(i)  
 during interstate shipment  
 conditions: must comply with federally listed injurious species in Lacey Act (18 USC 42) and 50 CFR 16  
 Administration: IDNR Division of Fish and Wildlife

#### **Mussel possession and illegal species (IC 14-22-17-3 and 312 IAC 9-9-3)**

Prohibits importation, possession, or release into public or private waters, a live zebra mussel, quagga mussel (*Dreissena* sp.), or Asiatic clam (*Corbicula* sp.).

Taxa: listed exotic mussel species  
 Uses: import, possess, or release into public or private waters  
 Exempts: holder of a permit issued under 312 IAC 9-10-6.  
 Administration: IDNR Division of Fish and Wildlife

**Illegal uses of exotic fish (312 IAC 9-6-8)**

Goldfish (*Carassius auratus*) can be used as live bait. Carp (*Cyprinus carpio*) and gizzard shad (*Dorosoma cepedianum*) cannot be used as live bait in most waters. Gizzard shad are allowed as live bait in one lake. Minnows 'should not' be released into the water after fishing.

Taxa: carp, gizzard shad  
Uses: not permitted as live bait  
Exempts: use of live gizzard shad at Brookville Reservoir  
Administration: IDNR Division of Fish and Wildlife

**Scientific purposes license (IC 14-22-22 and 312 IAC 9-10-6)**

A Scientific Purposes license is required to collect fish or wildlife from public waters for purposes of medical, educational or scientific research. Annual reports of the collection methods, location, species, number, and disposition of specimens are required of license holders.

Taxa: wild birds, nests or eggs of wild birds, other wild animals  
Uses: taken from public waters for scientific purposes  
Conditions: annual report of the collection by species, number, and location  
Administration: IDNR Division of Fish and Wildlife

**Nuisance wild animal control permit (312 IAC 9-10-11)**

A Nuisance Wildlife Permit is required for use of any methods that would otherwise be illegal under fish and game laws to remove wildlife that are causing damage or threatening property, or health and safety of humans or domestic animals. Handling and disposition of animals is proscribed, along with annual reports. An examination is required prior to licensing.

Taxa: nuisance wildlife  
Uses: control of wildlife damaging property or health and safety of humans or domestic animals  
Conditions: proper handling, disposal or release  
Administration: IDNR Division of Fish and Wildlife

**Aquatic plant control permit (IC 14-22-9-10; 312 IAC 9-10-3)**

An Aquatic Plant Control Permit is required for use of chemical, physical, biological or mechanical methods to control plants in public waters, including nuisance exotic species. Most aquatic plant control permits are issued for chemical control of the exotic invasive plants Eurasian watermilfoil and Curly leafed pondweed. Permits have been issued at a few lakes for use of the watermilfoil biocontrol weevil (*Euhrychiopsis lecontei*). *Administrative rule amendments are in process for 2004.*

Taxa: aquatic plants in specified state waters  
Uses: control of plants, including exotics, by use of physical, mechanical, chemical, or biological means  
Exempts: privately owned lake, farm pond, public or private drainage ditch, riparian owners treating less than 625 square feet  
Conditions: *provide information on the application to accommodate the additional regulation of physical, mechanical, and biological methods*  
*requires information on dominant plants in proposed treatment area*  
*requires reporting of date, location, and method of treatment*  
Administration: IDNR Division of Fish and Wildlife

**Water pollution control (IC 13-18-4)**

State water quality standards prohibit activities that impair aquatic communities and uses of waters. Destruction of protected qualities and properties of water is prohibited, including effects on public health, lawful uses of water, agricultural, floricultural or horticultural uses, watering of livestock or other domestic animals, and production or life of fish or beneficial animals or plants in the water. It is unlawful to discharge any organic or inorganic matter that causes a polluted condition of state waters.

Taxa: negative effects on physical, biological, or chemical quality of water

Uses: pollution control and prevention of loss of beneficial water uses  
Administration: Indiana Department of Environmental Management

**Pesticide control (IC 15-3-3.5 and IC 15-3-3.6)**

Pesticides used to control invasive species must be registered with the office of the Indiana state chemist, used according to label directions, and legally applied by a competent and/or certified applicator.

Taxa: all organisms  
Uses: pest control  
Administration: Office of the Indiana State Chemist

**Control of diseases (IC 15-2.1-1-1)**

Promotes and encourages the prevention, suppression, control and eradication of infectious, contagious and communicable diseases affecting the health of domestic or wild animals within Indiana and trade in animals and animal products in and from Indiana. Domestic animals include “an aquatic animal that may be the subject of aquaculture (as defined in IC 4-4-3.8-1).” Aquatic animals are specifically excluded from the definition of “livestock” in IC 15-2.1-2-27.

Taxa: animals and animal products  
Uses: commercial trade  
Administration: Board of Animal Health

**Proclamation against importation of certain animals (IC 15-2.1-18-13)**

Whenever the governor has good reason to believe that any disease has become epidemic in another state and that the importation of animals or products derived from animals from that state would be injurious to the health of the citizens or the animals of this state, the governor may, on the recommendation of the board, designate such locality by proclamation and prohibit the entry or stipulate the conditions under which animals and products derived from animals of the type diseased or animals exposed to the disease may enter the state.

Taxa: animals and animal products  
Uses: importation from areas with epidemic diseases  
Administration: Board of Animal Health

**Aquaculture (IC 4-4-3.8)**

Defines aquaculture as the “controlled cultivation and harvest of aquatic plants and animals” and requires the commissioner of agriculture to: (1) organize and develop an information and market research center for aquaculture; (2) instigate the formation of a market and development plan for the aquaculture industry; and (3) encourage the development and growth of aquaculture.

Taxa: aquatic plants and animals  
Uses: controlled cultivation and harvest  
Administration: Commissioner of Agriculture

**Protection and improvement of public health (IC 16-19-3-4)**

The state department of health is responsible for detection, reporting, prevention, and control of diseases that affect public health, regulation of the pollution of any water supply other than where jurisdiction is in the water pollution control board and department of environmental management, and the production, distribution and sale of human food, including consumption of fish.

Taxa: human pathogens  
Uses: diseases that affect public health; water supplies not regulated by other agencies  
Administration: Indiana State Department of Health

**APPENDIX F: IMPLEMENTATION TABLE**

Based upon strategic actions prioritized through public review and oversight from the Indiana Department of Natural Resources, the implementation table lists all top priority goals, tasks, and subtasks with information identifying the primary and cooperating agencies, expenditures over the past two years, and funding or staffing needs over the next five years.

The implementation table summarizes the plan's funding from all sources. Existing funds that are dedicated to ANS related tasks total \$3.121 million per year. Total program costs for FY03 are estimated to be \$4,134,400. Of this amount, funding of \$589,100 annually must come from new sources for the first phase of ANS program implementation (actions: I.A.1; I.B.1; I.B.2; I.B.3; I.C.1.a; I.D.1.a; I.D.1.c; I.D.2; I.D.2.a; I.D.2.b; I.E.1.a; I.E.1.c; I.E.1.d; II.B.1; II.E.1.d; V.A.1.a; V.A.2.a; V.C.1; V.C.1.b; V.C.1.c; V.C.2.e). For these activities, the state of Indiana requests \$441,825 from the Federal ANS Task Force as a 75 percent federal cost-share. State programs will contribute \$147,275 annually for the next five years as a 25 percent cost-share from eligible state government sources. The residual of the program costs will be covered by other federal monies and funds that cannot be used as state cost share.

Plan #	Strategic Actions / Tasks	Recent Efforts (\$)			Planned efforts (\$)						
		Funding Source	Impl. Entity	Coop. Entity	FY01	FY02	FY03	FY04	FY05	FY06	FY07
<b>I.</b>	<b>COORDINATION</b>										
<b>I.A.</b>	<b>Develop an integrated management plan</b>										
I.A.1.	Develop content and maintain a statewide internet web site	DNR	DNR	TNC, AC		\$5,000	\$10,000	\$7,000	\$7,000	\$7,000	\$7,000
I.A.2.	Prioritize activities and adhere to timelines	DNR	DNR	AC		see 1.D.1.a.					
I.A.3.	Prioritize enforcement actions	DNR	LE	DFW		see 2.B.1.a.					
<b>I.B.</b>	<b>Integrate the state plan with regional initiatives</b>										
I.B.1.	Influence regional and national policies	DNR	DFW	GLC	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600
I.B.2.	Participate in regional activities of the Great Lakes basin (semi-annual meetings)	DNR	DFW	GLC, TNC	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500
I.B.3.	Participate in regional activities of the Mississippi River basin (semi-annual meetings)	DNR	DFW	MICRA, MRBP, GLC	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000
<b>I.C.</b>	<b>Develop a baseline understanding of ANS issues by the public</b>										
I.C.1.	Understand and influence public perception	DNR	DFW, DEP, DNP	AC		see 1.C.1.b-d					
I.C.1.a	Survey public opinion	DNR	DFW	AC			\$45,000				
I.C.1.b	Inform the public about risks and responsibilities (outreach program development)	DNR	DNR	IDEM				\$55,000	\$5,000	\$5,000	\$5,000
I.C.1.c	Develop a common language	DNR	DNR	AC				see 1.C.1.b.			
I.C.1.d	Establish relationships with various sectors (targeted outreach effort)	DNR	DFW, DEP, DNP	IAA, AC				\$4,000	\$4,000	\$4,000	\$4,000
I.C.2.	Provide the public with current information	DNR	DFW, DEP, DNP	AC, ILMS, IAA, BASS				see 1.C.1.c.			
I.C.2.a.	Explain the criteria that define harmful exotics	DNR	DNR	IAA, AC				see 1.C.1.c.			
I.C.2.b.	Develop and maintain a publicly-accessible ANS "alert system"	DNR	DFW	AC					\$5,000	\$500	\$500
I.C.2.c.	Invasive species in statewide conservation initiatives	IBI, DFW	IBI, DFW	private lands	see 5.C.2.						
I.C.2.d.	Use primary contact points for educating water users	DNR	DNR	InDOT				see 1.C.1.c.			
<b>I.D.</b>	<b>Build institutional capacity to implement the plan</b>										
I.D.1.	Institute a state program on ANS management (0.5 FTE)	DFW, SFR	DFW	AC	\$18,223	\$43,223	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
I.D.1.a.	Hire a full time coordinator and staff (2 FTEs)	DFW, SFR, FWS	DFW				\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
I.D.1.b.	Create a central clearinghouse						see 1.D.2.				
I.D.1.c.	Support a statewide interagency task force (monthly meetings)	DNR	DEP	AC			\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
I.D.2.	Build capacity within organizations	DNR, FWS, LARE	DFW	AC, ILMS			\$4,000	\$4,000	\$4,000	\$4,000	\$4,000



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I.D.2.a.	Provide public information forum (annual meeting, workshop or conference)	DNR, FWS, SFR, LARE	DFW	AC, ILMS			\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
I.D.2.b.	Involve citizens in education and management processes (newsletters)	TELWF, ILMS, CLP	TELWF, ILMS, CLP	lake associations	\$30,550	\$30,550	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000
<b>I.E.</b>	<b>Generate baseline funding to implement the plan</b>										
I.E.1.	Determine cost-effective principles and priorities for funding	DFW, SFR, FWS	DFW	DNP, DEP				\$10,000			
I.E.1.a.	Develop tools to assess economic impact	DFW, SFR, FWS	DFW	DNP, DEP			\$45,000				
I.E.1.b.	Recognize that areas with a budget have intact natural communities (TNC: \$5,000 annually for habitat plans)	DNP, DFW, SFR, private funds	DNP	DSPR, TNC, private waters	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
I.E.1.c.	Early response to initial infestations (semi-annual meetings)	DFW, SFR, FWS	DFW	private waters, contractors			\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
I.E.1.d.	Funding for emergency actions (10 days annually)	DFW, SFR, FWS	DFW	private waters, contractors			\$6,000	\$6,000	\$6,000	\$6,000	\$6,000
I.E.2.	Consistently fund the plan and programs for long-term benefit	DFW, SFR, FWS	DFW	AC	as outlined in table						
I.E.2.a.	Apply existing funding and strategies	LARE, DFW, SFR, FWS	DFW	DEP, LARE, DNP, TNC, AC	as outlined in table						
I.E.2.b.	Support and develop dedicated sources of funding (10 days annually)							\$6,000	\$6,000	\$6,000	\$6,000
I.E.2.c.	Develop and support private and corporate funding (10 days annually)							\$6,000	\$6,000	\$6,000	\$6,000
I.E.2.d.	Fund law enforcement for increased focus on ANS	DNR, LARE	LE	DFW							
<b>II.</b>	<b>PREVENTION</b>										
<b>II.B.</b>	<b>Regulate introduction of exotics</b>										
II.B.1.	Examine effectiveness of regulation versus education						\$15,000				
II.B.1.a.	Species acquired through global trade and internet sales							see 2.B.1.b.			
II.B.1.b.	Release of unwanted aquarium pets (brochure and distribution)							\$20,000	\$1,000	\$1,000	\$1,000
II.B.2.	Develop effective state regulations to prevent introductions (policy development process)							\$25,000			
II.B.2.a.	Acquire participation of state and congressional legislators							see 2.B.2.	\$6,000	\$6,000	\$6,000
II.B.2.b.	Enact comprehensive and protective legislation	ISL	ISL	DNR				see 2.B.2.			
II.B.2.c.	Institute Aquaculture permitting system that allows controlled use	DFW, SFR	DFW	IAA		see 5.C.2.b					
II.B.2.d.	Address the effects of fragmented or degraded habitat				see 5.C.2.						
II.B.2.e.	Consider boat trailer laws	DFW	DFW	LE, BASS			see 2.B.2.				
<b>II.E.</b>	<b>Educate the public on prevention</b>										
II.E.1.	Unintentional introduction	DFW, SFR, FWS	DFW	LE, InDOT, BASS					see 2.E.1.a.		
II.E.1.a.	Notify incoming travelers of current distributions (brochure and distribution)	DFW, SFR, FWS	DFW	LE, InDOT, BASS					\$20,000	\$500	\$500
II.E.1.b.	Notify travelers leaving Indiana of problems in other areas (brochure and distribution)	DFW, SFR, FWS	DFW	LE, InDOT, BASS						\$20,000	\$500
II.E.1.c.	Use common entry points for education	DFW, SFR, FWS	DFW	LE, InDOT, BASS						see 2.E.1.c.	
II.E.1.d.	Provide information to anglers about illegal species (one page in annual <i>Fishing Guide</i> )	DFW, SFR, FWS	DFW	LE, BASS	\$2,188	\$2,188	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000

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<b>V.</b>	<b>CONTROL</b>											
<b>V.A.</b>	<b>Research and develop control methods for priority species</b>											
V.A.1.	Identify and prioritize species	DNR	DFW	AC			\$15,000					
V.A.1.a.	Use risk analysis tools and public input	DFW, SFR, DNP, DEP, LARE	Univ Notre Dame	DEP, LARE, DNP, TNC, AC				\$60,000				
V.A.1.b.	Prioritize control efforts in publicly funded areas	DFW, SFR, DNP, DEP, LARE	DFW	DEP, DNP					\$10,000			
V.A.2.	Develop plans to depress populations	DFW, SFR, DNP, DEP, LARE	DFW	DEP, DNP, LARE, lake associations, private waters						\$55,000		
V.A.2.a.	Fully study and implement management options for milfoil (\$800,000 annually estimated cost of milfoil control by lake associations; \$92,816 in FY01 supplemental LARE funds for plant control; \$43,650 in FY02 for milfoil weevil demonstration study; \$700,000 in FY03-07 in new LARE funds)	LARE, water and power utilities	Lake associations, water and power utilities	IDNR, IDEM, ISDH, IUPUI-CEES, Purdue Botany, plant control firms	\$892,816	\$843,650	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
V.A.2.b.	Control of nuisance Cyanobacteria (cost estimates based on permits for water utilities in Indianapolis, Kokomo, and Richmond)	Water utilities	Water utilities	IDNR, IDEM, ISDH, IUPUI-CEES, IU-SPEA, Purdue Botany, plant control firms	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000
V.A.2.c.	Control of toxin producing nonindigenous algae (cost estimates based on permits for water utilities in Indianapolis, Kokomo, and Richmond)	Lake associations, water utilities	Lake associations, water utilities	IDNR, ISDH, IUPUI-CEES, Purdue Botany, plant control contractors	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000
V.A.2.d.	Control methods for plants that limit flow in canals (cost estimates based on permits for water utilities in Indianapolis)	Lake associations, water utilities, LARE	Lake associations, water utilities	IDNR, ISDH, IUPUI-CEES, Purdue Botany, plant control contractors	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000
V.A.2.e.	Fisheries techniques for renovation and restocking	SFR, DFW	SFR, DFW	SFR, DFW, fisheries contractors	\$1,470,558	\$1,445,558	\$1,468,000	\$1,468,000	\$1,468,000	\$1,468,000	\$1,468,000	\$1,468,000
<b>V.C.</b>	<b>Coordinate control programs</b>											
V.C.1.	Incorporate control efforts into all land use management plans (e.g., reed canary grass)	NRCS, IDNR, InDOT	IDNR	NRCS, InDOT	\$5,000	\$5,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
V.C.1.a.	Develop and distribute watershed level criteria (workshop)	IDNR, IDEM 319	IDNR	IDEM, Coop Ext					\$11,200	\$3,600	\$3,600	
V.C.1.b.	Cleanup of contaminated sites	IDEM, NRDA	IDEM	DFW			\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
V.C.1.c.	Habitat restoration plans (ANS on nature preserves managed by DNP: \$75,000+ and TNC: \$30,000 annually)	DNP, DFW, SFR, private funds	DNP	TNC, DFW	\$129,225	\$129,225	\$105,000	\$105,000	\$105,000	\$105,000	\$105,000	\$105,000
V.C.2.	State permitting programs for control methods	IDNR, SFR	IDNR	IDEM, Coop Ext	see 5.C.2.b-e							
V.C.2.a.	Aquatic plant control permits (200 permits annually)	IDNR, SFR	IDNR	IDEM	\$11,219	\$11,219	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000
V.C.2.b.	Pesticide permits (2 permits annually)	IDNR, SFR	IDNR	IDEM	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300
V.C.2.c.	Drinking water supply permits (10 permits annually)	IDEM	IDEM	IDNR, ISDH	\$3,000	\$3,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
V.C.2.d.	Ensure proper use of pesticides	ISCO	ISCO	IDEM, IDNR	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
V.C.2.e.	Research on restricted species and innovative tools	state, federal, private grants	Purdue Univ of Notre Dame	IAA, IDNR, InDOT, IDEM			\$60,000	\$75,000	\$100,000	\$100,000	\$100,000	\$100,000
	<b>TOTAL EXPENDITURES =</b>				<b>\$3,165,179</b>	<b>\$3,121,013</b>	<b>\$4,134,400</b>	<b>\$4,125,600</b>	<b>\$4,125,600</b>	<b>\$4,159,000</b>	<b>\$4,084,500</b>	

### KEY

AC = ANS Advisory Committee (all stakeholders)

CLP = IU-SPEA and IDEM Clean Lakes Program

Coop Ext = cooperative extension service

DEP = DNR Division of Entomology and Plant Pathology  
 DFW = DNR Division of Fish and Wildlife  
 DNP = DNR Division of Nature Preserves  
 DNR = Department of Natural Resources  
 FWS = US Fish and Wildlife Service, NISA funds  
 GLC = Great Lakes ANS Panel  
 IAA = Indiana Aquaculture Association  
 IBI = Indiana Biodiversity Initiative  
 IDEM = Indiana Department of Environmental Management  
 ILMS = Indiana Lakes Management Society  
 InDOT = Indiana State Department of Transportation  
 ISDH = Indiana State Department of Health  
 ISL = Indiana State Legislature  
 IUPUI-CEES = IUPUI Center for Earth and Environmental Science  
 IU-SPEA = Indiana University School of Public and Environmental Affairs  
 LE = DNR Division of Law Enforcement  
 MICRA = Mississippi Interstate Cooperative Resource Association  
 MRBP = Mississippi River Basin Panel (on ANS)  
 NRCS = Natural Resources Conservation Service  
 NRDA = Natural Resource Damage Assessments  
 OISC = Office of the Indiana State Chemist  
 TELWF = Tippecanoe Environmental Lake and Watershed Foundation  
 TNC = The Nature Conservancy, Indiana

## **APPENDIX G: Implementation Schedule: Two-year short term action plan**

Section 1204(a)(2)(C) requires that a state management plan include a schedule for implementing the plan, including a schedule of annual objectives. It is difficult to develop a highly detailed implementation schedule because of funding ambiguities in the program. Full implementation of the plan is dependent upon federal aid. If Indiana implements the program without federal assistance, the program would be considerably smaller in scope and would take much longer to implement.

### **Year One Action Plan (October 1, 2003-Sept 31, 2004)**

#### **Year one tasks that can be implemented with existing state funding:**

- I.A.2. Prioritize activities and adhere to timelines in the ANS Management Plan under guidance of the Advisory Council.
- I.A.3. Prioritize enforcement actions in the ANS Management Plan under guidance of the Advisory Council.
- I.C.1. Understand and influence public perception
- I.D.1. Institute a state program on ANS management, based on the plan developed in FY02.
- I.D.1.b. Create a central clearinghouse.
- I.E.2. Consistently fund the plan and programs for long-term benefit
- I.E.2.a. Apply existing funding and strategies
- II.B.2.c. Permitting system that allows controlled use
- V.A.2.a. Fully study management options for milfoil
- V.A.2.b. Control of nuisance Cyanobacteria
- V.A.2.c. Control of toxin producing nonindigenous algae
- V.A.2.d. Control of plants that limit flow in canals
- V.A.2.e. Fisheries techniques for renovation and restocking
- V.C.2.a. Aquatic plant control permits
- V.C.2.b. Piscicide permits
- V.C.2.c. Drinking water supply permits
- V.C.2.d. Ensure proper use of pesticides

#### **Year one tasks dependent upon new funding:**

- I.A.I. Develop complete content for a statewide internet web site (limited content was created in FY01-FY02).
- I.B.1. Influence regional and national policies by drafting responses to national policy issues.
- I.B.2. Participate in regional activities of the Great Lakes basin (send Indiana representative to two meetings per year)
- I.B.3. Participate in regional activities of the Mississippi River basin (send Indiana representative to two meetings per year)
- I.C.1.a. Survey public opinion regarding ANS issues and priorities.
- I.D.1.a. Hire a full time coordinator and staff (2 FTEs) to implement the ANS plan.

- I.D.1.c. Support a statewide interagency task force that meets monthly.
- I.D.2. Build capacity within professional and citizen organizations.
- I.D.2.a. Hold public meetings, workshops, or conferences at least annually to update citizens on ANS issues and available outreach products.
- I.D.2.b. Involve citizens in education and management processes.
- I.E.1.a. Develop tools to assess economic impact
- I.E.1.c. Early response to initial infestations
- I.E.1.d. Supplementary funding for emergency actions
- II.E.1.d. Notify anglers of illegal species through page in the annual Fishing Guide.
- V.A.1. Identify and prioritize species
- V.C.1. Control efforts into all land use management plans
- V.C.1.b. ANS control in cleanup of contaminated sites
- V.C.1.c. Habitat restoration plans
- V.C.2.e. Research on restricted species and tools
- VII.A.1. The ANS program coordinator will prepare an annual report, based on program evaluation.

### **Year Two Action Plan (October 1, 2004-Sept 31, 2005)**

#### **Year two tasks that can be implemented with existing state funding:**

- I.A.2. Prioritize activities and adhere to timelines in the ANS Management Plan under guidance of the Advisory Council.
- I.A.3. Prioritize enforcement actions in the ANS Management Plan under guidance of the Advisory Council.
- I.D.1. Institute a state program on ANS management, based on the plan developed in FY02.
- I.D.1.b. Create a central clearinghouse.
- I.E.2. Consistently fund the plan and programs for long-term benefit
- I.E.2.a. Apply existing funding and strategies
- I.E.2.d. Fund law enforcement for increased focus on ANS
- V.A.2.b. Control of nuisance Cyanobacteria
- V.A.2.c. Control of toxin producing nonindigenous algae
- V.A.2.d. Control of plants that limit flow in canals
- V.A.2.e. Fisheries techniques for renovation and restocking

#### **Year two tasks dependent upon new funding:**

- I.A.1. Develop complete content for a statewide internet web site (limited content was created in FY01-FY02).
- I.C.1.b. Develop an outreach program to inform the public about risks and responsibilities.
- I.C.1.c. Develop a common language within the context of the outreach program.
- I.C.1.d. Establish relationships with various sectors targeted to affect particular ANS distribution pathways.
- I.C.2. Provide the public with current information about ANS.
- I.C.2.a. Explain the criteria that distinguish harmful exotics from benign exotics, especially in regard to aquaculture use.
- I.C.2.d. Use primary contact points for educating water users
- I.D.1.a. Hire a full time coordinator and staff (2 FTEs) to implement the ANS plan.
- I.D.1.c. Support a statewide interagency task force that meets monthly.
- I.D.2. Build capacity within professional and citizen organizations.
- I.D.2.a. Hold public meetings, workshops, or conferences at least annually to update citizens on ANS issues and available outreach products.
- I.D.2.b. Involve citizens in education and management processes.
- I.E.1. Determine cost-effective principles and priorities for funding
- I.E.1.c. Early response to initial infestations
- I.E.1.d. Supplementary funding for emergency actions
- I.E.2.b. Support and develop dedicated sources of funding
- I.E.2.c. Develop and support private and corporate funding
- II.B.1. Examine effectiveness of regulation versus education
- II.B.1.a. Global trade and internet sales
- II.B.1.b. Release of unwanted aquarium pets (develop brochure).
- II.B.2. Effective state regulations to prevent introductions (facilitated policy development process).
- II.B.2.a. Participation of state and congressional legislators

- II.B.2.b. Enact comprehensive and protective legislation
- II.B.2.e. Consider boat trailer laws
- V.A.1.a. Use risk analysis tools and public input
- V.A.2.a. Fully study management options for milfoil
- VII.A.1. The ANS program coordinator will prepare an annual report, based on program evaluation.

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**APPENDIX J: Section 1204 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L.101-646)**

**Sec. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.**

**(a) STATE OR INTERSTATE INVASIVE SPECIES MANAGEMENT PLANS.--**

- (1) **IN GENERAL.**--After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of Indian Tribes involved in an interstate organization, may jointly prepare and submit--
  - (A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State or within the interstate region involved, other than those related to public facilities, for which technical, enforcement, or financial assistance (or any combination thereof) is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and
  - (B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State or within the interstate region involved for which technical and financial assistance is needed to reduce infestations of zebra mussels.
- (2) **CONTENT.**--Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall--
  - (A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;
  - (B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities;
  - (C) identify any authority that the State (or any State or Indian Tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian Tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and
  - (D) a schedule of implementing the plan, including a schedule of annual objectives, and enabling legislation.
- (3) **CONSULTATION.**--
  - (A) In developing and implementing a management plan, the State or interstate organization should, to the maximum extent practicable, involve local governments and regional entities, Indian Tribes, and public and private organizations that have expertise in the control of aquatic nuisance species.
  - (B) Upon the request of a State or the appropriate official of an interstate organization, the Task Force or the Assistant Secretary, as appropriate under paragraph (1), may provide technical assistance in developing and implementing a management plan.
- (4) **PLAN APPROVAL.**--Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor or the interstate organization with recommended modifications.

**(b) GRANT PROGRAM.--**

- (1) **STATE GRANTS.**--The Director may, at the recommendation of the Task Force, make grants to States with management plans approved under subsection (a) for the implementation of those plans.
- (2) **APPLICATION.**--An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.
- (3) **FEDERAL SHARE.**--

- (A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.
- (B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.
- (4) **ADMINISTRATIVE COSTS.**--For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.
- (5) **IN-KIND CONTRIBUTIONS.**--In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.
- (c) **ENFORCEMENT ASSISTANCE.**--Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, United States Code, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.

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**INDIANA DEPARTMENT OF REVENUE  
DEPARTMENTAL NOTICE #3  
NOVEMBER, 2003  
INTEREST RATES FOR CALENDAR YEAR 2004**

This document does not meet the definition of a "statement" required to be published in the *Indiana Register* under IC 4-22-7-7. However, under IC 6-8.1-10-1(c), the Commissioner is required to establish, on or before November 1 of each year, the applicable interest rates for tax overpayments and underpayments that will take effect for the immediately succeeding calendar year. The purpose of this notice is to inform the public of the interest rates that will be effective for the calendar year beginning January 1, 2004.

The rate of the interest for an excess tax payment is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the Auditor of State's comprehensive annual financial report. Based on this calculation, the rate of interest for an excess tax payment for calendar year 2004 will be two percent (2%).

The rate of interest for an underpayment of tax is the percentage rounded to the nearest whole number that equals two (2) percentage points above the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the Auditor of State's comprehensive annual financial report. Based on this calculation, the rate of interest for an underpayment of tax for calendar year 2004 will be four percent (4%).

For taxpayer information, attached is a list of comparable percentages applicable in previous calendar years.

Indiana Department of State Revenue  
Kenneth L. Miller,  
Commissioner

YEAR	OVERPAYMENTS	DELINQUENT PAYMENTS
1989	10%	10%
1990	10%	10%
1991	10%	10%
1992	8%	8%
1993	7%	7%
1994	7%	7%
1995	4%	6%
1996	5%	7%
1997	5%	7%
1998	5%	7%
1999	5%	7%
2000	5%	7%
2001	6%	8%
2002	6%	8%

2003	4%	6%
2004	2%	4%

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## DEPARTMENT OF STATE REVENUE

0220010188; 0220010190.SLOF

## SUPPLEMENTAL LETTER OF FINDINGS: 01-0188SLOF and 01-0190SLOF

## Indiana Corporate Income Tax

## For the Tax Year 1996

**NOTICE:** Under 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

## ISSUE

**I. Denial of Claim for Refund – Gross Income Tax.**

**Authority:** IC 6-2.1-2-5(9); IC 6-2.1-8-5(a); IC 6-8.1-9-1; IC 6-8.1-9-2; IC 6-8.1-9-2(a).

Taxpayer challenges the Department of Revenue's decision denying taxpayer a refund or a credit for an amount of taxes paid during 1996. Taxpayer maintains that the request for refund was timely filed and that the Department erred in denying either the credit or a refund.

## STATEMENT OF FACTS

Two closely related, out-of-state business entities, submitted a joint protest to the Department of Revenue (Department). As in the original Letter of Findings (LOF), the companies are designated as "taxpayer holding company" and "taxpayer operating company."

Taxpayer operating company was in the business of running three restaurants in Indiana. Taxpayer operating company had no other Indiana business activities.

Taxpayer holding company held real estate and personal property used by taxpayer operating company. This real estate and personal property was used in the day-to-day operation of the three Indiana restaurants. Taxpayer holding company was incorporated in 1969 for the specific purpose of holding the various Indiana restaurant properties.

The officers and directors of the two companies are identical. As stated by taxpayer's representative during the original hearing, taxpayer holding company was merely a "shell corporation" created entirely for the purpose of allowing taxpayer holding company to obtain advantageous "single asset" financing.

In the original audit, it was determined that taxpayer holding company was a "non-filer" receiving Indiana source income; the original audit determined that taxpayer holding company was subject to the state's corporate income tax scheme, and the audit assessed taxes accordingly.

The original LOF disagreed with taxpayers' contentions that taxpayer holding company – by virtue of a purported agency relationship – did not receive Indiana gross income separately identifiable from the income of taxpayer operating company. Taxpayer holding company was reimbursed for depreciation expenses it incurred on personal property held in Indiana; taxpayer holding company received rental income attributable to real property owned within the state; in addition – and at the heart of the issue raised by taxpayer during the rehearing – taxpayer holding company sold some of its Indiana real property in 1996, received the money from that sale, and paid gross income taxes on the proceeds. In effect, the LOF determined that taxpayer holding company received gross income and was subject to this state's gross income tax scheme.

However, the LOF also found that taxpayer holding company – in calculating its gross income tax liability – was entitled to deduct from its gross income an amount of money it received from the sale of certain Indiana real estate and then used to pay any outstanding debt on that previously encumbered property.

After the LOF was issued, a supplemental audit report was conducted to determine taxpayer holding company's unpaid state income tax. In doing so, the supplemental report reflected the determination that taxpayer holding company was entitled to a reduction in calculating the gross income subject to tax on the verifiable portion of the proceeds from the 1996 sale of the Indiana real estate used to repay the principal on the outstanding debt on that Indiana real property.

In calculating taxpayer holding company's 1996 tax liability, taxpayer holding company was credited for the amount of tax it paid at the time of the property sale. That credit reduced taxpayer holding company's 1996 tax liability to zero. However, the audit determined that taxpayer holding company was not entitled to a refund of the tax in excess of the amount used to offset the 1996 liability.

Taxpayer challenged the decision not to refund the amount of excess 1996 taxes and submitted a letter to that effect. This Supplemental Letter of Findings follows.

### DISCUSSION

#### I. Denial of Claim for Refund – Gross Income Tax.

At the time taxpayer holding company sold the Indiana real property in 1996, taxpayer holding company paid gross income tax to the treasurer of an Indiana county – the situs of that real property. Indiana imposes a gross income tax of 1.2 percent on the proceeds received from “sales of real estate....” IC 6-2.1-2-5(9). IC 6-2.1-8-5(a) states that, “A taxpayer shall pay the gross income taxes imposed on the sale or transfer of an interest in real estate by paying the tax to the treasurer of the county in which the real estate is located.”

Using specific dollar amounts for illustrative purposes, taxpayer holding company paid \$10,000 in gross income tax in 1996. In August of 2002, the Department issued the original LOF which concluded that taxpayer holding company should have been paying Indiana corporate income tax during 1991 through 1998. Accordingly, the supplemental audit determined that – again for purposes of illustration – taxpayer holding company owed \$4,000 for 1996 Indiana income tax. Taxpayer holding company was given credit for the \$10,000; taxpayer holding company’s \$4,000 1996 liability was reduced to zero.

Taxpayer holding company maintains that it is entitled to a refund of the remaining \$6,000. Alternatively, taxpayer holding company argues that that \$6,000 should be used to offset the remaining 1991 to 1995 and 1997 to 1998 liability.

IC 6-8.1-9-1 states that, “If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for refund with the department... in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following (1) The due date of the return: (2) The date of payment.”

There is no dispute that taxpayer holding company paid gross income tax on the proceeds received from the 1996 sale of real property located within the state. There is no dispute that the supplemental audit review credited that payment against taxpayer holding company’s 1996 corporate income tax liability reducing taxpayer holding company’s 1996 liability to zero. There is no dispute that – after offsetting the 1996 liability – a portion of the 1996 gross income tax payment remained “orphaned.” The supplemental audit review declined to credit the “orphaned” amount in order to offset taxpayer holding company’s outstanding liability for the remaining years at issue.

Taxpayer holding company first argues that it is entitled to a cash-in-hand refund of the orphaned amount. Taxpayer bases its argument on the ground that, pursuant to IC 6-8.1-9-1, taxpayer holding company submitted a timely claim for refund within the three-year limitations period. Taxpayer’s claim is wholly meritless. Taxpayer holding company maintains that it is entitled to a cash-in-hand refund by virtue of the fact that taxpayer operating company submitted Indiana returns in which it – taxpayer operating company – claimed credit for the 1996 gross income tax payment. The refund statute does not permit such a strained interpretation. “If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for refund with the department....” IC 6-8.1-9-1 (*Emphasis added*). “[I]n order to obtain the refund, the person must file the claim with the department within three (3) years....” *Id.* Taxpayer holding company and taxpayer operating company made a decision to incorporate as separate business entities. Presumably, the two entities chose to do so based on the organizational, financial, and tax benefits attendant upon such an arrangement. Having made that decision, both entities must also live with the limitations pursuant to parties’ dual existence. Under IC 6-8.1-9-1, taxpayer holding company was entitled to submit a claim for refund of taxes it paid in 1996. Taxpayer holding company failed to do so. There is no merit to taxpayer holding company’s implication that it is entitled to the refund by virtue of tax returns submitted by an entirely distinct entity.

Nonetheless, taxpayer holding company sets out a separate argument; it argues that – having been denied the cash-in-hand refund – under IC 6-8.1-9-2, the Department is obligated to apply the orphaned 1996 gross income tax payment against taxpayer holding company’s 1991 to 1995 and 1997 to 1998 outstanding tax liabilities.

IC 6-8.1-9-2(a) reads in relevant part as follows:

If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against the amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due.

Taxpayer maintains that pursuant to the cited language, that the Department is obligated to apply the “excess” 1996 gross income tax payment to its remaining tax liabilities. However, taxpayer’s claim is necessarily predicated on the statutory language which states that, “If the department finds that a person has paid more tax....” *Id.* Taxpayer’s argument necessarily proceeds from the assumption that the Department “found” taxpayer paid excess gross income taxes during 1996. There is no indication in either the original audit report or the supplemental review that the Department “found” any such thing. Essentially, the Department determined that once taxpayer paid the assessment, it would be entitled to a refund of the full amount that would be allowed per the statute of limitations. The supplemental audit simply took an administrative shortcut obviating the need for the taxpayer to pay the assessment and file a refund claim.

IC 6-8.1-9-1 places the burden for requesting a refund of taxes squarely on the taxpayer. “If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department.”

IC 6-8.1-9-1(a). (*Emphasis added*). Hand-in-hand with the taxpayer's obligation to submit a refund claim, is the obligation to submit within the limited time provided. "[I]n order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following (1) The due date of the return. (2) The date of payment." *Id.*

Taxpayer seeks to avoid the three-year limitation imposed under IC 6-8.1-9-1(a) by piggy-backing on the decision to allow a credit for the amount of gross income tax paid at the time of the 1996 real estate sale. However, as noted above, the Department has made no "finding" which would necessitate granting a credit against taxpayer's holding company's remaining tax liabilities. It was taxpayer holding company's obligation to pay Indiana corporate income taxes; it was taxpayer holding company's obligation to submit a claim for a refund; it was taxpayer holding company's obligation to submit that claim with the three-year limitations period.

#### **FINDING**

Taxpayer's protest is respectfully denied.

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### **DEPARTMENT OF STATE REVENUE**

04-20010304.LOF

### **LETTER OF FINDINGS NUMBER: 01-0304 ADJUSTED GROSS INCOME TAX**

**For 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. Sales/Use Tax—Best information available; failure to maintain adequate records**

**Authority:** 45 IAC 2.2-2-2; 45 IAC 2.2-3-25; 45 IAC 15-5-3; 45 IAC 15-5-1.

Taxpayer argues that the proposed assessment should be reduced. Taxpayer failed to maintain adequate business records. However, taxpayer believes that the auditor's use of the best information available was inappropriate.

#### **STATEMENT OF FACTS**

Taxpayer underwent a computer system change in 1998 that resulted in what the taxpayer believes to be suspect information that was relied upon by the auditor. The taxpayer believes that the missing records would show that 1998 Indiana service revenues were higher than existing business records indicate. The auditor relied on all of the information provided to her by the taxpayer and refused to participate in an exercise of estimating the missing data by looking at the statistical data of other years.

Taxpayer, along with the remittance for an uncontested portion of the tax and penalty assessed, protested the remainder in a letter dated November 2, 2001. Taxpayer was mailed a notice of hearing on June 3, 2003 and responded to said notice on June 9, 2003. During this response, the hearing date was confirmed to be June 24, 2003, to be held by telephone at 10 a.m. A confirmation letter was mailed to the taxpayer on June 10, 2003. Taxpayer failed to contact the hearing officer at the designated time.

#### **DISCUSSION**

#### **I. Sales/Use Tax—Best information available; failure to maintain adequate records**

As a registered retail merchant under a duty to collect and remit Indiana gross retail tax as agent for the state, taxpayer is required to document the tax status of all its Indiana transactions. 45 IAC 2.2-2-2. The burden of proving a transaction is not subject to gross retail taxation is on the retail merchant. 45 IAC 2.2-3-25. The Legislature has not authorized the Department to speculate on the content of business records that are lost, do not exist, or are otherwise unavailable for audit examination.

An audit conducted in good faith according to established protocols establishes a *prima facie* presumption that the resulting assessment is valid. The burden of proving otherwise is on the taxpayer. 45 IAC 15-5-3. The alleged content of lost records does not persuasively contradict the content of existing business records verified on audit. The proposed amendment reflects the best information available to the Department under 45 IAC 15-5-1.

The taxpayer has failed to carry its burden of proof that the transactions in question were not subject to gross retail tax. Taxpayer was neither able to establish that the audit of the best information available was carried on in bad faith nor that the record verifies its position.

#### **FINDINGS**

The taxpayer is respectfully denied.

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**DEPARTMENT OF STATE REVENUE**

0220020060.LOF

**LETTER OF FINDINGS: 02-0060  
Indiana Corporate Income Tax  
For the Years 1998 and 1999**

**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. Income from Services Provided to Indiana Customers – Adjusted Gross Income Tax.**

**Authority:** IC 6-3-2-2.2(e); 45 IAC 3.1-1-55; Black's Law Dictionary (7<sup>th</sup> ed. 1999).

Taxpayer argues that the Department erred in determining that money received from its Indiana customers for performing services should be included in the sales factor used in determining taxpayer's adjusted gross income tax liability.

**STATEMENT OF FACTS**

Taxpayer is an out-of-state business which provides insurance information services. Taxpayer provides these services to insurance companies and automobile repair shops. When an insured's automobile is involved in an accident and the insurance company decides that the vehicle is "totaled," the insurance company turns to taxpayer to find out the value of the totaled car. This is one of the services which taxpayer provides; it determines an authoritative value for wrecked cars.

Taxpayer runs its business from two out-of-state locations. Taxpayer has a computer data-base center in Illinois, and taxpayer has an operational center in South Dakota. According to taxpayer, when one of its customers requests a wrecked vehicle valuation, the services related to determining the valuation are performed "primarily in South Dakota and to a lesser extent in Illinois." According to the information available, taxpayer has employees working within this state. It hires employees to collect information on vehicles for sale within this state. In addition, taxpayer has a "direct sales force" and "independent sales representatives" who offer taxpayer's services to insurance companies and auto body repair shops.

The Department's audit of taxpayer's 1998 and 1999 records determined that the income received from Indiana customers constituted "Indiana sales... included in the sales factor." As a result, the audit concluded that taxpayer owed additional Indiana adjusted gross income tax. Taxpayer disagreed with that conclusion and submitted a protest. An administrative hearing was held, and this Letter of Findings results.

**DISCUSSION****I. Income from Services Provided to Indiana Customers – Adjusted Gross Income Tax.**

Taxpayer argues that income received from Indiana customers is not subject to the state's adjusted gross income tax. Taxpayer bases this argument on the ground that activities related to the performance of those services is conducted in South Dakota and Illinois. Specifically, taxpayer cites to 45 IAC 3.1-1-55 which states:

Gross receipts from transactions other than sales of tangible personal property shall be included in the numerator of the sales factor if the income producing activity which gave rise to the receipts is performed wholly within this state. Except as provided below if the income producing activity is performed within and without this state such receipts are attributable to this state if the greater proportion of the income producing activity is performed here, based on costs of performance.

Taxpayer concludes that the cost of producing and managing its specialized automobile information is incurred in South Dakota; as a result, its Indiana source income – money received from Indiana insurers and Indiana auto repair shops – should be apportioned to South Dakota under the "cost of performance rules."

Under the rule cited by taxpayer, the issue is the location of the taxpayer's "income producing activity." 45 IAC 3.1-1-55 states that the term, "income producing activity" means "the act or acts directly engaged in by the taxpayer for the ultimate purpose of obtaining gains or profits." The rule states that a taxpayer's "[i]ncome producing activity is deemed performed at the situs of real, tangible and intangible personal property or the place where personal services are rendered." *Id.*

Taxpayer is plainly in the business of providing "personal services" and is not in the business of selling property. The regulation states that a service provider's income is sourced to the place where the "personal services are rendered." *Id.* The word "rendered" means "to transmit or deliver." Black's Law Dictionary 1288 (7<sup>th</sup> ed. 1999).

Taxpayer assembles and manages the computerized automobile information in South Dakota and Illinois. However, the issue is not the management and storage of this information; rather the question at issue relates to the source of its income. Under 45 IAC 3.1-1-55, the "income producing activity" does not take place in South Dakota or Illinois. Instead, the "income producing activity" occurs at the place where taxpayer "renders" its information service to an Indiana customer.

In taxpayer's specialized business, the information taxpayer acquires and manages would have no value unless that information was offered to and accepted by an Indiana customer. The money taxpayer receives is not received by virtue of the activities which taxpayer conducts in Illinois and South Dakota. The money is received because the information is "rendered" to an Indiana customer.

The statute is straightforward. Under IC 6-3-2-2.2(e), “Receipts from the performance of fiduciary and other services are attributable to the state in which the benefits of the services are consumed.” Taxpayer receives money because it offers services to Indiana consumers who obtain the benefit of those services within this state. The Department is unable to accept the argument that the income is obtained because it performs activities in South Dakota and Illinois.

#### **FINDING**

Taxpayer’s protest is respectfully denied.

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### **DEPARTMENT OF STATE REVENUE**

0220020509.LOF

#### **LETTER OF FINDINGS: 02-0509**

#### **Indiana Corporate Income Tax For the Tax Years 1998, 1999, and 2000**

**NOTICE:** Under 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department’s official position concerning a specific issue.

#### **ISSUE**

##### **I. Add-Back of Taxes Based on or Measured by Income – Indiana Adjusted Gross Income Tax.**

**Authority:** IC 6-3-1-3.5(b); IC 6-3-1-3.5(b)(3); Consolidation Coal Co. v. Ind. Dept. of Revenue, 583 N.E.2d 1199 (Ind. 1991); Consolidation Coal Co. v. Ind. Dept. of Revenue, 538 N.E.2d 309 (Ind. Tax 1989); Wash. Rev. Code § 82.04.070; Wash. Rev. Code § 82.04.080; Wash. Rev. Code § 82.04.090; Wash. Rev. Code § 82.04.100; Wash. Rev. Code § 82.04.220; Wash. Rev. Code § 82.04.230; Wash. Rev. Code § 82.04.240; Wash. Rev. Code § 82.04.450; Wash. Admin. Code § 458-20-112; Tax Management Multistate Tax Portfolios (1998).

Taxpayer argues that Washington Business and Occupation (B&O) Tax is not a tax based on or measured by income. Accordingly, taxpayer maintains that the Department erred in requiring taxpayer to add back the Washington tax in order to determine its Indiana adjusted gross income.

#### **STATEMENT OF FACTS**

Taxpayer is an out-of-state company in the business of growing, harvesting, manufacturing, and marketing forest products. It grows trees, cuts them down, and turns them into lumber. In addition – through its various subsidiaries – it is also engaged in real estate development, construction, paper production, and the provision of financial services.

The Department conducted a review of taxpayer’s business records and tax returns. In reviewing the taxpayer’s Indiana returns, the audit review determined that the taxpayer incorrectly failed to add back the federal deduction taken for the Washington B&O Tax. The decision to add back the Washington tax resulted in an assessment of additional Indiana income tax. The taxpayer disagreed with the Department’s decision and submitted a protest to that effect. An administrative hearing was conducted during which taxpayer further explained the basis for its protest. This Letter of Findings results.

#### **DISCUSSION**

##### **I. Add-Back of Taxes Based on or Measured by Income – Indiana Adjusted Gross Income Tax.**

When a taxpayer calculates its federal taxable income, it is entitled to deduct state and local taxes pursuant to I.R.C. § 164. However, in calculating its Indiana adjusted income, taxpayer begins with federal taxable income as defined under I.R.C. § 63 but is thereafter required to make certain adjustments. IC 6-3-1-3.5(b).

One of these adjustments is found at IC 6-3-1-3.5(b)(3) which requires that the taxpayer “[a]dd an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes *based on or measured by income* and levied at the state level by any state of the United States.” (*Emphasis added*). A corporate taxpayer can deduct state and local income taxes when calculating its federal adjusted income; it may not do so for Indiana income tax purposes.

When taxpayer calculated its Indiana income tax, it decided that it was unnecessary to add back the amount of money it paid as Washington B&O Tax. It did so because taxpayer determined that this particular state tax is not a tax “based on or measured by income.” According to taxpayer, the Washington B&O tax is a “privilege tax based on various business activities.” In support of that contention, taxpayer cites to Wash. Rev. Code § 82.04.220 which states:

Business and occupation tax imposed. There is levied and shall be collected from every person a tax for the act or privilege of engaging in business activities. Such tax shall be *measured by* the application of rates against the *value* or products, *gross proceeds* of sales, or *gross income* of the business, *as the case may be.* (*Taxpayer’s emphasis*).

Taxpayer agrees that under the Washington B&O Tax, the income received by retailers and wholesalers is measured by income. However, taxpayer argues that when the Washington B&O tax is levied on “extracting” and “manufacturing” activities, the amount

of the tax is not based on income. Because taxpayer maintains that it is primarily in the business of “extracting” and “manufacturing,” it should not be required to add back the Washington B&O Tax assessments imposed against those particular activities.

Washington State levies a gross receipts tax imposed on “the privilege of engaging in business.” Tax Management Multistate Tax Portfolios 1610:0001 (1998). The most obvious difference between a gross receipts tax – such as the Washington B&O Tax – and a net income tax is in the number of deductions allowed; a gross receipts tax permits only limited deductions. *Id.* In addition, the Washington B&O Tax – unlike a net income tax – reaches all levels of the production and distribution process. *Id.*

Taxpayer is correct in that the Washington B&O tax is imposed on the “extraction” of natural resources from “the person’s own land or from the land of another under a right or license granted by lease or contract.” Wash. Rev. Code § 82.04.100. Taxpayer is also correct in that the tax is assessed against in-state manufacturing activities measured by the ultimate sales prices less transportation costs. Wash. Admin. Code § 458-20-112. Washington’s tax scheme avoids the constitutional prohibition against taxing proceeds stemming from out-of-state sales by “merely mov[ing] back one step in the commercial process and plac[ing] a tax upon the extracting or manufacturing of the goods, instead of upon their sale.” Multistate Tax Portfolios 1610:0004. In those instances in which a taxpayer is involved in multiple activities – extracting, manufacturing, retailing – Washington taxes the last activity to occur in the chain. *Id.* at 1610.0029.

The issue is whether the Washington B&O tax – including those portions of that tax levied against “extracting” and “manufacturing” – are based on or measured by income. The Indiana Supreme Court addressed the add-back issue in Consolidation Coal Co. v. Ind. Dept. of Revenue, 583 N.E.2d 1199 (Ind. 1991). In doing so, the court stated the “the phrase ‘based on or measured by income’ seems likely to be used in the same simple sense which defined the issue in *Miles*. Is the tax which payor wishes to add back measured by income? Or measured by value of property held?” *Id.*

Washington imposes its tax on the “gross proceeds of sales,” the “gross income” of the business,” and the “value proceeding or accruing” depending on the type of activity producing the income. Wash. Rev. Code § 82.04.070,.080,.090. For example, Washington imposes a tax equal of 0.484 percent on the “value of the products, including byproducts, extracted for sale or for commercial or industrial use.” Wash. Rev. Code § 82.04.230. Similarly, the state imposes the identical rate of tax on manufacturers based upon “the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.” Wash. Rev. Code § 82.04.240. The value of the manufacturer’s products is “determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail....” Wash Rev. Code § 82.04.450.

The Department concludes that the money paid by extractors or manufacturers pursuant to the Washington B&O Tax is attributable to a tax based on or measured by the taxpayer’s income and is not based on the value of property. The Washington B&O tax is reasonably comparable to the West Virginia Business and Occupation Tax considered by the Tax Court in Consolidation Coal Co. v. Ind. Dept. of Revenue, 538 N.E.2d 309 (Ind. Tax 1989). In determining that the West Virginia tax should be added back in order to calculate Indiana adjusted gross income, the court compared the West Virginia Tax to Indiana’s own Gross Income Tax and stated that, “[T]he tax in question is an excise tax levied upon those domiciled within the state, or who derived income from sources within the state, upon the basis of the privilege or domicile or the privilege of transacting business within the state, and... the burden may reasonably be measured by the amount of income.” *Id.* at 311. The language quoted by the court in Consolidation aptly describes the Washington B&O Tax.

In calculating its Indiana adjusted gross income, the taxpayer is required under IC 6-3-1-3.5(b) to add back to its federal taxable income any deduction taken for taxes paid to Washington under that state’s Business and Occupation Tax.

#### **FINDING**

Taxpayer’s protest is respectfully denied.

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### **DEPARTMENT OF STATE REVENUE**

0120030268P.LOF

#### **LETTER OF FINDINGS NUMBER: 03-0268P**

##### **Income Tax Calendar Year 2002**

**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. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2



The taxpayer protests the penalty on underpayment of estimated tax.

**STATEMENT OF FACTS**

The underpayment penalty for estimated tax was assessed on an income tax return filed for the calendar year 2002.

The taxpayer is an individual living in Indiana.

**I. Tax Administration – Penalty**

**DISCUSSION**

The taxpayer argues the underpayment penalty should be waived as the estimated tax underpayment was an error on the part of the taxpayer's employer. The taxpayer's employer was unable to withhold on short-term disability income for the taxpayer. This lack of withholding caused a shortage in estimated tax whereby the taxpayer was subsequently assessed an underpayment penalty.

Information Bulletin #3 states a taxpayer is required to pay estimated tax on income that has not been withheld on, and, the amount of tax is more than \$100.00.

45 IAC 15-11-2(b) states, "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 Department finds the taxpayer was ignorant of tax duties. Ignorance is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer's penalty protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0220030315P.LOF

**LETTER OF FINDINGS NUMBER: 03-0315P**

**Income Tax**

**For the Year 1999-2000**

**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. Tax Administration- Ten Per Cent (10%) Negligence Penalty**

**Authority:** IC 6-8.1-10-2.1, IC 6-8.1-5-1 (b), 45 IAC 15-11-2 (b).

The taxpayer protests the imposition of the ten percent (10%) negligence penalty.

**STATEMENT OF FACTS**

The taxpayer is a warehouse processing business that managed third party merchandise. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed income tax, interest, and penalty. The taxpayer paid a portion of the assessment and protested the imposition of the ten percent (10%) negligence penalty. Although given ample opportunity to do so, the taxpayer did not request a hearing or submit additional documentation. Therefore, this Letter of Findings is based on the contents of the file.

**I. Tax Administration- Ten Percent (10%) Negligence Penalty**

**DISCUSSION**

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

The taxpayer contends that the negligence penalty is inappropriate in this situation since it did not intentionally disregard the law. The taxpayer bases this contention on a discussion with a department employee prior to the filing of the tax returns. The taxpayer argues that since it discussed the instant situation with the department employee prior to its filing, there was no negligence involved.

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 reach 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 submitted a copy of the letter it sent to the department with the subject tax return. That letter indicates that the taxpayer was in contact with the department over a different issue. At some time during the discussions on the other issue, the taxpayer discussed this matter with a department employee. The submitted letter does not indicate the circumstances, context, or gist of the conversation. This letter is not adequate evidence that the taxpayer was attentive to its duties and followed the department's instructions in the preparation of this tax return. The taxpayer did not sustain its burden of proving that it was not negligent in this matter.

#### **FINDING**

The taxpayer's protest is denied.

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### **DEPARTMENT OF STATE REVENUE**

0420020064.LOF

#### **LETTER OF FINDINGS: 02-0064**

##### **Gross Retail Tax**

##### **For the Years 1998 and 1999**

**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. Construction Contracts – Gross Retail Tax.**

**Authority:** IC 6-2.5-1-1; IC 6-2.5-1-2; IC 6-2.5-2-1(a); IC 6-2.5-4-1(b); IC 6-2.5-4-1(e); Cowden & Sons Trucking, Inc. v. Indiana Dept. of State Revenue, 575 N.E.2d 718 (Ind. Tax Ct. 1991); 45 IAC 2.2-3-7; 45 IAC 2.2-3-7(a); 45 IAC 2.2-3-7(b); 45 IAC 2.2-3-8(b); 45 IAC 2.2-3-12(e).

Taxpayer challenges the decision by the Department of Revenue (Department) resulting in an assessment of uncollected gross retail (sales) tax on the proceeds received from certain construction and installation contracts.

##### **II. Abatement of the Ten-Percent Negligence Penalty.**

**Authority:** IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer requests that the Department exercise its discretion to abate entirely the ten-percent negligence penalty.

#### **STATEMENT OF FACTS**

Taxpayer is a carpenter/contractor. Taxpayer builds items such as kitchen cabinets, entertainment centers, and bookcases and sells those completed items to customers. Taxpayer also enters into agreements for the construction and installation of items in which some of the construction work is completed off-site, and some of the work is completed at the customer's own location.

The Department conducted an audit of taxpayer's business and tax records. On the basis of that audit review, the Department concluded that taxpayer was entering into "unitary contracts" for which sales tax should have been collected on the total amount. Having failed to do so, the Department assessed taxpayer an amount for the uncollected sales tax.

Taxpayer disagreed with the audit's conclusions and submitted a protest to that effect. An administrative hearing was conducted, taxpayer explained the basis for his protest, and this Letter of Findings results.

#### **DISCUSSION**

##### **I. Construction Contracts – Gross Retail Tax.**

Pursuant to IC 6-2.5-2-1(a), Indiana imposes a sales tax on all retail transactions made in this state. IC 6-2.5-4-1(b) defines a "retail transaction" as the acquisition of tangible personal property by a retail merchant for the purpose of resale and subsequent transfer of that property to another for consideration. A retail transaction is defined as "selling at retail." "Selling at retail" is defined in IC 6-2.5-4-1(b).

A person is engaged in selling at retail when, in the ordinary course of his regularly conducted trade or business, he: (1) acquires tangible personal property for the purpose of resale; and (2) transfers that property to another person for consideration.

Since the sales and use tax statutes specifically state that the transfer of tangible personal property is taxable, by implication the transfer of services is not taxable. Except for certain enumerated services, the provision of services is not considered a "retail transaction" and the cost of such services is not subject to sales tax.

There are two instances in which the otherwise nontaxable sale of a service is subject to sales tax. The first is when the services are performed with respect to tangible personal property being transferred in a retail transaction, and the services take place before

the transfer of the tangible personal property. IC 6-2.5-4-1(e) states that “[t]he gross retail income received from selling at retail is only taxable... to the extent that the income represents: (1) the price of the property transferred, without the rendition of any service; and (2)... any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery or *other service performed in respect to the property transferred before its transfer* and which are separately stated on the transferor’s records.” For example, the entire purchase price of an automobile is subject to sales tax even though the total price includes both the cost of materials (steel, nuts, bolts, glass) and the cost of services (labor, delivery charges) because the automobile manufacturer’s services are all performed up-stream of the retail transaction.

The second exception is when the cost of services is part of a “unitary transaction.” IC 6-2.5-1-2. A “unitary transaction” is defined as a transaction that includes the transfer of tangible personal property and provision of services for a single charge pursuant to a single agreement or order. IC 6-2.5-1-1. For example, if a customer hires a vendor to install telephone equipment in the customer’s office and the vendor – having completed the installation work – presents a bill for \$500, the entire \$500 is subject to sales tax. The parties’ agreement to install the telephone equipment constitutes a “unitary transaction” even though the parties intended the agreement to cover both the installation work and the telephones. However, in Cowden & Sons Trucking, Inc. v. Indiana Dept. of State Revenue, 575 N.E.2d 718, 722 (Ind. Tax Ct. 1991), the Tax Court stated that “the legislature intends to tax services rendered in retail unitary transactions only if the transfer of property and the rendition of services is inextricable and indivisible.”

#### **A. Unitary Transactions:**

Therefore, when taxpayer sells a customer an item such a custom-built furniture or a completed kitchen countertop, the taxpayer is engaged in a unitary transaction, and the entire cost is subject to sales tax. Any service or labor costs which are attributable to the cost of the furniture or the countertop were incurred before the item was transferred to the customer. The customer is purchasing a completed item – the furniture or the countertop – which has a unique and indivisible value to that customer. In such a transaction, the taxpayer is acting as a retail merchant, is engaged in a retail transaction, and must collect sales tax on the total price of the item. The fact that taxpayer may present the customer a bill which separately states the cost of the labor and the materials expended in building the furniture or the countertop is irrelevant. There is no indication that the taxpayer and his customers – in this category of transactions – bargain for the service or labor costs. Rather, these transactions are similar to the purchase of an automobile. The fact that the auto manufacturer presents a bill which states separately the cost of the raw materials and the upstream labor costs would be equally irrelevant because the car customer and the car dealer have entered into a unitary transaction. The car dealer must collect sales tax on the entire cost of the vehicle even if much of that cost is attributable to labor.

Each transfer of a completed, ready-to-install cabinet – from taxpayer’s workshop to the customer’s location – constitutes an up-front, severable “unitary transaction” consisting of both the initial labor costs in building the cabinet and the materials used to build those cabinets. Taxpayer must charge sales tax on the both the labor expended and the material acquired up to the time that taxpayer completes construction and delivery of the cabinets because the transfer of each completed, ready-to-install unit constitutes a unitary transaction. Taxpayer must collect sales tax on the entire cost of each cabinet, entertainment center, or any other completed item he constructs for one of his customers.

#### **B. Construction Contracts:**

However, taxpayer also performs on-site carpentry work for customers. In these types of transactions, taxpayer brings raw, unfinished materials – wood, nails, finishing lumber – to a customer’s location and completes the work at that location. Taxpayer provides the raw materials, performs the work at the customer’s location, and presents a bill which distinguishes between the cost of the installed materials and the cost of the labor. Under these circumstances, taxpayer is not acting as a “retail merchant” but falls within the definition of a “contractor.” 45 IAC 2.2-3-7(a) states that, “For purposes of this regulation... ‘contractor’ means any person engaged in converting construction materials into realty. The term ‘contractor’ refers to general or prime contractors, subcontractors, and specialty contractors including.... persons engaged in building, cement work, carpentry, plumbing, heating, electrical work, roofing, wrecking, excavating, plastering, tile and road construction.”

The raw materials taxpayer brings to the construction site – the wood, fasteners, paint – fall within the definition of “construction materials” as defined under 45 IAC 2.2-3-7 because the materials constitute “tangible personal property... used for incorporation in or improvement of a facility or structure constituting or becoming part of the land on which such facility or structure is situated.” 45 IAC 2.2-3-7(b).

The cost of these construction materials is subject to sales tax. “All construction material purchased by a contractor is taxable either at the time of purchase, or if purchased exempt (or otherwise acquired exempt) upon disposition unless the ultimate recipient could have purchased it exempt.” 45 IAC 2.2-3-8(b). Therefore, unless taxpayer’s customer is itself – exempt – a church or otherwise legitimately exempt organization – taxpayer must collect sales tax on the raw materials he brings to and incorporates into the customer’s building. Assuming he did not pay sales tax at the time he acquired the raw materials, taxpayer must collect sales tax on the baseboard he fastens to a customer’s walls; taxpayer must collect sales tax on the glue he uses to fasten a countertop to a customer’s kitchen cabinets; taxpayer must collect sales tax on the fasteners he uses to install the treads on a customer’s stairway. However, in these instances, taxpayer is not necessarily required to collect sales tax on the labor involved. 45 IAC 2.2-3-12(e) states that, “A person selling tangible personal property to be used as an improvement to real estate may enter into a completely separate

contract to furnish the labor to install or construct such improvement, in which case the sales tax shall be collected and remitted by such seller on the materials sold for this purpose. Such sale of materials must be identifiable as a separate transaction from the contract for labor.” Therefore, if taxpayer – at the time of the transaction – furnishes a bill for the cost of the materials incorporated into the customer’s realty and separately states on that bill the cost of the related labor, taxpayer is relieved of the requirement to collect sales tax on the labor portion of the bill. However, taxpayer is cautioned that under these circumstances, “The fact that the seller subsequently furnishe[s] information regarding the charges for labor and material under a flat bid quotation shall not be considered to constitute separate transactions for labor and material.” 45 IAC 2.2-3-12(e).

In sum, the audit report correctly determined that taxpayer was responsible for collecting sales tax on each unitary transaction and that taxpayer was responsible for collecting sales tax on the material portion of construction contracts.

#### **FINDING**

Taxpayer’s protest is respectfully denied.

#### **II. Abatement of the Ten-Percent Negligence Penalty.**

Taxpayer asks the Department to exercise its discretion and abate the ten-percent negligence penalty.

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer’s negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as “the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.” Negligence is to “be determined on a case-by-case basis according to the facts and circumstances of each taxpayer.” Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on “reasonable cause and not due to willful neglect.” Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish “reasonable cause,” the taxpayer must demonstrate that it “exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed....”

The Department agrees with taxpayer that the positions it took in regard to its Indiana sales tax liabilities – however erroneous – were indicative of “reasonable cause and not due to willful neglect.”

#### **FINDING**

Taxpayer’s protest is sustained.

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### **DEPARTMENT OF STATE REVENUE**

0420020279.LOF

#### **LETTER OF FINDINGS: 02-0279**

##### **Gross Retail Tax**

##### **For 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.

#### **ISSUE**

##### **I. Prepaid Telephone Calling Cards – Gross Retail Tax.**

**Authority:** IC 6-2.5-2-1(a); IC 6-2.5-2-1(b); IC 6-2.5-4-1(b); IC 6-2.5-4-5; IC 6-2.5-4-6; IC 6-2.5-4-13; IC 6-8.1-3-3; IC 6-8.1-3-3(b); IC 6-8.1-5-1(b).

Taxpayer challenges the Department of Revenue’s decision requiring taxpayer to pay gross retail (sales) tax on the amount of money it received from selling prepaid telephone calling cards.

#### **STATEMENT OF FACTS**

Taxpayer is in the business of selling prepaid telephone calling cards. Taxpayer sells the cards at wholesale to various retail outlets. Taxpayer also sells the cards directly to consumers by means of vending machines owned by the taxpayer.

The Department of Revenue (Department) conducted an audit of taxpayer’s business records. The audit report concluded that taxpayer should have been collecting Indiana sales tax on the money received from its vending machines sales.

The taxpayer challenged the assessment of sales tax and submitted a protest to that effect. An administrative hearing was held, and this Letter of Findings follows.

#### **DISCUSSION**

##### **I. Prepaid Telephone Calling Cards – Gross Retail Tax.**

Taxpayer challenges the assessment of sales tax on the ground that it never received notice that it was required to collect sales tax from its vending machine customers. In addition, taxpayer obliquely suggests it is entitled to an exemption from collecting sales tax because it was acting as a “public utility” in selling the telephone cards.

Pursuant to IC 6-2.5-2-1(a), Indiana imposes a sales tax on all retail transactions made in this state. IC 6-2.5-4-1(b) defines a “retail transaction” as the acquisition of tangible personal property by a retail merchant for the purpose of resale and subsequent transfer of that property to another for consideration. A retail transaction is defined as “selling at retail” and someone who engages in such a transaction is a “retail merchant.” “Selling at retail” is defined in IC 6-2.5-4-1(b) which states:

A person is engaged in selling at retail when, in the ordinary course of his regularly conducted trade or business, he: (1) acquires tangible personal property for the purpose of resale; and (2) transfers that property to another person for consideration.

The sales tax statutes specifically exempt certain transactions. Elsewhere, the legislature has avoided any potential ambiguity by specifically designating certain vendors as “retail merchants.” IC 6-2.5-4-13 states:

A person is a retail merchant making a retail transaction when a person sells:

- (1) a prepaid telephone calling card at retail;
- (2) a prepaid telephone authorization number at retail;
- (3) the reauthorization of a prepaid telephone calling card; or
- (4) the reauthorization of a prepaid telephone number.

#### **A. Prospective Treatment.**

Taxpayer argues that it is entitled to prospective treatment of the audit’s determination that it should have been collecting sales tax on its vending machine sales. According to taxpayer, it is entitled to this prospective treatment because taxpayer “had received no notice of implementation of this tax or how to calculate, collect and/or remit the same” until the time that the Department conducted the audit investigation.

IC 6-2.5-4-13 was drafted by the state legislature as Ind. Pub. L. No. 8-1998 indicating that the law – as presently implemented – was placed into effect shortly before or during the time considered in the audit examination. Taxpayer is correct in its general assertion that, under IC 6-8.1-3-3, the Department is without authority to reinterpret a taxpayer’s tax liability without promulgating and publishing a regulation giving taxpayer notice of that reinterpretation. IC 6-8.1-3-3(b) states that “[n]o change in the department’s interpretation of a listed tax may take effect before the date the change is: (1) adopted in a rule under this section; or (2) published in the Indiana Register....”

However, IC 6-8.1-3-3(b) provides the taxpayer no relief because the Department has done nothing which “reinterpret[s]” taxpayer’s sales tax liability. The legislature chose to implement IC 6-2.5-4-13 in the form, in the manner, and at the time it did. There is nothing which imposes a duty on either the legislature or the Department to inform Indiana residents – individually or collectively – of their responsibility under the state’s tax laws. To the contrary, the law imposes upon a businessperson the exclusive responsibility for collecting and remitting sales tax. “The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. *The retail merchant shall collect the tax as agent for the state.*” IC 6-2.5-2-1(b) (*Emphasis added*). The language of the statute could not be more direct; a customer *shall* pay sales tax, and the retail merchant *shall* collect that tax on behalf of the state. There is nothing in this language permitting business persons to avoid his or her responsibility on the ground that that they were unaware of the law for three years.

#### **B. Utility Exemption.**

Taxpayer suggests that it is entitled to a sales tax exemption on the ground that it is a “public utility.” See IC 6-2.5-4-5; IC 6-2.5-4-6.

IC 6-8.1-5-1(b) in part provides that, “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

Taxpayer’s exemption argument is not well-taken because it has provided nothing which would indicate that it is a “public utility” or that a “public utility” in the business of selling prepaid telephone cards would be exempt from collecting and remitting sales tax. Under IC 6-8.1-5-1(b), taxpayer has not met its burden of demonstrating that it is a public utility or that its activities do not fall under the specific provisions of IC 6-2.5-4-13.

When taxpayer uses its vending machines to sell prepaid telephone cards, it is acting as a “retail merchant,” is engaged in “selling at retail,” and it should have been collecting sales tax on the vending machine transactions.

#### **FINDING**

Taxpayer’s protest is respectfully denied.

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DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0100  
SALES AND USE TAX

04-20020100.LOF

**For Years 1998 and 1999**

**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. Sales/Use Tax—Best information available; failure to maintain adequate records**

**Authority:** IC 6-8.1-5-1(a); IC 6-8.1-5-4(a); IC 6-8.1-5-4(c) IC 6-8.1-5-1(b).

Taxpayer argues that the proposed assessment should be reduced because, in the taxpayer's opinion, the auditor's assessment, which was based on the best information available, was unreasonable. Taxpayer contends that the majority of the expenses that were considered to be non-exempt by the auditor were, in fact, for exempt uses. However, taxpayer failed to maintain adequate business records.

**STATEMENT OF FACTS**

Taxpayer was acquired as part of a corporate merger in August of 1999. Before the merger, taxpayer owned a facility in Indiana that was one of five such facilities owned by the taxpayer in the United States. After the merger, few records existed for the no-longer-existent taxpayer. Because no records were available, the auditor made use of the best records available, which included the taxpayer's federal and state income tax returns. Taxpayer filed its final Indiana return in 1999. The Indiana facility was closed in 2000.

**I. Sales/Use Tax—Best information available; failure to maintain adequate records****DISCUSSION**

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. IC 6-8.1-5-1(a). 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. IC 6-8.1-5-4 (a). A person must allow inspection of the books and records and returns by the department or its authorized agents at all reasonable times. IC 6-8.1-5-4 (c). The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. IC 6-8.1-5-1(b).

Taxpayer freely admits that it has no documentation aside from what was relied upon by the auditor that would tend to prove the assessment to be in error. Because the taxpayer cannot meet its burden of proof in overcoming the presumption by the proposed assessment, the information that the auditor relied upon will be deemed sufficient as the best information available.

**FINDINGS**

The taxpayer is respectfully denied.

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**DEPARTMENT OF STATE REVENUE**

0420020532.LOF

**LETTER OF FINDINGS NUMBER: 02-0532****SALES & USE TAX****For The Tax Periods: 1999 -2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE****I. Sales Tax – Markup for long distance calls**

**Authority:** IC 6-2.5-2-1, IC 6-2.5-4-6, IC 6-2.5-4-4, *Greensburg Motel v. Dept. of State Revenue*, 629 N.E.2d 1302 (Ind. Tax 1994).

The Taxpayer protests the Department's assessment of sales tax on the markup of long distance telephone services offered to its guests.

**STATEMENT OF FACTS**

Taxpayer is in the business of providing guest accommodations for periods of less than 30 days. As part of its hotel operations, Taxpayer purchases telephone services from both a local carrier and a long distance carrier and passes these services through to its guests. The guests are not charged for local calls, however they are billed for long distance calls based on the length, location, and time of call. They are billed in a single un-segregated amount which includes Taxpayer's cost plus a markup.

During the audit, the auditor made adjustments after she determined that Taxpayer failed to include in taxable sales the long

distance markup billed to the customer. More facts supplied as necessary.

**I. Sales Tax: Markup for long distance calls**

**DISCUSSION**

During the audit, the auditor found that Taxpayer failed to include in taxable sales the long distance markup for telephone calls billed to the customer. Taxpayer argues that the markup contains additional costs on which sales tax has been paid.

“An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana,” IC 6-2.5-2-1. Also, IC 6-2.5-4-6 provides:

- (a) As used in this section, “telecommunication services” means the transmission of messages or information by or using wire, cable, fiber-optics, laser, microwave, radio, satellite, or similar facilities. The term does not include value added services in which computer processing applications are used to act on the form, content, code, or protocol of the information for purposes other than transmission.
- (b) A person is a retail merchant making a retail transaction when the person:
  - (1) furnishes or sells an intrastate telecommunication service; and
  - (2) receives gross retail income from billings or statements rendered to customers.
- (c) Notwithstanding subsection (b), a person is not a retail merchant making a retail transaction when:
  - (1) The person provides, installs, construct, services, or removes tangible personal property which is used in connection with the furnishing of the telecommunication services described in subsection (a); or
  - (2) The person furnishes or sells the telecommunication services described in subsection (a) to another person described in this section or in section 5 of this chapter.

It is clear Taxpayer does not transmit messages, but, rather simply purchases telecommunication services from the long distance carrier and, in turn, permits guest to access the telecommunication services for a fee. Taxpayer, as purchaser rather than a seller of intrastate telecommunication services, is required to pay sales/use tax on telecommunication services purchased pursuant to the above referenced IC 6-2.5-2-1 and IC 6-2.5-4-6.

The fee charged by Taxpayer to its guests for access to the telecommunications services is also subject to sales/use tax to be collected by Taxpayer as provided by IC 6-2.5-4-4 and 45 IAC 2.2-4-8. 45 IAC 2.2-4-8, interpreting IC 6-2.5-4-4, states that every person renting or furnishing rooms, lodgings or other accommodations for periods of less than thirty (30) days must collect the gross retail tax on the gross receipts from such transactions. It further states,

The gross receipts subject to tax include the amount which represents consideration for the rendition of these services which are essential to the furnishing of the accommodation, and those services which are regularly provided in furnishing the accommodation. Such amounts are subject to tax even when they are separately itemized on the statement or invoice. *Id.*

In this case, Taxpayer’s provision of access to telephone services for its guests is a service regularly provided in furnishing an accommodation by Taxpayer, hence, the fee for this is defined as gross receipts received from furnishing accommodations for periods of less than thirty (30) days and is subject to sales/use tax. While Taxpayer must pay sales/use tax to the telecommunications provider, they are not required to collect sales tax on the reimbursement of the long distance charge. However, the markup is considered to be a service charge that is in fact essential to and regularly provided in the furnishing of the accommodation. As such, the markup charge on long distance telephone calls is subject to the collection of sales tax.

Taxpayer contends that a portion of the markup consists of other costs such as call accounting software, special computers, telephone equipment and wiring which sales tax was also paid. They state that this is tax pyramiding and that only the markup minus these associated costs should be taxed.

In *Greensburg Motel v. Dept. of State Revenue*, 629 N.E.2d 1302 (Ind. Tax 1994), the taxpayer, who was a motel owner and operator, argued that tax pyramiding occurs in its industry because they are providing a taxable service and are not exempt from sales tax on their purchases of consumable items, non-consumable items, and utilities. The Court stated, “Not every purchase incorporated into service is exempt from sales tax.”

While IC 6-2.5-4-6(c) explicitly excludes Taxpayer as a retail merchant making a retail transaction for providing telecommunications services, there is no such provision for Taxpayer with regards to the additional costs associated with the long distance service.

**FINDING**

The Taxpayer’s protest is respectfully denied.

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**DEPARTMENT OF STATE REVENUE**

0420030232P.LOF

**LETTER OF FINDINGS NUMBER: 03-0232P**  
**Sales Tax**

**For the Month December 2002**

**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. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late penalty.

**STATEMENT OF FACTS**

The late penalty was assessed on a monthly sales tax filing for the month of December 2002.

The taxpayer is a retailer of luggage and gifts. The taxpayer is headquartered out-of-state.

**I. Tax Administration – Penalty****DISCUSSION**

The taxpayer requests the penalty assessment be waived as the error was the result of using the wrong date. Furthermore, the taxpayer asks for waiver as the taxpayer has been timely in the past.

The Department says the taxpayer was late ten days. The taxpayer has been deemed an early filer where the due date of the monthly sales tax return is on the 20<sup>th</sup> of the month. In regard to the month in question, the taxpayer's monthly tax return was postmarked the 30<sup>th</sup>, ten days late.

45 IAC 15-11-2(b) states, "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 Department finds the taxpayer did not act with reasonable care in that the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

**FINDING**

The taxpayer's penalty protest is denied.

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**DEPARTMENT OF STATE REVENUE**

04-20030258P.LOF

**LETTER OF FINDINGS NUMBER: 03-0258P**

**Tax Administration—Penalty**

**Tax Administration—Interest**

**For the Years 2000 & 2001**

**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. Tax Administration—Penalty**

**Authority:** 45 IAC 15-11-2

Taxpayer protests the 10% negligence penalty.

**II. Tax Administration—Interest**

**Authority:** IC § 6-8.1-10-1

Taxpayer protests the interest levied upon the base use tax owed to the Department.

**STATEMENT OF FACTS**

Taxpayer is a contractor who installs in-ground pools on a lump sum contract basis. Taxpayer also sells pool materials and supplies at retail.

The penalty was proposed in the first instance because the auditor determined taxpayer had not self-assessed and remitted use tax even though taxpayer was aware of its duty to do so. The current audit, taxpayer's first, assessed additional use tax because, although taxpayer has a use tax accrual program, a significant number of invoices showed no use tax was accrued. Further, taxpayer



also collected sales tax on a pool package for materials only, but did not report the sales tax and did not remit the sales tax collected.

**I. Tax Administration—Penalty****DISCUSSION**

Penalty assessments depend on a number of factors outlined in the statute and regulation cited *supra*, and can be waived based on a showing of sufficient cause:

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 Department finds the taxpayer did not act with reasonable care in that taxpayer did not report a sale as taxable even though taxpayer collected sales tax on the transaction. Taxpayer did not remit the sales tax collected. Taxpayer admits making mistakes; that admission is an admission of negligence. The Department denies taxpayer's request to abate the 10% penalty assessment.

**FINDING**

Taxpayer's request to abate the 10% negligence penalty is denied.

**II. Tax Administration—Interest****DISCUSSION**

Interest is imposed by statute, and cannot be waived.

**FINDING**

Taxpayer's request to abate the interest on the assessment is denied.

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**DEPARTMENT OF STATE REVENUE**

04-20030265P.LOF

**LETTER OF FINDINGS NUMBER: 03-0265P****Tax Administration—Penalty****For the Years 2000 & 2001**

**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. Tax Administration—Penalty**

**Authority:** 45 IAC 15-11-2

Taxpayer protests the 10% negligence penalty.

**STATEMENT OF FACTS**

The penalty was proposed in the first instance because the auditor determined taxpayer did not report and pay the required use tax on its purchases of fixed assets and operating expenses as required.

Taxpayer is a subsidiary of a corporate group whose parent is a foreign corporation. The parent's principal line of business is to serve the investment and capital needs of individuals and institutional clients through its broker-dealer subsidiaries such as taxpayer.

**I. Tax Administration—Penalty****DISCUSSION**

Penalty assessments depend on a number of factors outlined in the regulation cited *supra*, and can be waived based on a showing of sufficient cause:

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 Department finds the taxpayer did not act with reasonable care in that taxpayer did not accrue and pay use tax on purchases of fixed assets and operating expenses as required. The Department denies taxpayer's request to abate the 10% penalty assessment.

**FINDING**

Taxpayer's request to abate the 10% negligence penalty is denied.

**DEPARTMENT OF STATE REVENUE**

0420030272P.LOF

**LETTER OF FINDINGS NUMBER: 03-0272P****Sales Tax****For the Years 2000-2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE****I. Tax Administration- Ten Percent (10%) Negligence Penalty**

**Authority:** IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the imposition of the ten percent (10%) negligence penalty.

**STATEMENT OF FACTS**

The taxpayer is a Sub-Chapter S corporation that operates a guest ranch and leases grazing rights and cattle. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional sales and use tax, interest, and penalty. The taxpayer paid a portion of the assessment and protested the imposition of the ten percent (10%) negligence penalty. Although given ample opportunity to do so, the taxpayer did not request a hearing or submit additional documentation. Therefore, this Letter of Findings is based on the contents of the file.

**I. Tax Administration- Ten Percent (10%) Negligence Penalty****DISCUSSION**

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. The taxpayer contends that the negligence penalty is inappropriate in this situation because the taxpayer did not intentionally fail to pay the proper amount of tax.

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 reach 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 department's standard for the negligence penalty, as stated in the regulation, is significantly lower than intentional nonpayment of tax as argued by the taxpayer. Rather, the penalty can be properly imposed when the taxpayer is inattentive to its duties or disregards department's instructions. In this case, the taxpayer repeatedly failed to pay tax on a clearly taxable tractor and feed and salt blocks for the animals not used for an agricultural purpose. This failure to follow departmental instructions constitutes negligence.

**FINDING**

The taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0420030301P.LOF

**LETTER OF FINDINGS NUMBER: 03-0301P****Sales & Use tax****For the Month of December 2002**

**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. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late payment penalty.

**II. Tax Administration – Interest****Authority:** IC 6-8.1-10-1

The taxpayer protests the interest assessment.

**STATEMENT OF FACTS**

The late payment penalty and interest was assessed on the late filing of a monthly sales tax return.

The taxpayer is a company located out-of-state.

**I. Tax Administration – Penalty****DISCUSSION**

The taxpayer argues the late penalty should be waived as logically the check was received by the Department on or before the filing deadline. The taxpayer shows that the check was deposited by the Department on January 31<sup>st</sup>, one day after the filing deadline. The taxpayer says that logic indicates the check would have been received by the Department at least the day before the deposit date.

The Department points out that the postmark date is January 31, 2003. Thus, the filing of the sales tax return was one day late. 45 IAC 15-11-2(b) states, “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 Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer’s penalty protest is denied.

**II. Tax Administration – Interest****DISCUSSION**

The taxpayer protests the interest assessment.

IC 6-8.1-10-1 does not allow the waiver of interest. As such, the Department finds the assessment of interest proper and denies the interest protest.

**FINDING**

The taxpayer’s interest protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0320030279P.LOF

**LETTER OF FINDINGS NUMBER: 03-0279P****Withholding Tax****For the Months January 1, 2002 thru January 31, 2003**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by 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. Tax Administration – Penalty****Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late penalty.

**STATEMENT OF FACTS**

The late penalty was assessed for the late filing of monthly withholding tax returns for the period January 1, 2002 thru January 31, 2003.

The taxpayer is a corporation domiciled in Indiana.

**I. Tax Administration – Penalty****DISCUSSION**

The taxpayer requests the penalty be waived as the error is the result of an incompetent employee.

The Department points out that Federal regulations (to which the State of Indiana follows in this instance) state a taxpayer has control of an employee’s performance and dereliction of duty on behalf of the employee is the responsibility of the taxpayer.

45 IAC 15-11-2(b) states, “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 Department finds the taxpayer was inattentive of tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer's penalty protest is denied

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**DEPARTMENT OF STATE REVENUE**

0320030299P.LOF

**LETTER OF FINDINGS NUMBER: 03-0299P**

**Withholding Tax**

**For the Monthly Periods of January thru April 2003**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is 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. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late payment penalty.

**II. Tax Administration – Interest**

**Authority:** IC 6-8.1-10-1

The taxpayer protests the interest assessment.

**STATEMENT OF FACTS**

The late payment penalty was assessed on the late filing of monthly withholding tax returns.

The taxpayer is a corporation headquartered out-of-state.

**I. Tax Administration – Penalty**

**DISCUSSION**

The taxpayer argues the late penalty should be waived as the coupon book was not received in the mail by the taxpayer until mid-2003.

The Department points out the BT-1 business application that the taxpayer sent to the Department was incomplete. The BT-1 application did not have the required information of the associates. On April 24, 2003 the Department requested the required information from the taxpayer. When the information was received, the coupon books were sent to the taxpayer.

45 IAC 15-11-2(b) states, "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 Department finds the error in this case to be the error of the taxpayer in that the taxpayer did not complete all of the required information on the BT-1 business application. As such, the Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer's penalty protest is denied.

**II. Tax Administration – Interest**

**DISCUSSION**

The taxpayer protests the interest assessment.

IC 6-8.1-10-1 does not allow the waiver of interest. As such, the Department finds the assessment of interest proper and denies the interest protest.

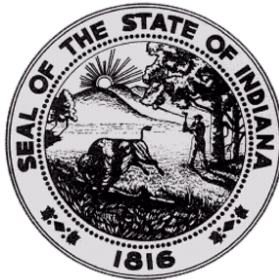
FINDING

The taxpayer's interest protest is denied.

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**THE INDIANA STATE PLAN TO IMPLEMENT THE HELP AMERICA VOTE ACT OF 2002  
A BLUEPRINT FOR INDIANA ELECTIONS**

**Todd Rokita**  
*Indiana Secretary of State*



"With this blueprint for Indiana's elections we have set in motion the most comprehensive voting reforms in our state since the Voting Rights Act of 1965. With state of the art voting systems, a statewide voter registration system, and creative solutions like provisional balloting, Indiana will be well positioned to administer all elections as fairly and efficiently as possible to preserve the rights of all Hoosiers and help ensure that every legitimate vote is counted accurately."

Dear Indiana citizens:

The Help America Vote Act of 2002 (HAVA) is the most significant federal voting reform measure since the Voting Rights Act of 1965. In Indiana, we have already been working over the last year and a half on many of the reforms now required by HAVA.

In February of 2003, I convened the Vote Indiana Team, a diverse group of 28 Hoosiers, to help create the blueprint for our elections for the next five years and beyond. The Vote Indiana Team members come from across the state and represent three political parties, the state legislature, minority groups, military voters, people with disabilities, county election and voter registration officials, and the media.

The Vote Indiana Team met over a six-month period as a full group and in smaller working groups to address specific issues and draft a comprehensive election reform plan for Indiana that implements the requirements of HAVA. After five meetings of the Vote Indiana Team as a whole and twenty-four singularly focused sub-group meetings, the Indiana State Plan is now available to you and all Hoosiers.

As voters, the changes you'll see at the polls over the next few years will be significant. Indiana will be replacing punch card and lever machine voting systems still in use in 32 counties. An accessible voting machine will be placed in every voting location in Indiana. The creation of a statewide voter registration database will allow election officials in every county to communicate with each other, as well as with officials from the Indiana Bureau of Motor Vehicles and the Departments of Health and Correction. The statewide voter registration system will ensure that every voter is registered at the proper location and only the proper location.

These improvements, along with advances in technology, will help ensure the voting rights of all Hoosiers are protected and will position Indiana as a nationwide model for election success and reliability.

None of these changes would be possible without the cooperation, coordination and continued hard work of Indiana's county clerks, election board members, and voter registration officials. I also want to thank the Vote Indiana Team for their generous time and effort in putting forth these recommendations.

I look forward to continuing to serve you as Indiana's chief election official and as Secretary of State. I am committed to making sure that Indiana's elections are efficient, accurate and fair.

Yours truly,



Todd Rokita  
Indiana Secretary of State

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## **Executive Summary**

Indiana has a population of 6,100,000 (2002 estimate), with a voting age population of 4,448,000 (2000 estimate used for purposes of HAVA). Of this population, 4,008,636 were registered to vote as of the November 2002 general election.

## **Election Administration in Indiana**

The Secretary of State serves as Indiana's chief election official. The Indiana Election Division (IED) is established within the Office of the Secretary of State. The Governor appoints the IED's two co-directors from lists of two or more persons submitted by the state's Democratic and Republican parties. The IED assists the Secretary of State and the Indiana Election Commission (IEC) with the administration of elections. Indiana's local government includes election administration and voter registration offices in each of the state's 92 counties. Each county is divided into election precincts, with a total of 5,602 precincts in Indiana. All 92 counties have a circuit court clerk elected by the voters and a county election board, which includes the circuit court clerk, to administer local elections.

In 2000, the Bipartisan Task Force on Election Integrity was convened by Secretary of State Sue Anne Gilroy and Governor Frank O'Bannon. The Task Force was charged with examining the election process in Indiana to ensure that elections were accurate, accessible and secure. After months of study, this bipartisan group reached consensus on several improvements to the election process; much of the work of the task force took the form of recommendations to the Indiana General Assembly. Many of these

recommendations were adopted, including provisional balloting, the establishment of a statewide voter registration system, and the phase out of punch card voting systems. Some of these initiatives were sidelined when appropriations were cut.

With the enactment of the Help America Vote Act of 2002 (HAVA) and the promise of federal funding to implement its requirements, Indiana's election reform efforts were revitalized. Secretary of State Todd Rokita convened the Vote Indiana Team in February 2003 to move forward with Indiana's election reforms. The Vote Indiana Team consists of 28 Hoosier voters representing a wide variety of ethnic, geographic and tri-partisan political backgrounds. Members met as a whole and in subgroups to address particular subject areas. At all times, meetings were open to the public and time was set aside for public comment. Furthermore, a 30-day public comment period began June 3, 2003, and ran through July 3, 2003, in accordance with HAVA requirements. The State Plan, all meeting notes, and other Team information can be found at [www.sos.IN.gov](http://www.sos.IN.gov), under "Vote Indiana Team Information." Please see Section 13 (page 52) of the State Plan to review simple procedures used for registering public comment.

HAVA requires the submission of a state plan detailing how HAVA requirements will be met and how HAVA monies will be utilized. This Executive Summary outlines the major initiatives of the Team and the plan for distributing the associated funding.

### **Voting Systems**

A new Quantity Purchase Agreement (QPA) will be issued. All Indiana certified voting system vendors will be eligible to enter into the QPA. HAVA requires each county to acquire one voting system with accessible equipment per polling place. Punch card and lever machines will be replaced. Funding will be distributed as a reimbursement to counties for the costs incurred in purchasing a voting system. Eligibility for reimbursement will be determined after review of an application to the Indiana Election Division, certification of polling place accessibility, and cooperation with a local advisory council to choose accessible polling places. The current funding formula described in the Plan is based on estimates of funding outlined in HAVA. The formula could change as the result of actual funding appropriated by Congress over the next several years. Please refer to Sections 1 (A) and 6 (A) of the State Plan for further information.

### **Statewide Voter Registration System**

A consultant and statewide steering committee will assist the Secretary of State and Indiana Election Division in the development and implementation of a statewide voter registration system. A Request For Proposal (RFP) will be issued for the selection of a vendor to create the system. The steering committee will help guide the creation and implementation of the system. The committee will be comprised of Team members and representatives from the clerks' and voter registration officials' associations. The system will also interact with computer systems of the Bureau of Motor Vehicles, Indiana State Department of Health and Department of Correction. Please refer to Sections 1 (B), Section 6 (B), and Section 8 (1) of the State Plan for further information.

### **Training and Education**

Training will be geared toward election officials and pollworkers. Voter educational opportunities will also be created. Please see Section 1 (F), Section 3, Section 6 (C), Section 8 (2 a,b,c), and Section 10 of the State Plan for further information.

### **Statewide Grievance Procedure**

A statewide grievance procedure will be established to handle complaints that may involve voting system and polling place accessibility, allegations of fraud, and other voting or registration processes. Please see Section 1 (E), Section 6 (E), Section 8 (3), and Section 9 of the State Plan for further information.

### **Provisional Balloting**

Provisional balloting will be available as a safety net for the voter who may have erroneously been removed from the voter list and to guard against fraudulent voting practices. A free access system will be available for a provisional voter to check the status of the provisional ballot (e.g. find out whether the ballot was counted). Please see Section 1 (D), Section 6 (D), and Section 8 (4) of the State Plan for further information.

### **Accessibility**

A comprehensive polling place accessibility study will be undertaken to guide local jurisdictions in making improvements. The

Secretary of State will apply for funding to help counties improve the accessibility of particular polling places. A voter will be able to cast a ballot privately and independently. Please see Section 4, Section 6 (HHS grants and F), Section 8 (5), and Section 10 of the State Plan for further information.

In summary, the efforts of the Vote Indiana Team and the dedication of Indiana's election officials will produce positive changes and set the course for Indiana's election reform efforts for years to come.

### Indiana State Plan Introduction

#### What is HAVA?

In 2002 Congress passed the Help America Vote of 2002 which President George W. Bush signed into law on October 29, 2002. The Help America Vote Act embraces the goals of election reform by expecting all levels of government to provide a democratic process that does the following:

- P maintains an accurate list of citizens who are qualified to vote;
- P encourages every eligible voter to participate effectively;
- P uses equipment that reliably clarifies and registers the voter's choice;
- P conducts elections in a foreseeable and fair way;
- P operates with equal effectiveness for every citizen and every community; and
- P reflects limited but responsible federal participation.

#### What are the State's responsibilities under HAVA and purpose of a state plan?

States who want to receive HAVA requirements funding must submit a self certified state plan outlining specific provisions set forth in the following section. The Secretary of State as Indiana's chief election official shall develop the plan through a committee (Vote Indiana Team) consisting of chief election officials from Indiana's two most populous counties, other local election officials, key stakeholders (including members of the community with disabilities), and other citizens. The preliminary state plan must be available for public inspection and comment for thirty (30) days before submission to the Election Assistance Commission. The Vote Indiana Team shall take into account the public comments before submitting the final plan. The Vote Indiana Team met July 18, 2003 to take into account public comment received to date and to recommend the final plan for submission.

#### How is this document organized?

The State Plan's overview is contained in the Executive Summary. The Executive Summary briefly describes major initiatives contained in the State Plan and refers to the appropriate section in the plan document for further information. HAVA requires the state plan to address the thirteen (13) provisions listed below. A Glossary of Terms and Acronyms is included to define or reference frequently used terminology or acronyms. Appendix 1, Indiana Election Reform History, describes Indiana's election reform efforts beginning prior to statehood through today. Appendix 2 explains the Hoosier Equipment Lease Purchase (HELP) Program. A Table of Contents is also attached to guide the reader through this document.

- P How Indiana will use these federal funds to comply with HAVA's requirements concerning voting systems, the statewide voter registration system, and provisional voting.
- P How Indiana will distribute (and monitor the distribution of) federal funds to local governments and other fund recipients, including the criteria to determine eligibility and to monitor performance.
- P How Indiana will provide voter education, election official, and poll worker training programs.
- P How Indiana will adopt voting system standards consistent with HAVA.
- P How Indiana will establish a fund for administering these federal payments and how the Indiana fund will be managed.
- P Indiana's proposed budget to carry out the activities required to receive these federal funds.
- P How Indiana, in using these federal funds, will maintain a level of state expenditures at least equal to Indiana's expenditures for these activities during the July 1, 1999 – June 30, 2000 fiscal year.
- P How Indiana will adopt performance measures to determine the success of state and local government in carrying out the plan, including timetables, a description of the criteria to measure performance, and which official is responsible for meeting the requirements.
- P A description of the required "uniform nondiscriminatory State grievance procedure" for HAVA-related complaints.
- P If Indiana received additional federal money from another source, how this money will be used to carry out activities under the State Plan.
- P How Indiana will conduct ongoing management of the HAVA State Plan.



- P How the State Plan reflects changes from the State Plan for previous fiscal years.
- P A description of the State Plan Committee and the procedures used by the Committee to develop the Plan.

### **How did we receive Public Comment?**

Section 13 of the State Plan describes in detail the make up of the Vote Indiana Team and its work to date. Further information about the work of the Team may be found at [www.sos.IN.gov](http://www.sos.IN.gov). Public comment was submitted to the chair of the Vote Indiana Team in writing to the following address: Todd Rokita, Indiana Secretary of State, 200 West Washington Street, Room 201, Indianapolis, Indiana 46204, and was emailed to [VoteIndianaTeam@sos.state.in.us](mailto:VoteIndianaTeam@sos.state.in.us). Public comment on the preliminary state plan was also left at 317-234-VOTE or at the Indiana Election Division toll free in Indiana at 800-622-4941 (TDD). Comments were also faxed to 317-233-3283. The Team also received public comment at the annual Clerks' Conference and the Indiana Voter Registration Association meeting.

**This Plan is available in accessible formats upon request. Please call 234-VOTE or email [havaadministrator@sos.state.in.us](mailto:havaadministrator@sos.state.in.us) for further information.**

### **GLOSSARY OF TERMS AND ACRONYMS**

**“Certification of accessibility of polling place”** Part of the application process by a county to receive state money to reimburse the county for purchasing voting equipment. The certification will state that the polling places selected by the county permit voters with disabilities to cast their ballots in the polling place with the same access and privacy provided to other voters.

**“Free access system”** A toll-free telephone number, an Internet web site, or other method that permits a voter who casts a provisional ballot to learn whether or not the voter's ballot was counted, and if not, the reasons why the provisional ballot was not counted.

**“HAVA”** The Help America Vote Act of 2002 (Public Law 107-252). A federal law passed by Congress and signed by President Bush on October 29, 2002. Each state will be passing its own laws as needed to implement HAVA in that state.

**“Maintenance of Effort”** A requirement under the HAVA law that when a state uses “Title III requirement monies,” the state pledges to keep spending in the future the same amount of money that the state had spent during 1999 and 2000 for the programs for which the state is using the “Title III requirement monies.”

**“National Voter Registration Act of 1993”** A federal law which enacts requirements concerning voter registration for federal elections.

**“Poll worker”** Paid position at polling place on Election Day to assist in operating the election.

**“Provisional Ballot”** A ballot cast by an individual when it is not clear whether the individual is entitled to vote in a precinct. The provisional ballot is kept separate from the other ballots cast by voters in the precinct. After election day, the county election board decides whether the individual is entitled to vote and whether the individual's provisional ballot should be counted or rejected.

**“Provisional Ballot Status”** The decision made by the county election board whether to count a provisional ballot, and if not, the reasons for rejecting the ballot.

**“Purchase”** When discussed in the context of voting system, includes lease and lease-purchase agreements, as specified by Indiana Code 3-11-6.5.”

**“Off election year”** The year in each four year election cycle in Indiana in which no regularly scheduled elections are held at either the state or local level. The off-election year occurred in 1997 and 2001 and will occur in 2005.

**“Qualifying precinct”** Defined in HAVA as a precinct where a punch card or lever machine voting system was used in the November 2000 election.

**“Section 101 monies”** Money made available from the federal government to state governments under HAVA to improve the manner in which elections are administered in the state.

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## Nonrule Policy Documents

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**“Section 102 monies”** Money made available from the federal government to state governments under HAVA specifically to replace lever voting machines or punch card voting systems with newer types of voting systems. This money can also be used to reimburse local governments who have already purchased replacement voting systems since November 2000.

**“Title III requirement monies”** Money made available from the federal government to state governments under HAVA to help state and local governments comply with some of the requirements imposed under the HAVA law. These requirements include a statewide voter registration system, making voting equipment upgrades, and voting by provisional ballot.

**“The Team”** (Vote Indiana Team) The committee established under HAVA to develop the State Plan.

**“Video streaming”** Video available on the internet.

### Acronyms

**“ADA”** – Americans with Disabilities Act

**“BMV”** – Bureau of Motor Vehicles

**“CLE”** – continuing legal education

**“DOC”** – Department of Correction

**“DRE”** – direct recording electronic voting system

**“IDOA”** – Indiana Department of Administration

**“IED”** – Indiana Election Division

**“IVRA”** – Indiana Voter Registration Association

**“GPCPD”** – Governor’s Planning Council for People with Disabilities

**“HHS”** – Health and Human Services

**“NCAS”** – cross between a Public Service Announcement and a paid advertisement

**“QPA”** – Quantity Purchase Agreement

**“RFP”** – Request for Proposal

**“SVF”** – Statewide Voter Registration System

**“VIT”** – Vote Indiana Team

### Indiana State Plan

**This Plan is available in accessible formats upon request. Please call 234-VOTE or email [havaadministrator@sos.state.in.us](mailto:havaadministrator@sos.state.in.us) for further information.**

#### Section 1

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(1) How the state will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251 (a)(2), to carry out other activities to improve the administration of elections.**

Congress passed the Help America Vote Act of 2002 (HAVA) to provide election reform across the nation and bring uniformity to state elections. Title III of HAVA requires Indiana to do the following:

- Provide accessible machines in every polling place.
- Adopt uniform and nondiscriminatory standards that define what constitutes a vote.
- Provide voting systems that meet enhanced standards, including allowing the voter to verify the vote before the ballot is cast, permitting the voter to change or correct the ballot before it is cast, and notifying a voter of an overvote or establishing a voter education program specific to that voting system that notifies voters of the effects of overvoting.
- Allow individuals to cast provisional ballots and provide a free access system to inform a provisional voter whether the vote was counted, and if not counted, the reason why.
- Implement in a uniform and nondiscriminatory manner a single, interactive, computerized statewide voter registration system that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each.
- Require certain first time “mail in” registrants to provide identification.
- Implement a uniform and nondiscriminatory HAVA grievance procedure.

Prior to the passage of HAVA, Indiana had already laid the groundwork for election reform in the state. Public Law 209-203 (SEA 268), Public Law 116-203 (SEA 477) and Public Law 224-203 (HEA 1001) provide for the implementation of HAVA in Indiana. With the state’s initial framework and the passage of recent legislation, Indiana is on track to comply with all of the provisions of HAVA.

One example of Indiana’s work to lead the nation in election reform is the Indiana Voter’s Bill of Rights. Working from language prepared by the Secretary of State’s Election Division, the Indiana Election Commission unanimously approved the text of the Voter’s Bill of Rights in March 2003. It is a plain language document about accessibility and accountability; accessibility for legally registered voters and accountability for those who would act to defraud election administrators and in turn other voters. Posters of the Voter’s Bill of Rights were printed in both English and Spanish. The Secretary of State’s office provided Voter’s Bill of Rights posters to every county for display in polling places on Primary Election Day, May 6, 2003 and intends to keep the Voter’s Bill of Rights as a permanent fixture in Indiana polling places and posted to the Secretary of State’s website [www.sos.IN.gov](http://www.sos.IN.gov).

Currently, it is estimated that Indiana will receive \$40.4 million in Title III funds (Budget estimates set forth in section 6), and the Secretary of State and the Indiana Election Division intend to use the requirements funding for the following endeavors:

## **A. Voting Systems**

### **History of Voting Systems Upgrade Programs before HAVA**

In 2001, the Indiana General Assembly enacted legislation to provide for the gradual elimination of punch card voting systems over several years. The legislature also appropriated \$4 million dollars to fund the replacement of the punch card systems.

However, this 2001 Indiana legislation had some significant limits:

First, this state money was never available to reimburse counties who had purchased voting systems between January 1, 1998 and July 1, 2001. Instead, state law specified that only money received from the federal government could be used for this purpose.

Second, the \$4 million in state money was not appropriated to the new “voting system improvement fund”. Instead, this appropriation was made from the Build Indiana Fund. The effect of this distinction became clear in 2002, when the state through an executive order diverted all Build Indiana Fund monies to deal with the state’s growing budget deficit.

As of mid-2002, there was no state or federal money available for counties to receive any reimbursement at all for their voting system purchases. Then, in October 2002, the Help America Vote Act was finally passed and sent to the President.

HAVA, and the Indiana legislation enacted in 2003 to implement it, expanded the scope of the voting system upgrades required in Indiana: both lever and punch card must be phased out by December 31, 2005; all counties must also acquire voting systems to enable blind voters and voters with other disabilities to vote without assistance in each polling place.

HAVA (and the 2003 federal budget bill) also provide for limited voting system reimbursement to be passed on to counties. Under these federal laws, a total of more than \$9 million will be available to reimburse Indiana counties for voting system upgrades if these counties were using lever or punch card systems at the November 2000 election.

In addition, once the State Plan becomes final, Indiana will qualify to receive an estimated \$30 million in additional federal funds

over the next two federal fiscal years that can be used to assist with county voting system reimbursements.

In Indiana, even before HAVA passed, the Election Division acted to encourage all counties to submit applications for voting system reimbursement under the 2001 Indiana law. The Election Division advised clerks that while Congress and the state legislature were considering new laws that could change the amount and eligibility requirements for reimbursement, the county should act now to indicate its interest and to protect its eligibility. Some 72 of 92 counties followed that advice, and filed applications by the January 2003 deadline under state law.

In its 2003 session, the General Assembly passed a comprehensive bill to begin implementing HAVA in Indiana (Senate Enrolled Act 268). This new legislation actually gave an option to expand the availability of voting system reimbursement to counties that purchased a new voting system or upgrade between January 1998 and July 2001. However, Indiana law is still subject to the limits placed on its use of the federal money by HAVA.

In 2002, Indiana issued a Quantity Purchase Agreement (QPA) with four voting systems vendors whose optical scan or direct record electronic (DRE) voting systems were previously certified by the Indiana Election Commission. Replacement of punch card and lever machines used in November 2000 by more than half of Indiana's voters (in a total of 2983 precincts) is already under way. To help reduce the costs of any particular system, the Indiana Department of Administration (IDOA) will issue another QPA to facilitate the replacement of the remaining punch card and lever machines and the implementation of one accessible DRE per polling place. All certified voting system vendors will be eligible to enter into the QPA with IDOA. The Team recommends each QPA contain provisions permitting volume discounts for voting system purchases and multi-county purchasing arrangements through intergovernmental agreements or other methods permitted by state law. The team also recommends that the two following specifications be added to the QPA: (1) A vendor can only enter into the QPA if the vendor agrees not to charge a county interest during the period in which the county is waiting for reimbursement from the state, and (2) the vendor shall share the system's training video with the state. The team urges that the procurement process for voting systems adhere to minority business enterprises and women owned business enterprises requirements.

No later than January 1, 2006, assuming a waiver is granted, (Under HAVA, each state shall replace all punch card voting systems or lever voting systems by January 1, 2004 unless a waiver is granted and the State ensures that all punch card voting systems and lever voting systems will be replaced in time for the first election for Federal office held after January 1, 2006. Public Law 209-2003 prohibits the use of lever machines and punch card systems in Indiana elections after December 31, 2005. Like most states, Indiana will seek a waiver see section 6, page 25.) all punch card and lever voting systems will be replaced.

Under the system set up by P.L. 209-2003, funds would be released in the following manner: each county seeking reimbursement applies to the Indiana Election Division, an agency of the executive branch. The Secretary of State and Indiana Election Division personnel review the applications and certifications regarding polling place accessibility. The Secretary of State and Indiana Election Division recommend disbursement of funds to the Budget Committee, a bipartisan body consisting of state legislators and the state budget director. The Budget Committee is statutorily required to review these recommendations. Disbursements will be made to the counties on the approval of the State Budget Agency, an executive branch agency, after review by the Budget Committee and subject to fund availability.

The elimination of punch card and lever machines, along with the implementation of accessible machines, will require the use of Sections 101, 102, Title III, and state matching funds.

## **B. Statewide Voter Registration System**

No later than January 1, 2006, assuming a waiver is granted, (under HAVA, each state shall be required to comply with the statewide voter file requirement by January 1, 2004 unless a State certifies to the Commission that the State will not meet the deadline for good cause; the HAVA reference then becomes January 1, 2006. Like most states, Indiana will seek a waiver see section 6, page 36.) the Indiana statewide voter registration system will be online in all 92 Indiana counties; this will allow the creation and maintenance of a more accurate list of persons legally authorized to vote in Indiana. In addition to using the system for voter registration, Indiana plans to use this single, centrally administered system to assist the Secretary of State in providing all Indiana voters access to a free web-based or phone-based information system that indicates where a voter's polling place is located and confirms a voter's registration record.

A consultant and steering committee, consisting of members of the Team and representatives from the clerks' and voter registration officials' association, will assist in the implementation of the statewide voter registration system. An RFP will be issued for the

consultant and the vendor. The team urges that the procurement process for the consultant and the statewide voting registration system adhere to minority business enterprises and women owned business enterprises requirements.

The continuous maintenance of the statewide voter registration system will require a well coordinated interaction between county officials and state officials. Each county voter registration office, the Indiana Election Division, and the Secretary of State will have immediate electronic access to the information contained in the computerized list. The county voter registration office may change only data related to the voters registered in that respective county. Furthermore, the county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the computerized list on an expedited basis. The county voter registration office shall perform list maintenance with respect to the computerized list on a regular basis. The Indiana Election Division shall coordinate the computerized list with the Indiana Department of Correction records so the county voter registration office can cancel the registration records of disfranchised individuals on an expedited basis. The Indiana Election Division shall also coordinate the computerized list with the Indiana State Department of Health so the county voter registration office can cancel the registration records of deceased individuals on an expedited basis.

The Secretary of State, the Co-Directors of the Indiana Election Division, and the Bureau of Motor Vehicles Commission shall enter into an agreement to match information in the computerized list database with information in the database of the Bureau of Motor Vehicles Commission to enable the Indiana Election Division and the commission to verify the accuracy of the information provided on voter registration applications. This link will also serve as the access point for the Indiana Election Division to obtain and verify certain information from the Social Security Administration in accordance with HAVA. Indiana statute defines a unique identifier which will be assigned to each individual by the Indiana Election Division; this will assist in maintaining the accuracy of the statewide voter registration system.

### **C. First-time Mail-in Registrant Requirements**

HAVA requires certain first-time mail-in registrants to provide identification. The type of identification that shall be provided includes the following: (1) a current and valid photo identification, or (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

Exceptions: Voters exempt from these requirements include those entitled to vote by absentee ballot or other than in person under the Uniformed and Overseas Citizens Absentee Voting Act and the Voting Accessibility for the Elderly and Handicapped Act.

County voter registration offices are required by Public Law 209-203 to identify the first-time mail-in registrants required to provide this additional documentation, and to mail a notice to these voters no later than March 1, 2004 requesting a copy of these documents. As a result, the county voter registration offices hope to secure the required documentation from as many of these voters as possible before the May 2004 primary.

### **D. Provisional Balloting**

A free access system will be established upon the completion of the statewide voter registration system to provide a voter information as to whether a provisional ballot was counted; if the ballot was not counted, information as to the reason will be available. In the meantime, county election boards will make this information available to any voter upon inquiry by the voter. The county election boards shall maintain reasonable procedures to protect the security, confidentiality and personal information relating to a provisional voter.

### **E. Statewide Grievance Procedure**

Indiana recently passed legislation to establish a statewide grievance procedure to comply with the HAVA requirement that a state based administrative complaint procedure be in place. Title III funds will be used to establish this process which is explained in detail in section 9 (page 49) of this plan.

### **F. Training and Education**

The Secretary of State, through the Indiana Election Division, intends to expand upon the current training and educational opportunities for poll workers and voters, which are explained in detail in Section 3 (page 17) of this plan.

An election official and poll worker certification process will be developed and administered by the IED of the Secretary of State's office to more effectively train local election officials and poll workers; special focus will be on HAVA's requirements of accessible

voting systems and polling places, provisional ballots and documentation for first-time mail-in registrants.

## **Section 2**

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of –**

**(a) The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and**

**(b) The methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measure adopted under paragraph (8)**

The performance measures outlined in Section 8 (page 41) of this document will be used to gauge participation and effectiveness of distributions. Performance measures will be monitored semi-annually by the Indiana Election Division upon the completion and submission of election reports by the county as required by the law. The Indiana Election Division will provide a report to each Vote Indiana Team member summarizing progress under the performance measures.

### **A. Voting Systems**

The Indiana Department of Administration will issue a new Quantity Purchase Agreement (QPA) for voting system purchases in order to provide counties with the greatest number of options for voting system purchases and greatest amount of information to use in evaluating voting systems. HAVA funds will be placed in the Election Administration Assistance Fund. Funds will be distributed based on availability and by the priorities set by the Vote Indiana Team and any pertinent statutory requirements. All distributions are subject to federal and state audit standards.

Under the system set up by P.L. 209-2003, funds would be released in the following manner: each county seeking reimbursement applies to the Indiana Election Division, an agency of the executive branch. The Secretary of State and Indiana Election Division personnel review the applications and certifications regarding polling place accessibility. The Secretary of State and Indiana Election Division recommend disbursement of funds to the Budget Committee, a bipartisan body consisting of state legislators and the state budget director. The Budget Committee is statutorily required to review these recommendations. Disbursements will be made to the counties on the approval of the State Budget Agency, an executive branch agency, after review by the Budget Committee and subject to fund availability.

Under a memorandum of understanding or grant provision, failure to comply with any portion of Title III may result in the county being liable for all previously disbursed funds to that county from the state fund.

### **B. Statewide Voter Registration System**

The development, conversion, and ongoing maintenance of each county's data in the statewide voter registration system will be defined in a memorandum of understanding. Data will be collected through specialized reports containing information developed by the Indiana Election Division to ensure the county's participation in the overall success of the statewide voter registration system. The continuous maintenance of the statewide voter registration system will require a well coordinated interaction between county officials and state officials.

## **Section 3**

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(3) How the state will provide programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.**

The Indiana Election Division will provide traditional and alternative training tools to local election officials for topics such as poll worker training and voter training regarding voting equipment. The Indiana Election Division will enlist active input from and work with disability advocacy groups in designing poll worker training. The Indiana Election Division will provide continuing education annually for local county election boards, clerks of the circuit court, and voter registration officials; sessions will include information about HAVA's requirements.

Frequently scheduled and regionally located training sites will be used for local registration officials so they will be able to use the statewide voter registration system to its fullest potential. The system will also contain an online help query.

The training efforts proposed by this plan are designed to meet three goals.

1. There will be various methods of training available in order to effectively train poll workers so they are aware of voters' rights, sensitive to voters' needs, and proficient in their jobs; special emphasis will be placed on provisional ballots, voters with disabilities and voter identification needs. This training will include the following:

- video streaming of poll worker training (internet access to training videos)
- agreements with local government television stations to air poll worker training
- a master video on poll worker training for use by county election officials
- training for provisional ballot counters
- written materials and web information on Voter's Bill of Rights, provisional ballots and overvoting
- a "teach the teacher" certification program for individuals who provide instruction on voting machine usage
- products that include interaction with voters with disabilities (physical, sensory and cognitive impairments)

2. There will be on going training of full service voter registration agency employees and county election administrators so each understands the needs of voters with disabilities, voters who do not speak English, media, political party officials and campaign workers. This training will include the following:

- production of written materials and online information
- coordination with local advocacy groups to develop and target delivery of materials
- development of videos (and internet access to these videos)
- production of a video for county commissioners and others charged with selecting polling places

3. There will be efforts to increase voter participation by providing information about the voting process to better educate voters. Included will be information about voting systems, voter rights, accessibility and military/overseas voting. This will include the following:

- development of agreements with local government and public television stations to air voter instructions on use of voting equipment and information about voter rights
- production of a master video on voter education
- arrangement for display of voting equipment in malls and local library systems
- Development/Production of Public Service Announcements and NCAS
- Production of written materials and web information on Voter's Bill of Rights, provisional ballots and overvoting
- Publication of Military/Overseas voter guide with a focus on absentee balloting process including additional information on military/overseas voting on Indiana Election Division website

In the spirit of fully informing local government officials who must carry out activities required under HAVA, the Team fully supports the idea of conducting HAVA workshops targeted to Indiana's local government officials. It is expected that these opportunities may occur during the annual meetings of the Association of Indiana Counties and Indiana Association of Cities and Towns.

The proposed budget set forth in section 6, sets aside \$3.9 million to pay for voter education, election official education and training, and poll worker training. The plan calls for \$1.4 million of the \$3.9 million to be set aside for voter education. The Secretary of State and Indiana Election Division will prepare a training and voter education budget to provide the Vote Indiana Team. However, the Team recognizes that significant training and voter education efforts must occur to prepare for the 2004 election and must proceed before the completion of a final budget under this section.

#### **Section 4**

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(4) How the state will adopt voting system guidelines and processes which are consistent with the requirements of Title III.**

Indiana Code 3-11-15-13.3 sets forth voting systems guidelines and processes consistent with the Voting Systems Standards set forth in HAVA. A voting system certification expires five years after the date of approval of the system by the Commission.

- Under Indiana law, the Indiana Election Commission must approve any model of voting system before it may be used in an election. Indiana law now requires that a voting system shall meet the Voting Standards adopted by the Federal Election

Commission on April 30, 2002 in order to be approved by the Commission for use in Indiana.

- Under Indiana law, the Commission may not approve a voting system for use in Indiana unless the system meets the specifications in the Indiana Code. The specifications include ensuring secrecy and, in the case of a direct recording electronic voting system, preventing a voter from voting for the same candidate or for or against the same public question more than once. In cases where an optical scan ballot card system is used with a precinct tabulator, voters are alerted by the system to any overvote and provided with an opportunity to correct any overvote error. Where paper ballots or optical scan ballot card voting systems without precinct tabulators are used or absentee ballots are mailed out, Indiana law now requires a voter education program to inform voters using these systems of the effect of overvoting.
- Current Indiana law establishes uniform and nondiscriminatory standards to define what constitutes a vote on a paper ballot, optical scan voting system and electronic voting system. As referenced in the landmark United States Supreme Court decision in *Bush v. Gore*, 531 U.S. 98 (2000), Indiana statutes set forth very specific standards for determining what constitutes a vote in each type of voting system that may be used.
- The Indiana Code and election manuals produced by the Indiana Election Division are both very specific on how to accurately count each vote.

New Indiana law also requires that voting systems be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. A county satisfies these requirements if the election board provides at least one electronic voting system or other voting system equipped for individuals with disabilities at each polling place. Indiana also passed legislation in 2003 which requires that each voting system (1) produce a permanent paper record with a manual audit capacity for the system and (2) provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. The paper record produced must be made available as an official record for a recount or contest conducted with respect to any election in which the voting system was used.

The Team recommends the creation of a committee comprised of voters with disabilities to assist in the certification process of voting systems and to evaluate voting systems' accessibility.

## **Section 5**

### **Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

#### **(5) How the state will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.**

The Indiana Voting Systems Improvements Fund, established by legislation in 2001, has been renamed the Election Administration Assistance Fund (hereinafter "the fund") under Public Law 209-2003.

The fund consists of all money allocated to the state by the federal government

- (1) under Section 101 of HAVA (improvements to election administration generally),
- (2) under Section 102 of HAVA (funds used exclusively for replacement of punch card and lever machines),
- (3) under Title II, Subtitle D, Part I of HAVA (funds to meet Title III requirements including funds to bring all voting systems into compliance with HAVA accessibility requirements, statewide voter registration list, (4) provisional balloting, grievance procedure and administration, etc.), and
- (4) under any other program for the improvement of election administration.

The fund will also contain money appropriated to the fund by the Indiana General Assembly.

Within the fund, a total of five accounts have been established: an account has been established for each of the first three sources of allocations described above, and two accounts have been established within the fund for state matching funds allocated towards voting system reimbursements and the statewide voter registration system. There are restrictions, based on HAVA requirements, placed on distribution of money from each account.

Under the system set up by P.L. 209-2003, funds would be released in the following manner: each county seeking reimbursement applies to the Indiana Election Division, an agency of the executive branch. The Secretary of State and Indiana Election Division personnel review the applications and certifications regarding polling place accessibility. The Secretary of State and Indiana Election Division recommend disbursement of funds to the Budget Committee, a bipartisan body consisting of state legislators and the state



budget director. The Budget Committee is statutorily required to review these recommendations. Disbursements will be made to the counties on the approval of the State Budget Agency, an executive branch agency, after review by the Budget Committee and subject to fund availability.

Indiana's Budget Committee is a unique entity. The State Budget Committee has five members, with four alternate members who each may have voting privileges in the absence of a member. This liaison committee is comprised of the state budget director, two members of the Senate, one Republican and one Democrat, and two members of the House of Representatives, one Republican and one Democrat. The Committee continues to meet even when the General Assembly is not in session.

## Section 6

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

- (6) The state's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on-**
- (a) the costs of the activities required to be carried out to meet the requirements of Title III;**
  - (b) The portion of the requirements payment which will be used to carry out activities to meet such requirements; and**
  - (c) The portion of the requirements payment which will be used to carry out other activities.**

### Budget:

At the time this plan was drafted, federal appropriations for HAVA were less than the amounts authorized by the legislation. The following table outlines the assumptions regarding federal funding that the State used in creating its budget for HAVA activities. These numbers reflect the following: (1) \$15,752,875 in early payments received by Indiana as of June 17, 2003 (consisting of \$9,522,394 in Section 102 payments and \$6,230,481 in Section 101 payments); and (2) estimates from the Federal Funds Information for States Issue Brief, March 5, 2003.

The total appropriation for Indiana will not be known until Congress passes the FY 05 budget. Unless full funding is received, Indiana may not be able to initiate HAVA mandates described in this State Plan in the time prescribed. Indiana legislation was passed to allow for the required state match (Public Law 224-2003, SECTION 98).

<b>Federal Fiscal Year</b>	<b>Total Federal funds</b>	<b>Indiana federal funds</b>	<b>5% match</b>
<b>Early Payments</b>	\$325,000,000 (Sec. 101)	\$15.8 million	N/A
	\$325,000,000 (Sec. 102) (appropriated)		
<b>FY 2003</b>	\$810,000,000 (appropriated)	\$17.3 million	\$865,000
<b>FY 2004</b>	\$500,000,000 (President's budget)	\$10.5 million	\$525,000
	(\$1 billion authorized)		
<b>FY 2005</b>	\$600,000,000 (authorized)	\$12.6 million	\$630,000
<b>Total</b>	<b>\$2,560,000,000</b>	<b>\$56.2 million</b>	<b>\$2,020,000</b>

### Additional Funding: Health and Human Services grant

HAVA also authorizes the United States Secretary of Health and Human Services (HHS) to administer a grant program to do the following: (1) make polling places, including the path of travel, entrances, exits, and voting areas of each polling place more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence as other voters); and (2) provide individuals with disabilities and other individuals described in (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

The federal omnibus budget bill of 2003 and Indiana's Public Law 209-2003 authorize the state (through the Secretary of State, with the consent of the Indiana Election Division Co-Directors) to apply for grant funds. The funds are to be distributed based on each state's voting age population as a percentage of the national voting age population. HHS estimates that Indiana's share of these funds for 2003 will be \$251,048.

On July 7, 2003, the Secretary of State applied for these grant funds to be used in accordance with the requirements set forth in the HHS *Federal Register* notice of May 21, 2003, as amended and corrected May 29, 2003. To provide individuals with disabilities

## Nonrule Policy Documents

with information regarding the accessibility of polling places, the Secretary of State's office plans to conduct a statewide survey utilizing people with disabilities as the survey takers. The Governor's Planning Council for People with Disabilities (GPCPD) will coordinate the survey project and will tabulate the results and provide the information to the counties. GPCPD will also assist local election officials with the formation of local advisory councils consisting of elderly voters, voters with disabilities, and local election officials. The local councils will review the accessibility survey results and make recommendations to the county executive about making accessibility accommodations and/or moving polling places to accessible locations.

The Secretary of State and Indiana Election Division will prepare a budget for use of grant funds received from HHS. The Team estimates up to \$60,000 will be necessary to conduct the survey described above.

In 2003, Indiana passed the following standards for polling place accessibility under Public Law 116-2003:

"For purposes of this chapter, a facility is an accessible facility for elderly voters and voters with disabilities only if the following apply:

- (1) The facility meets the standards for accessibility for elderly voters and voters with disabilities established under 42 U.S.C. 1973ee-1 through 42 U.S.C. 1973ee-6
- (2) All the following are accessible to elderly voters and voters with disabilities in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters:
  - (A) Parking spaces marked and available to conform with IC 5-16-9
  - (B) The path to the facility that an individual must travel on the property where the facility is located
  - (C) The entrance of the facility to be used by voters
  - (D) The paths of travel within the facility to the rooms or areas where the voting system is located
  - (E) The rooms or areas in the facility where the voting systems are located."

Distribution of Indiana's HAVA funds (This chart is based on the \$58.2 million budget.)

<b>Total money: \$58.2 million</b>	
12 to 19 % on Voter File which equals <b>\$7-11 million</b> from Sec. 101, Title III requirements monies and state matching funds	
6.7 % on Training and Education which equals <b>\$3.9 million</b> from Sec. 101 and Title III requirement monies. \$1.4 million will be taken from the Sec. 101 funds for Voter Education.	
3.4 to 10.3% on Strategic Reserve (to meet any HAVA requirements) which equals <b>\$2-6 million</b> (this range is based on the range for the voter file; if less than \$11 million is used for the voter file, the remaining amount will be transferred to the Strategic Reserve) from Section 101 and Title III requirement monies	
.9% on Administration of Grievance Procedure which equals <b>\$500,000</b> from Title III requirement monies	
.9% on Administration of HAVA which equals <b>\$500,000</b> from Sec. 101 funds •This will include administrative costs associated with the development and oversight of Title III programs and other administrative costs.	
69% on Voting Equipment which equals <b>\$40.1 million</b> from Sec. 101, 102, Title III requirement monies and state matching funds •Tier A = precincts (2983) that used punch card or lever in 2000 •Tier B = all other remaining precincts (2619)	

<u>Account</u>	<u>Amount</u>	<u>Distribution</u>	
<b>Section 101</b>	\$6,230,481 (received)	Training & Education \$1,730,481 Administration \$500,000 Voting Equipment \$2,000,000 Strategic Reserve \$2,000,000	Not Allocated \$ 0
<b>Section 102</b>	\$9,522,394 (received)	Voting Equipment \$9,522,394	Not Allocated \$0
<b>Title III Requirement Monies</b>	\$40,400,000 (estimated)	Voting Equipment \$26,730,481 Voter File \$10,900,000 Grievance \$500,000 Training and Education 2,169,519	Not Allocated \$100,000
<b>State Match</b>	\$2,020,000 (estimated)	Voting Equipment \$1,886,408 Statewide Voter File \$100,000	Not Allocated \$33,592
<b>Total</b>	<b>\$58,172,875</b>	<b>\$58,039,283</b>	<b>Not Allocated \$133,592</b>

#### A. Voting Systems

It will be necessary to use Section 101, Section 102, Title III and state matching fund monies for voting systems reimbursements. Indiana had more than half of its voters using punch card or lever machines in November 2000.

#### Waiver Recommendation for Punch Card and Lever Voting Systems

The Team recommends that the Secretary of State and the Co-Directors of the Election Division certify in accordance with HAVA and Public Law 209-2003 that good cause exists to extend the deadline for replacement of lever voting machines and punch card voting systems until December 31, 2005. The grave risk of voter confusion, the lack of sufficient time for poll worker training, and the inefficient use of limited federal funds that would result from hasty acquisition of replacement voting system to comply with the January 1, 2004 deadline, makes this extension not only desirable, but essential.

#### Voting System Certification

The Team recommends that the Indiana General Assembly enact legislation in its 2004 session to address the issue of voting system certification. Under current Indiana law, a voting system is certified for marketing and use in Indiana elections for a term of five years after the Indiana Election Commission determines that the voting system complies with the Indiana law in effect at the time of certification. Indiana law formerly incorporated the 1990 Federal Election Commission (FEC) standards, and now incorporates the revised 2002 FEC standards.

Former Indiana law also provided that existing punch card voting system certifications would expire in July 2003 if the Indiana Election Commission determined that the voting system improvement fund established under 2001 law had a balance of at least \$5 million dollars. However, as noted earlier in this Plan, no monies were allocated by the state to this fund at any time before the fund ceased to exist in May 2003.

Although Public Law 209-2003 provides that lever voting machines and punch card voting systems may continue to be used in Indiana elections until December 31, 2005, the existing certifications for these systems should be revoked before that date so that no additional marketing of the systems can occur. To provide for more detailed scrutiny of applications for voting system certification, the General Assembly may wish to consider providing an up-to-four year term for certification, with all existing

applications coming up for renewal during the off election year.

### **Tier Structure for Voting System Reimbursement**

Counties will be divided according to the following levels and definitions:

- # Tier A = Qualifying Precincts under HAVA (precincts that used punch card or lever machines in the 2000 general election)
- # Tier B = all remaining Indiana precincts

The state will set aside \$40.1 million to reimburse counties in the following manner:

- # All counties will be eligible for reimbursement for up to \$50,000 for voting system software to operate the voting systems within the county. This reimbursement will be available in any fiscal year.
- # Tier A will be reimbursed up to \$8,000 per precinct.
- # Tier B will be reimbursed up to \$4,000 per precinct.
- # Tier A will be reimbursed on a first come, first served basis of federal FY 03 funds.
- # Remaining precincts (those in Tier A who have not been reimbursed and Tier B) will be reimbursed on a first come, first served basis of federal FY 2004 and 2005 funds.

The Team recognizes that this Plan proposes a reimbursement level for Tier A counties (up to \$8,000) that exceeds HAVA's reimbursement amount for qualifying precincts using Section 102 monies (\$3,192). It is the Team's intent to prioritize federal funding to alleviate as much as possible the possibility of an unfunded federal mandate while still being mindful of all of Indiana's reform obligations under HAVA.

### **Quantity Purchase Agreement (QPA)**

The Election Division will work with the Indiana Department of Administration to enter into quantity purchase agreements with each vendor of a voting system currently certified for marketing and use in Indiana, with the expectation that the agreement will be entered into by the vendor and the state no later than September 1, 2003.

### **Lease or Lease-Purchase of Voting System**

State law (Indiana Code 3-11-6.5-0.7) specifically provides that an agreement to lease or lease-purchase voting system permits a county to qualify for reimbursement. The Team recognizes that this may be a practical option for some counties to pursue due to the lack of suitable year-round climate-controlled storage space for voting systems.

### **Application Process for Voting System Reimbursement**

The voting system reimbursement application process will be administered in accordance with the "first come, first served" process described in this subdivision.

Indiana Code 3-11-6.5-4, as amended by Public Law 209-2003, SECTION 123, states that "To receive reimbursement for the purchase of voting systems... a county must file an application with the election division... If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application..."

Indiana Code 3-11-6.5-6.1, as added by Public Law 209-2003, SECTION 124, states "When approving applications for reimbursement for voting systems... the budget agency shall give priority to approving applications to replace a punch card voting system or lever voting machine system." The Team understands this statute to require that priority be given to Tier A county applications before Tier B county applications.

"First come, first served" will be determined strictly on the basis of the date and time that an amended application, or first time application from a county, is filed with the Election Division.

### **Application for Section 102 funds**

The Election Division will, by August 1, 2003, notify the circuit court clerks of counties with qualifying precincts which submitted an application for voting system reimbursement under Indiana Code 3-11-6.5 before January 31, 2003, that the county must file an

*amended* application with the Election Division no later than October 31, 2003 to receive the initial disbursement of Section 102 money under this Plan.

Unless the original application already contains this information, the amended application must:

- (1) list the names of the precincts in the county which were qualifying precincts as of November 2000;
- (2) list the physical location (and mailing address if available) of the polling places designated in November 2002 to serve the residents of that precinct;
- (3) state that the county election board will cooperate with the polling place accessibility survey scheduled for May 2004, subject to any amendments required to state law to permit access to polling places by survey personnel;
- (4) subject to the availability of Title III requirement monies to the county before October 1, 2004, certify that the county will make all permanent or temporary improvements to the polling place no later than October 1, 2004 to comply with the accessibility standards set forth in state law (Indiana Code 3-11-8), and to the extent possible, make any additional improvements identified in the May 2004 survey that are not specifically required by state or federal law;
- (5) certify that, as of December 31, 2005, the polling place used for the precinct will contain at least one voting system to permit a voter who is blind or visually impaired to vote privately and independently in accordance with Public Law 209-203;
- (6) certify that no later than December 31, 2003, the county will adopt an ordinance to establish a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance to the county in choosing accessible polling places;
- (7) list the date the county entered into a contract for the purchase, lease, or lease-purchase of voting system. (An executed and attested copy of the contract or adequate evidence of a contract must be attached);
- (8) state whether this purchase or lease was entered into under a state quantity purchase agreement with a vendor certified to market voting systems in Indiana;
- (9) include a written guarantee signed by the vendor that the voting systems obtained by the county comply with all requirements of Indiana and federal law in effect as of the date of the amended application for Section 102 monies;
- (10) include a certification by the county fiscal body that the Section 102 monies received by the county will be used to pay any outstanding obligation incurred by the county for the voting system purchase subject to the reimbursement;
- (11) include a certification by the county fiscal body that if these obligations have already been paid in full or in part by the county, that any remaining Section 102 reimbursement funds will be used to improve the administration of elections for federal office in the county.

The Election Division may prescribe that other information be included in the amended application, and shall assist each county in amending the previously filed application.

The Secretary of State with the consent of the Co-Directors of the Election Division will, to the extent possible, review the amended applications as expeditiously as possible upon receipt and no later than November 2003. No later than December 1, 2003, the Secretary of State plans to submit recommendations to the State Budget Committee regarding these applications. After completion of Budget Committee review and authorization by the Budget Agency, the Secretary of State will work with the Auditor of State and Treasurer of State to ensure the prompt disbursement of the Section 102 funds to these counties.

If a county which contains qualifying precincts did not file an application for voting system reimbursement before January 31, 2003, the Election Division shall promptly notify the county circuit court clerk that the county must file an application no later than October 31, 2003 to receive the initial disbursement of Section 102 money under this Plan. The Election Division shall prescribe the form of the application to be used by the county to request reimbursement. However, the application must contain at least the information contained in the version of the application filed by counties before January 31, 2003, and the information required for amended applications.

The deadline for a county to ensure that a polling place complies with the accessibility requirements set forth in Indiana Code 3-11-8-6 may be extended to March 31, 2006 if it is impossible or impractical for the county to ensure compliance by October 1, 2004.

#### **Application for Title III Requirement Monies and State Matching Funds**

After the State receives the Title III requirement monies and state matching funds to be disbursed during 2003, the Election Division shall notify all counties that an application may be submitted for reimbursement of voting system purchases. This notice must specify the first and final dates for filing the application and the information required to be submitted as part of the application.

Unless the original application already contains this information, the application for Title III requirement monies and state matching funds must:

- (1) list the name of each precinct in the county as of the date of the application;
- (2) list the physical location (and mailing address if available) of the polling place designated in November 2002 (or that will be designated in the May 2004 election) to serve the residents of that precinct;
- (3) state that the county election board will cooperate with the polling place accessibility survey scheduled for May 2004, subject to any amendments required to state law to permit access to polling places by survey personnel;
- (4) certify that the county will make all permanent or temporary improvements to the polling place for the precinct no later than October 1, 2004 to comply with the accessibility standards set forth in state law (Indiana Code 3-11-8), and to the extent possible, make any additional improvements identified in the May 2004 survey that are not specifically required by state or federal law;
- (5) certify that, as of December 31, 2005, the polling place used for the precinct will contain at least one voting system to permit a voter who is blind or visually impaired to vote privately and independently in accordance with Public Law 209-203;
- (6) certify that no later than December 31, 2003, the county will adopt an ordinance establishing a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance in choosing accessible polling places;
- (7) the date the county entered into a contract for the purchase, lease, or lease-purchase of voting system. (An executed and attested copy of the contract or adequate evidence of a contract must be attached);
- (8) whether this purchase or lease was entered into under a state quantity purchase agreement with a vendor certified to market voting systems in Indiana;
- (9) a written guarantee signed by the vendor that the voting systems obtained by the county comply with all requirements of Indiana and federal law in effect as of the date of the amended application for Title III requirement monies;
- (10) include a certification by the county fiscal body that the monies received by the county will be used to pay any outstanding obligation incurred by the county for the voting system purchase subject to the reimbursement;
- (11) include a certification by the county fiscal body that if these obligations have already been paid in full or in part by the county, that any remaining funds will be used to improve the administration of elections for federal office in the county.

The Election Division may prescribe that other information be included in the application, and shall assist each county in amending any previously filed application.

In the review of applications for disbursement of Title III requirement monies and state matching funds, the State shall follow the same procedures described in this Plan for the disbursement of Section 102 monies.

Upon receipt of Title III requirement monies and state matching funds after 2003, the same application review process will be used. However, the deadline for a county to ensure that a polling place complies with the accessibility requirements set forth in Indiana Code 3-11-8-6 may be extended to March 31, 2006 if it is impossible or impractical for the county to ensure compliance by October 1, 2004.

### **Application for Section 101 funds**

The Team recommends that the Section 101 funds budgeted for voting system reimbursement be expended for reimbursement for the purchase of voting system after January 1, 1998 and before July 1, 2001 if the voting system meets the standards permitting reimbursement under Indiana Code 3-11-6.5. HAVA permits Section 101 funds to be expended for improving the administration of elections for federal office, including replacing voting systems, but does not specify any time limits during which the replacement must be made to qualify for reimbursement from these funds.

Unless the original application already contains this information, the application for Section 101 monies must:

- (1) list the name of each precinct in the county as of the date of the application;
- (2) list the physical location (and mailing address if available) of the polling place designated in November 2002 (or that will be designated in the May 2004 election) to serve the residents of that precinct;
- (3) state that the county election board will cooperate with the polling place accessibility survey scheduled for May 2004, subject to any amendments required to state law to permit access to polling places by survey personnel;
- (4) certify that the county will make all permanent or temporary improvements to the polling place for the precinct no later than October 1, 2004 to comply with the accessibility standards set forth in state law (Indiana Code 3-11-8), and to the extent possible, make any additional improvements identified in the May 2004 survey that are not specifically required by state or federal law;
- (5) certify that, as of December 31, 2005, the polling place used for the precinct will contain at least one voting system to permit a voter who is blind or visually impaired to vote privately and independently in accordance with Public Law 209-203;
- (6) certify that no later than December 31, 2003, the county will adopt an ordinance establishing a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance in choosing accessible polling places;
- (7) list the date the county entered into a contract for the purchase, lease, or lease-purchase of voting system. (An executed and attested copy of the contract or adequate evidence of a contract must be attached);
- (8) state whether or not this purchase or lease was entered into under a state quantity purchase agreement with a vendor certified to market voting systems in Indiana;
- (9) include a written guarantee signed by the vendor that the voting systems obtained by the county comply with all requirements of Indiana law in effect as of the date of the amended application for these monies;
- (10) include a certification by the county fiscal body that the monies received by the county will be used to pay any outstanding obligation incurred by the county for the voting system purchase subject to the reimbursement;
- (11) include a certification by the county fiscal body that if these obligations have already been paid in full or in part by the county, that any remaining funds will be used to improve the administration of elections for federal office in the county.

The Election Division may prescribe that other information be included in the application, and shall assist each county in amending any previously filed application.

In the review of applications for disbursement of Section 101 monies, the State shall follow the same procedures described in this Plan for the disbursement of Section 102 monies. However, the deadline for a county to ensure that a polling place complies with the accessibility requirements set forth in Indiana Code 3-11-8-6 may be extended to March 31, 2006 if it is impossible or impractical for the county to ensure compliance by October 1, 2004.

### **New Precincts**

The Team recognizes that in certain counties, new precincts may be established before December 31, 2005 to accommodate population growth. Although a new precinct would not be a qualifying precinct for which Section 102 monies would be available, the county will be required after that date to provide a fully accessible voting system for voters with disabilities at the polling place designated for the precinct. As a result, the Team recommends that this Plan be reviewed during early 2005 to determine the number

of new precincts created or expected to be created before 2006; availability of Title III requirement monies and other HAVA funds to reimburse counties for voting system purchases for these precincts; and whether further legislation is necessary to permit more precincts to use the same polling place, and thereby reduce the number of voting systems that a county must acquire.

#### **General Procedures for Voting System Application Review**

The Secretary of State and Election Division shall prescribe: (1) the periods during which reimbursement applications may be submitted; and (2) the content of the applications. The Secretary of State and Election Division will strive to provide counties with all available information regarding the schedule for administration of the voting system reimbursement program to enable counties to take the impact of the program into account as part of the county's process for adoption of its annual budget.

The Secretary of State and Election Division may recommend that any application be approved in whole, or in part. The recommendation may provide that action on part of an application be deferred pending further information or availability of funds, or rejected.

All recommendations regarding applications submitted during a specific application cycle may be forwarded to the State Budget Committee at one time. However, it is more likely that each application will be forwarded as soon as the recommendation for that application is complete. Likewise, the Secretary of State will strive to secure the disbursement of funds to a county as soon as possible following approval of the county's application, rather than waiting for all applications in a specific application cycle to be approved or rejected by the State Budget Committee and Budget Agency.

In determining the recommendation regarding an application, the Secretary of State and Election Division must consider whether a precinct currently contains any voters (or contained any voters in 2000). If the precinct does not (or did not), the recommendation must not provide for reimbursement for that precinct as a qualifying precinct, or for reimbursement from any other HAVA funds.

#### **Absentee Voting Systems in Central Location**

If an application requests reimbursement for voting equipment used for casting or counting absentee ballots at a central location, or casting ballots at a polling place located at the office of the circuit court clerk or county election board, the Secretary of State and Election Division shall determine whether the equipment or software is used primarily for the casting or counting of votes. If the equipment or software is used primarily for voter registration purposes or other election administration purposes, the recommendation must not provide for reimbursement for the equipment or software.

#### **Determination of Reasonable Costs**

In reviewing applications for voting system reimbursement, the Secretary of State and Election Division shall determine whether the contract provides for products and services to be provided to the county by a vendor at a cost that is reasonable and in accordance with standard business practices in Indiana. The recommendation may not provide for reimbursement of clearly excessive or unreasonable costs. In making this determination regarding the cost of products, a product which costs no more than the cost provided for in a quantity purchase agreement entered into by the vendor with the State is considered a reasonable cost for the product.

#### **State and Federal Auditing**

Before the Secretary of State and Election Division recommend the approval of any application for voting system reimbursement, the county fiscal body and county executive must enter into an agreement with the State obligating the county to refund to the State an amount equal to the amount of the grant received by the application if the Secretary of State and Election Division determine on March 1, 2006 that: (1) in the case of Section 102 monies, the county has not replaced lever voting machines or punch card voting systems in each precinct of the county no later than December 31, 2005; (2) in the case of other HAVA funds, the county has not provided a voting system in each polling place that complies with the accessibility requirements for voters described above; and (3) in any case, that the county has not honored one or more of the certifications the county made regarding the polling place accessibility or permitted uses of fund. The agreement must provide that the county will refund the amount no later than May 1, 2006.

The agreement must also require the county to submit a report to the Election Division not later than December 31, 2004, (or if the reimbursement was approved after 2003, not later than December 31, 2005). The report must list the accessibility problems identified in the May 2004 survey of polling places, and whether these problems have been resolved by temporary or permanent improvements,



or whether the polling place has been relocated to an accessible facility. If the report indicated that the problems have not yet been resolved, the report must indicate how the county will resolve the problem no later than March 31, 2006. The Election Division may require additional reports from a county until the county reports that the polling place accessibility problems identified in the May 2004 survey have been resolved. A report from a county under this paragraph must be certified as accurate by majority vote of the county election board, following review and the opportunity by the local advisory council to add written comments to the report.

#### **Local Advisory Council**

A county's local advisory council may consist of any number of members, but must include at least two (2) representatives of the disability communities or elderly voters. The membership of the council shall be appointed by the county executive, who shall encourage county residents with a variety of backgrounds, partisan affiliations, and perspectives to participate. If county residents are not available to serve on the council, the county executive may partner with the Governor's Planning Council for People with Disabilities to carry out the functions of the council.

#### **Indiana Bond Bank Services and Multi-County Purchase Agreements**

The Team recommends that the Secretary of State and Election Division encourage reimbursement policies that will result in the most efficient use and widespread impact of the funds available for voting system reimbursement. For example, counties should be encouraged to explore borrowing funds at low rates from the Indiana Bond Bank to reduce financing costs prior to reimbursement and entering into multi-county purchase agreements with other counties to reduce procurement costs through quantity purchasing. *See Appendix 2*

#### **Cost Savings**

Likewise, subject to the limitations set forth in HAVA, P.L. 209-2003, and federal auditing standards, counties should be encouraged to negotiate purchases for voting system hardware and software at prices below the amount set by the state quantity purchase agreements or the reimbursement schedule set forth in this Plan.

The Team notes that Indiana law specifically provides that applications must be for voting system *reimbursement*, which implies a previous outlay of funds or a contractual obligation to do so in the future. The reimbursement schedule for hardware and software set forth in this Plan is not a "draw down" account with funds available to a county for subsequent purchases outside of the application process.

#### **Supplemental Application**

However, the Team recommends that if a county purchases software or hardware for an amount less than the amount available for allocation to the county under the reimbursement schedule set forth in this Plan, that the county be permitted to submit a supplemental application for reimbursement in an amount that does not exceed the amount saved by the county in its purchase of software or hardware at a cost below the amount in the Plan's reimbursement schedule. This supplemental application could be submitted at the same time as the county's initial voting system reimbursement application or at any later date.

A supplemental application for reimbursement should only be recommended for approval if the reimbursement would be for an expenditure permitted by HAVA or state law to be made from the applicable HAVA account and if the SOS and IED determine that the county submitting the supplemental application has complied with all Title III requirements under HAVA or is requesting reimbursement to do so.

#### **Expenses eligible for reimbursement**

If an application is made for reimbursement of voting system expenses from Title III requirement monies, a supplemental application could request reimbursement for expenditures made by the county to comply with any HAVA Title III requirements. These expenditures would include the purchase of additional voting systems that provides full access to voters with disabilities; training and other materials related to provisional ballots (not the ballots themselves); costs related to the identification of the mail-in registrants required to produce additional documents and mailings to those voters. However, reimbursements for purchasing voting systems before November 2000 would not qualify since these purchases are not covered under the Title III requirement payments.

Operational expenses, legal expenses, paper expenses, and interest expenses may be eligible for reimbursement.

The same restriction would apply to a supplemental application requesting voting system reimbursement from state matching funds, since HAVA Section 253(b)(5) requires that the State appropriate these funds for “carrying out the activities for which the requirements payment is made.” As a result, these state matching funds would presumably be subject to the same use restrictions as the federal Title III requirement monies received by the State.

Likewise, if an application is made for reimbursement of voting system expenses from Section 102 monies, a supplemental application could request reimbursement only for purchasing additional voting systems to replace lever machines or punch card voting systems after November 2000.

However, if an application is made for reimbursement of voting system expenses from Section 101 monies, a supplemental application could request reimbursement for purchasing voting systems after January 1, 1998 and before July 1, 2001 if the voting systems meets the standards permitting reimbursement under Indiana Code 3-11-6.5, as amended in 2003. HAVA permits Section 101 funds to be expended for voting system replacement that improves election administration in a state, but does not specify any time period during which the purchase must have been made to qualify for disbursement.

To ensure that the disbursement of these funds comply with HAVA and P.L. 209-2003, the Secretary of State and Election Division must specify the accounts that are the source of each disbursement made for voting system reimbursement. For accounting purposes, this Plan assumes that disbursements will be made from available funds in the following order: Section 102 funds; Title III requirement monies; state matching funds. Disbursements from Section 101 funds for voting system reimbursement will not be made in any year until the Section 102 funds, Title III requirement monies, and state matching funds available in that fiscal year have been disbursed.

### **Use of Traditional Paper Ballots**

It is possible that a county may choose not to apply for reimbursements for voting system upgrades or may not qualify for the reimbursement sought by the county’s application. In that case, Public Law 209-2003 will require that county to cease using any lever voting machine or punch card voting system currently used by the county no later than December 31, 2005.

If the county has not acquired a voting system by that date which complies with HAVA, the only remaining option for the county under Indiana law is to use traditional paper ballots to conduct the election. In any event, the county must acquire at least one fully accessible voting system for each polling place for use by blind voters or voters with other disabilities. The Team recommends that the Secretary of State and Election Division monitor the situation in counties which currently use lever machines or punch card voting systems to determine whether additional legislation will be necessary in 2004 or 2005 to complete the phase-out of these obsolete voting systems.

### **B. Statewide Voter Registration System**

The Secretary of State with consent of the Co-Directors will implement a statewide voter registration system that complies with Title III HAVA requirements. A team of circuit court clerks, voter registration officials from different sized counties, and Statewide Voter File subgroup members will serve in an important advisory role in the selection of a vendor, development of the system, and the conversion of data for the system. The use of an independent consultant disqualified from submitting a response to the Request for Proposal for the statewide voter registration system will assist in providing necessary guidance from an entity with no financial interest in the final product.

### **Waiver Recommendation for the Statewide Voter Registration System**

The Team recommends that the Secretary of State and the Co-Directors of the Election Division request the waiver authorized under HAVA and Public Law 209-2003 to extend the deadline for implementation of the statewide voter registration system until January 1, 2006.

### **Statewide Voter Registration System Costs**

The development costs of the statewide voter registration system will be assumed by the State, using Title III requirement monies, and to the extent necessary, supplemented by Section 101 funds and State matching funds. The consultant hired to develop the systems requirement document will seek to identify any opportunities for efficiency and savings that may be available from using existing or planned statewide networks to share pipeline space and to conduct coordinated training events with the administrators of those systems. However, any such coordination would be subject to the deadlines set by HAVA and Public Law 209-2003 for

the statewide system to become operational and to ensure that the responsibility for system administration remains vested in the Secretary of State and the Election Division, as provided by P.L. 209-2003.

### **Replacement and upgrade of voter registration system software**

The “development costs” to be assumed by the State include the hardware and software necessary for the system to perform its functions.

### **Voter Registration System Training**

Likewise, training both State and county voter registration administrators will be a significant development cost to the State. The systems requirement document will request potential vendors to propose a comprehensive training program to ensure that county voter registration personnel become familiar with the features of the system before it becomes fully operational.

There will be some incidental or indirect costs associated with the development of the statewide voter registration system which this Plan anticipates will be borne by the county. These costs include county employee compensation and overtime and travel and lodging expenses for attendance at some training and conference events. Nonetheless, the state will seek to cover all necessary and reasonable costs associated with the development of the voter registration system to the extent that funding is available. In addition, if a county chooses to lease or purchase additional hardware or to provide training beyond what the State provides to ensure the maintenance and proper operation of the system, the county would be responsible for those costs.

### **Voter Registration Software Upgrades before 2006**

The Team recommends that any county considering the replacement or upgrading of its voter registration software between now and the implementation of the statewide voter registration system during 2005 carefully consider the costs and benefits of that software purchase. If a county voter registration office determines that replacing or upgrading its software is necessary to ensure success in administering the 2004 general elections, then this purchase may be advisable. However, if the replacement or upgrade would result in only marginal improvement at most to the county’s voter registration system, then the county may wish to consider deferring the purchase until the statewide voter registration system begins operation. If the county determines that a feature of the proposed software program is very desirable, then the county should communicate its views to the members of the Steering Committee, who can suggest that this feature be included in the systems requirement document for the statewide voter registration system.

The following will be necessary:

- The Secretary of State, with the consent of the Indiana Election Division, shall develop, maintain and support the system.
- The Indiana Election Division shall develop interaction between the voter registration system and the provisional ballot status application.
- The Indiana Election Division will be responsible for continuous training opportunities on the new system.
- The Request for Proposal (RFP) for statewide voter registration system shall offer poll list printing as an option for counties.
- The county clerks and voter registration officials will continue to be responsible for voter list maintenance, creation and production of poll lists, street file management and jurisdictional boundaries, jury lists, petition verification and specialized reports.

The unique identifier for an individual who has not provided a driver’s license number will be the birth date (MMDDYYYY), a hyphen, and then the last four digits of the social security number (MMDDYYYY-XXXX). If the social security number is unavailable, the voter will be assigned another unique identifier by the Indiana Election Division (after December 31, 2005). This unique identifier must be the individual’s Bureau of Motor Vehicles identification number, or if the individual does not have a BMV ID card, another unique number assigned by the Indiana Election Division.

The monies that will be set aside for the statewide voter registration system is within the range of \$7 to 11 million. The state will use a portion of the early payments money (Section 101 funds) to pay a consultant who will work with the Information Technology Oversight Commission to begin developing the Request For Proposal for the statewide voter registration system project because this process will begin before the state receives any Title III funding. However, the Section 101 money will be reimbursed from Title III money once it is received.

### **C. Training and Education**

The Indiana Election Division is currently responsible for annually providing election official training to county circuit court clerks, incoming county circuit court clerks and county election board members.

Each county's maintenance of effort includes training for the poll inspector and in some instances the poll judges and clerks. Indiana law requires that inspectors and judges be trained. The law also requires that training must include information related to making polling places and voting system accessible to elderly and disabled voters. Therefore, HAVA monies will be utilized to expand this training to include training opportunities for the poll clerks and judges. There will be additional costs associated with training voters and poll workers on new voting equipment and provisional balloting as well as the printing and posting of the Voter's Bill of Rights. It is expected that many first time poll workers including those from secondary schools and colleges, recruited under a new program authorized by HAVA, will need to be trained.

Opportunities will be sought for coordinating training with other interested parties and advocacy groups. During the annual meetings of the Association of Indiana Counties, Indiana Association of Cities and Towns, and Association of Circuit Court Clerks, sessions will be available regarding local election administration. The Indiana Election Division will develop training aimed at attorneys so they may qualify for continuing legal education credits (CLEs) required by the Indiana Supreme Court. A poll worker certification program will be developed as an incentive and positive reinforcement of the poll workers' efforts.

The state will develop an application process for distribution of training and education funds.

Starting in 2003 and continuing over the next 2 years, IED will conduct additional seminars for clerks and county voter registration officials solely dedicated to new election administration issues and procedures.

Neither the state nor a county has voter education included in their maintenance of effort.

The proposed budget sets aside \$3.9 million for Training and Education.

### **D. Provisional Ballots**

In the 2001 legislative session, authorization for provisional balloting beginning with the 2004 primary election was provided. However, additional requirements to build a free access system, provide written documentation to provisional voters and protect provisional ballot voters' confidentiality are new under HAVA; these were addressed by additional Indiana legislation enacted in 2003. At the time the document was written, the Secretary of State's office envisions interaction between the systems used for the statewide voter registration system application and a provisional ballot status application. Once the statewide grievance toll-free line is available, the state anticipates using that line for the provisional ballot status notification process.

### **E. Grievance Procedure**

HAVA requires the establishment of a state based administrative complaint procedure that will remedy grievances concerning Title III which include but is not limited to (1) voting system accessibility, (2) polling place accessibility, (3) any part of the voting process itself, (4) registration process, or (5) allegation of fraud. The details of this grievance procedure are explained under Section 9 (page 49) of this plan.

The proposed budget sets aside \$500,000 for administration of the grievance procedure. A county may apply for grants to assist in the development of the optional county grievance procedure. The Indiana Election Division in consultation with the Secretary of State will establish guidelines to evaluate applications submitted for this purpose.

### **F. Accessibility of Polling Place and Materials**

The Secretary of State's office will form a partnership with the Governor's Planning Council for People with Disabilities (GPCPD) to conduct a statewide polling place accessibility study that will establish a baseline of Indiana's current environment as it relates to polling place accessibility. Each county will also form a local advisory council composed in part of voters with disabilities and elderly voters. The GPCPD will supply suggested members for the local advisory councils upon request. This council will advise the local officials on polling place accessibility and site selection. The survey and the establishment of the local council will be a required criteria for counties applying for reimbursement for voting systems.

Information will be provided by the Indiana Election Division to local election officials with suggestions about making their written materials and websites more accessible to voters with disabilities. The information will be created and organized by the GPCPD. Additional outreach will be directed toward military and overseas voters.

Currently, neither the state nor local officials have a maintenance of effort requirement for polling place accessibility or for the updating of materials and websites into accessible formats.

HAVA requires that voting systems provide alternative language accessibility as described in the Voting Rights Act of 1965. Using data from the 2000 United States Census, Indiana's population of non-English speaking residents does not meet the level that requires provision of voting information and materials in other languages. However, as the population of non-English speaking Hoosiers continues to increase, Indiana is taking steps to offer materials related to direct voter communication in the languages that are most prevalent. Currently, the Voter's Bill of Rights and the Application for Voter Registration Form are available in Spanish. As federal funds are available, the Indiana Election Division will translate more documents.

### **G. Administration**

The proposed budget sets aside \$500,000 for the administration of HAVA requirements.

### **H. Strategic Reserve**

The proposed budget sets aside at least \$2 million from Section 101 funds as a strategic reserve to be used to meet any HAVA requirement if the initial amount budgeted for meeting that requirement is not sufficient. The amount in this reserve will be increased to a total of \$6 million to the extent that the statewide voter registration system costs less than the maximum \$11 million budgeted for that project. The Team also recommends that any savings achieved in other projects be reallocated to the strategic reserve to ensure that all HAVA requirements are met and to avoid any required refunding of federal HAVA dollars by the State. If these savings are derived from projects funded with monies other than Section 101 monies, strategic reserve funds may actually be present in more than one account to recognize the use restrictions imposed on each HAVA account.

The Team's future review of Indiana's HAVA compliance may then lead to the reallocation of some funds held in strategic reserve to address requirements that have not been fully met at that time. In addition, the Team recommends that any of the \$2 million in Section 101 funds remaining in strategic reserve after the expenses for fulfilling HAVA requirements have been fulfilled be available for voting system reimbursement for counties which are eligible for reimbursement from the Election Administration Assistance Fund (Indiana Code 3-11-6.5), but which are not eligible for reimbursement using Title III requirement monies.

The Team recognizes that in addition to the statewide voter registration file, the HAVA requirement that each polling place be provided with a voting system that is fully accessible to a voter with disabilities may result in significant expenditures by counties to comply with this requirement. The Team views the expenditure of any necessary funds from the strategic reserve to accomplish this purpose and to prevent required refunding of federal HAVA dollars as an appropriate use of funds in the strategic reserve.

## **Section 7**

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.**

The Secretary of State will not use the requirements money to maintain the level of expenditures previously incurred by the state for election administration. For fiscal year ending June 30, 2000, the State of Indiana was not expending funds for any tasks required under Title III, including provisional ballots, documentation for first-time mail-in registrants or DREs for the disabled, except as provided below.

In 2000, counties were spending local monies on voter registration maintenance and voting system equipment.

The current duplicate voter registration elimination program will no longer be utilized after 2005 under Public Law 209-2003. However, approximately \$225,000 was expended to conduct this program in 1999 - 2000 to compile a statewide voter registration

system and will require a maintenance of effort.

## Section 8

**Sec. 254 (a) IN GENERAL – The State plan shall contain a description of each of the following:**

**(8) How the State will adopt performance goals and measures that will be used by the State to determine its success of units of local government in the state in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the state will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met**

### **Performance Goal 1: Statewide Voter Registration System.**

For compliance with HAVA and in order to receive and use requirements money, Indiana will build a “state of the art” system that will be centrally administered. It will provide the best election tools to the state’s local election and registration officials and will incorporate the best features from Indiana county voter registration systems. This system will expand the current relationship between the county and state on operating the duplicate elimination program for list maintenance. It will be necessary to have an interface allowing the system to receive updates from the Bureau of Motor Vehicles, Department of Correction and the Indiana State Department of Health. A steering committee and an independent consultant will be used to guide the process.

(see chart on following page)

Performance measure 1	Number of counties online Number of voters per county Percent of data conversion to standard format completed automatically Number of digitized signatures captured Number of voting histories captured Number of ID numbers captured Number of ID numbers matched Number of hits concerning provisional ballot status Number of hits for polling place locator
Timetable	Now through January 1, 2006
Description of the criteria used to measure performance	Conversion of county registration records is vital to the base file. Reports should be generated from partner agencies to help evaluate the success of file maintenance.
Process used to develop criteria	Success of the system will be dependent upon the capture, migration, and standardization of voter registration information into the central voter registration database.
Description of official to be held responsible for ensuring each performance goal is met	The Secretary of State and the Indiana Election Division are responsible for implementing the statewide voter registration system. The Indiana Election Division is also responsible for training, support, and ongoing maintenance of the system. The Indiana Election Division will coordinate with all 92 county voter registration officials, BMV, DOC, and Indiana State Dept. of Health.

### **Performance Goal 2: Training and Education**

All Indiana state and local election and voter registration officials realize the success of HAVA implementation relies heavily on communication among or between the participants in the process. Opportunities for training are present at all levels from year round election officials to poll workers and voters that may only interact with the process one or two times a year.

## Nonrule Policy Documents

Performance Goal 2.a	<p>The following information will be collected to measure election official training performance:</p> <ul style="list-style-type: none"> <li>Number of people trained in county election office</li> <li>Total number of employees in county election office</li> <li>Number of people trained in voter registration office</li> <li>Total number of employees in voter registration office</li> <li>Number of people in each county certified for the first time</li> <li>Number of people in each county re-certified</li> <li>Number of training classes/opportunities offered</li> </ul>
Timetable	December 31, 2003 and annually thereafter with possible exception in off election year (no municipal or federal election)
Description of criteria used to measure performance	The Secretary of State will prepare and submit a local election and voter registration official training report containing HAVA related information to be filed on the Secretary of State's web site annually.
Process used to develop the criteria	The state already provides training for county election officials. Further steps will be taken to ensure all employees of agencies responsible for "full service" voter registration duties are trained on changes related to HAVA. In addition, election/voter registration certification program will be developed.
Description of official to be held responsible for ensuring each performance goal is met.	The Secretary of State through the Indiana Election Division is responsible for election official training.

Performance Goal 2.b	<ul style="list-style-type: none"> <li>Number of poll worker positions available</li> <li>Number of poll clerks trained by instructors in classroom</li> <li>Number of poll clerks trained by video</li> <li>Number of poll clerks trained on the web</li> <li>Repeat statistics for poll judges and sheriffs</li> <li>Number of high school and college students contacted by county election officials</li> <li>Number of ID documentation information pieces collected</li> <li>Number of provisional ballots cast</li> <li>Number of CLEs earned by attorneys</li> <li>Number of new persons recruited to work polls</li> <li>Number of complaints or grievances filed</li> <li>Whether exit poll questionnaire was executed</li> <li>Percentage of poll workers who attended training</li> </ul>
Timetable	January 1, 2004 and every election thereafter
Description of the criteria used to measure performance	Local election officials will submit this information semi-annually to the Indiana Election Division following an election.
Process used to develop criteria	Election officials already conduct some poll worker training. The Indiana Election Division will rely on input from local election officials (and perhaps professional trainers) to develop both the content and evaluation criteria for the program.
Description of official to be held responsible for ensuring each performance goal is met	The Indiana Election Division shall establish training guidelines, tools, CLEs and the certification program. Each county will continue to oversee poll worker training.

## Nonrule Policy Documents

Performance Goal 2.c	Number of public display sites for voter education Number of NCAS or PSAs (public service announcements) Number of ads, news releases or news stories Number of web hits on video streaming Number of teachers certified to instruct on voting systems Number of videos or power point slide shows distributed Number of speeches given by county election or voter registration officials Number of high schools and colleges contacted Increase in percentage of voter turnout
Timetable	January 1, 2004 and every election thereafter
Description of the criteria used to measure performance	Local election officials will submit this information semi-annually to the Indiana Election Division following an election.
Process used to develop criteria	These steps are being taken to ensure voters receive information on HAVA and related election processes
Description of official to be held responsible for ensuring each performance goal is met.	The Indiana Election Division is responsible for developing these training tools. Each county will be responsible for implementation and reporting.

### Performance Goal 3: Grievance

HAVA requires the establishment of a state-based grievance procedure.

Performance Goal 3	The following information will be collected to measure the effectiveness of the grievance process: The number of calls received The number and nature of complaints filed The number of complaints dismissed The number of complaints resolved by the Indiana Election Division The number of complaints resolved by the Indiana Election Commission The number of complaints resolved by an Arbitrator The average time for a complaint to be investigated and resolved
Timetable	January 1, 2004 and every election thereafter.
Description of the criteria used to measure performance	The Secretary of State will review the reports from the Indiana Election Division and the counties.
Process used to develop criteria	The Indiana Election Division will also submit a report containing number of complaints received, number of complaints resolved and time required/ used for resolution.
Description of official to be held responsible for ensuring each performance goal is met	The Indiana Election Division and Indiana Election Commission are responsible for administering the Statewide grievance procedure. The Protection and Advocacy Commission will assist with administering the grievance procedure as it relates to persons with disabilities.

### Performance Goal 4: Provisional Ballots

The following shall be measured regarding provisional ballots: uniform processing, verification and status availability. In the beginning, provisional ballot status reporting will be done by each county until the implementation of the statewide voter registration



system. The goal is to have uniform procedures in place in each county for processing and verification of provisional ballots.

Performance Goal 4	Number of provisional ballots cast in each precinct Number of voters casting a ballot in each precinct at that election Number of provisional ballots verified and counted for each precinct Number of provisional ballots not counted in each precinct and reason Number of voters who checked their provisional ballot status Whether uniform procedures were followed
Timetable	January 1, 2004 and every election report thereafter
Description of the criteria used to measure performance	The election report from each county (until implementation of statewide voter file) will provide the Secretary of State with an indication of what additional tools may be needed for uniformity. The statewide voter registration system will be used to report and track the above figures when the system becomes operational.
Process used to develop criteria	The Indiana Election Division will enhance the county election administration manual regarding provisional ballot procedures and information.
Description of official to be held responsible for ensuring each performance goal is met	The Indiana Election Division, through its election official training and county administrative manual, will be responsible for uniform guidelines for processing and verifying provisional ballots. County election officials will be responsible for provisional ballot verification, counting and reporting. Status of provisional ballots will become a joint effort between the state and county once the statewide voter registration system becomes operational.

#### Performance Goal 5: Accessibility

One of HAVA's greatest initiatives is to make the election process more accessible. Indiana will address voting equipment first, with a link to polling place accessibility. Indiana would also like to utilize part of Title III requirement monies remaining after voting system reimbursement to address accessibility issues through training and provide materials and web information in accessible formats.

Performance Goal 5	Number of military/overseas absentee applications Number of military/overseas ballots cast Number of military ballots rejected and reason(s) therefore Number of polling places Number of polling places accessible Number of DREs w/accessible devices Number of DREs w/out accessible devices Number of IED accessibility brochures distributed Number of accessibility complaints received and resolved Whether Indiana Election Division website and materials are available in accessible formats Whether county met with local advisory council
Timetable	January 1, 2006 for voting system with accessible equipment and January 1, 2004 and beyond for other goals.
Description of the criteria used to measure performance	Local election officials will submit this information semiannually to the Indiana Election Division following an election.

Process used to develop criteria	The application for reimbursement of voting systems monies will include certification of polling place accessibility.
Description of official to be held responsible for ensuring each performance goal is met	The county will be responsible for certifying polling place accessibility on the application for reimbursement to the Indiana Election Division. The Indiana Election Division will make sure the Election Division website is in an accessible format. Governor's Planning Council for People with Disabilities will help coordinate statewide polling place survey.

## Section 9

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.**

Under HAVA, an individual who believes there is (or has been) a violation of any provision of Title III may file a complaint. Such complaint may include, but is not necessarily limited to the following: (1) voting system accessibility, (2) polling place accessibility, (3) any part of the voting process, (4) registration process, or (5) allegation of fraud. The Secretary of State and local election officials will establish a free access system to begin the grievance process.

Indiana Code 3-6-4.5 establishes the state based administrative complaint procedures to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III. The procedures must be uniform and nondiscriminatory.

An individual who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the Indiana Election Division. The complaint must be written, signed, and notarized. The complaint must state the following: (1) name and mailing address of the individual alleged to be committing the violation of Title III described in the complaint, (2) whether the individual filing the complaint has filed a complaint concerning the violation with a county election board, and (3) the nature of the injury suffered (or about to be suffered) by the individual filing the complaint. The complaint form and instructions will be available on the Secretary of State's web site [www.sos.IN.gov](http://www.sos.IN.gov).

An individual may also file a complaint with the county election board where the violation allegedly occurred. The Indiana Election Division shall not begin enforcement procedures regarding the complaint until the individual files a complaint with the Indiana Election Division. If the complaint alleges that either Co-Director of the Indiana Election Division has committed the violation, the aggrieved person shall file the complaint with the chair of the Indiana Election Commission. The chair shall perform the duties otherwise performed by the Indiana Election Division concerning a complaint. The Indiana Election Division (or commission) may consolidate complaints filed under this chapter.

The Indiana Election Division shall determine whether a complaint filed under this chapter describes a violation of Title III using the assumption that the facts set forth in the complaint are true. If the Indiana Election Division determines that there is no violation of Title III or the individual did not comply with the written requirements stated above, the Indiana Election Division shall dismiss the complaint and publish the order dismissing the matter in the *Indiana Register*. If the complaint is dismissed, a copy shall be provided to the following: (1) the individual who filed the notice; (2) the individual alleged to have committed the violation; (3) the members of the Indiana Election Commission, and (4) the Indiana Attorney General.

If the Indiana Election Division determines that the complaint alleges a violation of Title III using the assumption that facts alleged in the complaint are true and that the individual complied with the written requirements, the Indiana Election Division shall conduct an investigation. Upon completion of the investigation, the Indiana Election Division shall submit the results to the Indiana Election Commission which shall then issue a written report. A copy of the report shall be provided to the following: (1) the individual who filed the complaint, (2) the individual alleged to have committed the violation; (3) the members of the Indiana Election Commission; and (4) the Indiana Attorney General. The report must indicate the date that the complaint was received by the Indiana Election Division, recite the findings of facts, and state whether a violation of Title III has occurred or is likely to occur. If a violation has occurred the report must also indicate steps taken to correct the violation or prevent a reoccurrence of the violation, any measures that could be taken to correct a violation, the date when a violation was corrected or is expected to be corrected and any additional information or recommendations useful in resolving the complaint.

At the request of the individual filing a complaint or the request of a member of the commission, the commission shall conduct a hearing on the complaint and prepare a record of the hearing. A request for a hearing must be filed with the Indiana Election Division not later than noon seven days after the report is mailed by the Indiana Election Division. After concluding the hearing, the Indiana Election Commission shall do the following: (1) affirm the report; (2) amend the report; or (3) refer the matter to the Indiana Election Division for further investigation and submission of a subsequent report to the Indiana Election Commission. If the Indiana Election Commission finds that there is no violation, the commission shall dismiss the complaint and publish the order of dismissal in the *Indiana Register*. If the Indiana Election Commission determines that there is a violation of any provision of Title III, the Indiana Election Commission shall determine and provide the appropriate remedy if authorized by law to do so.

The Indiana Election Commission shall forward a written summary of any action taken by the commission by certified mail to the following: (1) the individual who filed the notice; (2) the individual alleged to have committed the violation; (3) the members of the Indiana Election Commission, and (4) the Indiana Attorney General.

The Indiana Election Commission shall make the final determination regarding the complaint not later than ninety days after the date the complaint is filed. If the Indiana Election Commission fails to make a final determination (or the Indiana Election Commission ties 2-2) within ninety days, the complaint shall be resolved by referral to an arbitrator selected jointly by the commission and the individual who filed the complaint. The record and other materials from any proceeding conducted by the Indiana Election Commission shall be made available for use by the arbitrator. The arbitrator shall file a report with the Indiana Election Division setting forth the resolution of the complaint.

The procedures set forth in Indiana Code 3-6-4.5 are subject to the Indiana Administrative Rules and Procedures Act (IC 4-21.5), which permits judicial review of determinations under the grievance procedure.

Indiana Code 3-6-5.1 establishes a county based administrative complaint procedure to supplement the state based administrative complaint procedure. An individual who files a complaint with the county retains the right to file a complaint with the Indiana Election Division. If the county election board is notified at any time that a complaint has been filed with the Indiana Election Division regarding this matter, the county election board shall dismiss the proceeding.

## **Section 10**

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(10) If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.**

Section 101 money will be used, in at least part, to do all of the following:

- Reimburse counties for voting equipment (\$2 million). See section 6 for further explanation.
- Create a strategic reserve (at least \$2 million). See Section 6 (page 21) for further explanation.
- Statewide voter registration system (to hire consultant), with Section 101 funds used for this purpose being reimbursed from Title III requirement monies. See Section 6 for further explanation.
- Begin to administer HAVA (\$500,000)
- Train and educate poll workers and election officials (\$1.7 million), with an additional \$2.2 million from Title III requirement monies being budgeted to training workers and officials regarding Title III requirements, for an overall training budget of \$3.9 million. (\$1.4 million will be taken from the Sec. 101 funds for Voter Education)

## **Section 11**

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change –**

- (a) Is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;**
- (b) Is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and**
- (c) Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the federal Register in accordance with subparagraph (A)**

The Secretary of State through the Indiana Election Division will conduct annual training sessions with county circuit court clerks,

election boards and voter registration officials to review standards and procedures and to assess the goals and objectives of the HAVA state plan.

If the Secretary of State determines the State Plan requires material change, the Secretary of State shall do the following:

1. propose changes to the Vote Indiana Team,
2. allow for public comment for a period of time not less than 30 days and
3. publish the changes in the *Federal Register* upon submitting the revised plan to the Election Assistance Commission.

### Section 12

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(12) In the case of a State with a State Plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State Plan for the previous fiscal year and of how the State succeeded in carrying out the State Plan for such previous fiscal year.**

This version of the State Plan is the initial State Plan required under the Help America Vote Act of 2002. This section will be updated in the next fiscal year, reflecting changes to the State Plan as well as a summary of the 2003 successes.

### Section 13

**Sec. 254 (a) IN GENERAL – The state plan shall contain a description of each of the following:**

**(13) A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.**

### Process

The Vote Indiana Team is comprised of 28 diverse Hoosiers who are all stakeholders in the election process and who bring ethnic, geographic and tri-partisan political diversity to the planning process.

Tasks were assigned to one of our five subgroups: Accessibility, Election Administration, Statewide Voter File, Training and Education, and Voting Equipment. Members served on two subgroups. Members were assigned to two subgroups, one per member's choice and one per chair's discretion to ensure balanced discussions. Members met over a six-month period including twenty-four subgroup meetings, which each lasted 1.5 hours, and five full team meetings. Meetings were held in accordance with Indiana's Open Door Law (I.C. 5-14-1.5). Procedures on setting meeting agendas and handling deadlock were established at the first meeting. **Testimony and public comment were specifically sought at each meeting.** Meeting notes were kept of each meeting and made immediately available on the Indiana Secretary of State's website: [www.sos.IN.gov](http://www.sos.IN.gov). Materials were also available to the public by mail and electronic distribution. On the Secretary of State's website, a listserv permitted any individual with access to the internet to register as a member of the listserv and register any comments regarding the plan.

Letters were sent to each of the Clerks of Circuit Court and to county voter registration officials as local stakeholders advising them of the work of the Team and process involved for developing the state plan. In April, a draft state plan was developed in accordance with discussions from the subgroups, current legislation and ideas where gaps existed. The draft plan was distributed to the full Team for review at their April 11, 2003 meeting. Areas of concern were returned to the respective subgroup in order to reach a consensus. The subgroup's decisions were incorporated into the second draft that was also reviewed by the full Team prior to release for public comment.

The Vote Indiana Team met on May 30, 2003 to review subgroup suggestions and to discuss additional suggestions and comments from the entire group and from members of the public. At the conclusion of that meeting, the Team endorsed the submission of the Preliminary State Plan for public comment.

After revision of the document to reflect the Team's actions at its May 30 meeting, the Preliminary State Plan was made available for public comment beginning June 3, 2003 (See "Public Comment Period and Procedure" under this Section for additional information.).

The Team convened on July 18, 2003 to conduct a meeting to consider all public comment received to date. At the conclusion of

the meeting, the Team recommended the State Plan for submission to the Election Assistance Commission. The Plan will also be published in the *Federal Register* and the *Indiana Register*.

**The final version of the State Plan is available on the Secretary of State's website: [www.sos.IN.gov](http://www.sos.IN.gov).**

#### **Public Comment Period and Procedure (June 3, 2003 – July 3, 2003)**

Copies of the Preliminary State Plan were available at the Secretary of State's Office, the Indiana Election Division's office and via the website at [www.sos.IN.gov](http://www.sos.IN.gov). In addition, the Preliminary State Plan was specifically distributed to other interested parties during the public comment period of June 3, 2003 through July 3, 2003. The Vote Indiana Team members' diverse backgrounds directly and indirectly provided the accumulation of the following list.

- # AARP Indiana
- # Area Agencies on Aging (Family and Social Services Agency)
- # Association of Indiana Counties newsletter *Indiana News 92*
- # Clerks of Circuit Court, county voter registration officials and county election board members
- # County commissioners, county council members, and county auditors
- # Freedom's Answer
- # Governor's Planning Council for People with Disabilities *On Target* newsletter
- # Interested parties associated with the Governor's Planning Council for People with Disabilities
- # Indiana Association of Cities and Towns
- # Indiana Black Legislative Caucus
- # Indiana Broadcasters Association
- # Indiana Congressional Delegation
- # League of Women Voters
- # Libertarian Party of Indiana Central Committee
- # Military Officers Association of America – Indiana Chapter
- # NAACP chapter presidents in Indiana including the State NAACP president
- # National Association of Latino Elected and Appointed Officials
- # News Releases to Indiana media, Editorial Board interviews, and letters to editors
- # Partners in Policy Making Academy coordinated by the Governor's Planning Council for People with Disabilities
- # Urban League chapter presidents in Indiana
- # Youth Vote Coalition

Comments were sent to the chair of the Vote Indiana Team in writing at the following address: Todd Rokita, Indiana Secretary of State, 200 West Washington Street, Room 201, Indianapolis, Indiana 46204, or were emailed to [VoteIndianaTeam@sos.state.in.us](mailto:VoteIndianaTeam@sos.state.in.us). Public comment on the Preliminary State Plan was also left at 317-234-VOTE or by contacting the Indiana Election Division toll free in Indiana at 800-622-4941(TDD). Comments were also faxed to 317-233-3283.

All comments were distributed to all team members upon receipt. The team considered all public comment at the final VIT meeting.

#### **Composition of the Vote Indiana Team**

**Todd Rokita**, Chair  
Indiana Secretary of State

**Christa Adkins**  
Indiana Libertarian Party representative

**Tami Barreto**  
League of Women Voters

**Sen. Billie Breaux**  
Indiana Senate

**Amos Brown**  
African-American community and media representative

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## Nonrule Policy Documents

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**Dick Dodge**

Steuben County Commissioner and Association of Indiana Counties representative

**Pam Finlayson**

Allen County Election Administrator

**Linda Grass**

Hancock County Clerk

**Dee Ann Hart**

Disability community representative

**Laura Herzog**

Indiana Voter Registration Association

**Suellen Jackson-Boner**

Governor's Planning Council for People with Disabilities

**Gen. Michael Kiefer**

Military representative

**J. Bradley King**

Co-director, Indiana Election Division

**Jon Laramore**

Office of the Governor

**Sally LaSota**

Lake County Election Board Administrator

**Rep. Ed Mahern**

Indiana House of Representatives

**Zach Main**

Indiana Republican Party representative

**Regina Moore**

Indiana Voter Registration Association

**Martha Padish**

Vermillion County Clerk

**Nick Rhoad**

Disability community representative

**Rep. Kathy Richardson**

Indiana House of Representatives

**Kristi Robertson**

Co-director, Indiana Election Division

**Col. Joe Ryan (Ret.)**

Military representative

**Doris Anne Sadler**

Marion County Clerk

**Sen. Becky Skillman**

Indiana Senate

**Joe Slash**

Indianapolis Urban League

**Patricia Wilson**

Hispanic community representative

**Robin Winston**

Indiana Democratic Party representative

Facilitators: Sarah M. Taylor, former Marion County Clerk; Holly M. Davis; Anita L. Kolkmeier, General Counsel, Indiana Secretary of State's Office

**This plan is respectfully submitted to the Election Assistance Commission, in accordance with Public Law 107-252, this 26<sup>th</sup> day of August, 2003.**



Todd Rokita

Indiana Secretary of State

**Items for Future Consideration**

The Team put forth some additional ideas for future consideration following their charge for developing a blueprint for elections over the next five years.

(1) Department of Defense – “2<sup>nd</sup> generation voting”

This would require an amendment to the Constitution of Indiana to permit the children of overseas voters from Indiana, but who have never resided in Indiana themselves, to be eligible to register to vote upon meeting the requirements other than 30 days residence in Indiana.

(2) I.C. 3-11-8-3 flexibility of polling place relocation in rural counties.

(3) I.C. 3-6-6-13 majority vote of county election board to fill vacancies on precinct election boards.

(4) Although Public Law 209-2003 provides that lever voting machines and punch card voting systems may continue to be used in Indiana elections until December 31, 2005, the existing certifications for these systems should be revoked before that date so that no additional marketing of the systems can occur. To provide for more detailed scrutiny of applications for voting system certification, the General Assembly may wish to consider providing an up-to-four year term for certification, with all existing applications coming up for renewal during the off election year.

(5) Indiana Election Division explore future participation in Department of Defense project to permit military voters to cast ballots electronically through secured web based sites.

**APPENDIX 1**

**INDIANA ELECTION REFORM HISTORY**

The development and issuance of Indiana's plan to implement the Help America Vote Act of 2002 marks a significant moment in our state's history of election administration.

While the formation of the State Plan required the members of the Vote Indiana Team to look ahead to determine the wisest way to use our state's resources to bring about election reform in the years ahead, it also provides an opportunity to look back at Indiana's past efforts to ensure fair, honest, and accurate elections.

This look at our past tells us that many issues addressed in the HAVA Plan have been the focus of efforts to improve elections in Indiana

since the earliest days of our state. In fact, the first elections were held in what is now Indiana in December 1798, well before statehood.

The voters in the Northwest Territory created by the Continental Congress in 1787, only won the right to elect legislative representatives after a dozen years of effort, and not without obstacles and opposition. When the election was finally permitted, the franchise was limited to free males who were at least 21 years of age. The polling places were literally few and far between in the vast expanse of the territory. Voters in what is now Indiana could choose between traveling by river or wilderness trail to Vincennes, Detroit, and a couple of locations near Cincinnati to cast their ballot. Voting was *viva voce* ('by voice'), meaning that the voter recited the names of the candidates he wished to vote for before an election board, which wrote them down.

When Indiana attained statehood in 1816, election reform was a topic at the first Constitutional Convention. In a compromise, *viva voce* voting was eliminated, but the General Assembly retained the option to return to that method if it chose to do so. Instead, the emerging political parties began to provide the voters with "tickets" that listed their candidates. These tickets varied in size and color, so the ballot was still not secret.

When Indiana adopted its present Constitution on November 1, 1851, many of the current features of our election system began to take shape. Voting was now organized by counties within precincts. However, in almost all cases, the "precinct" consisted of an entire township, and there was no voter registration system. Elections were held on uniform dates (the second Tuesday in October for general elections, other than the November presidential elections), but there was no opportunity to cast an absentee ballot. A circuit court clerk was elected with responsibilities for county election administration.

During the Civil War era and the remainder of the 19<sup>th</sup> Century, the increasing growth of cities and other changes in society brought attention to the inadequacies in Indiana's election system. The absentee ballot process began as an opportunity to permit military voters to fully participate in elections, without being called away from their post of duty. The growing presence of a non-English speaking group of immigrants in Indiana led to the official publication of laws and other documents in their native language to educate the new German-speaking Hoosiers about the voting process.

Multiple voting by "repeaters" or "floaters" led to the adoption of a constitutional amendment requiring voter registration in Indiana in 1881. The franchise was expanded following the Civil War to include all adult males, regardless of race or color, repealing a ban on voting by African-Americans that had been enacted in Indiana in 1816.

However, the catalyst for sweeping election reform in Indiana was the controversial and disputed presidential election of 1888. Following charges of widespread election fraud in Indiana, Governor Isaac Gray initiated a bipartisan effort to restore public confidence in the integrity of the election process.

In 1889, the Indiana General Assembly enacted sweeping election reform legislation that became a model for other states. Indiana was the second state in the nation to require that voters be provided with government-issued, standardized secret ballots to replace the political party tickets. To safeguard the election process, bipartisan representation was required on all election boards, from the precinct level, to the county level, and in the newly created State Board of Election Commissioners. Counties were required to divide larger townships into multiple precincts to provide more accessibility to voters.

During the early years of the 20<sup>th</sup> Century, Indiana continued to refine and expand its election reform efforts. The franchise was expanded by constitutional amendment throughout the nation to include adult women. However, Indiana continued to be noted for its willingness to try innovative methods to improve the election process. Indiana embraced the new technology of lever machines after President McKinley signed a law in 1899 permitting their use in federal elections. In 1917, before the 19<sup>th</sup> Amendment to the U.S. Constitution was ratified, Indiana became one of the first eight states in the nation to pass legislation permitting women to vote in presidential elections. From 1915 until 1917, Indiana was (and so far remains) the only state to provide an "instant runoff" or preferential voting procedure in federal and state elections.

Despite this tradition of innovative reform, Indiana's election laws failed to keep pace with the sweeping changes of the 1930's and early 1940's. However, in 1945, at the urging of State Representative Edwin Steers, the Indiana General Assembly recognized the need to ensure the consistent and fair application of election statutes throughout the state, and adopted a comprehensive recodification of state election laws.

During the post-World War II period, Indiana election procedures continued to adapt to changes coming from the national level, including the expansion of the franchise to 18-year-old citizens and the elimination of lengthy residence requirements for voter registration. Likewise, Indiana continued to embrace new technology for voting, such as the punch card voting systems introduced



in the 1970's. However, Indiana's very decentralized election administration system led to both a new national controversy and the incentive for renewed election reform.

Following the disputed 8<sup>th</sup> Congressional District election in 1984, national attention was focused on the lack of a uniform process for conducting multi-county recounts in Indiana. Under the law of that time, each county conducted its own recount for the congressional election. After congressional hearings documented that the counties within the 8<sup>th</sup> District lacked consistent standards for counting votes, the Indiana General Assembly acted.

In 1986, the legislature began by enacting a new codification of Indiana election laws to better organize these statutes after forty years of amendments, and to repeal obsolete procedures. The State Recount Commission was created, and after conducting its first congressional recount in December 1986, recommended the adoption of legislation that established detailed and precise standards for counting punch cards and other types of ballots.

In 1987, the General Assembly continued its election reform efforts by enacting the recommendations of the Recount Commission as a part of one of the most comprehensive revisions in Indiana election law (Senate Enrolled Act 587). This 530-section statute authorized and expanded the use of new technologies such as direct recording electronic voting systems and optical scan ballot cards in Indiana elections, along with expanding county flexibility in locating polling places for access by voters with disabilities.

During the next dozen years, Indiana enacted several laws (and in 1998, a state constitutional amendment) to respond to new challenges in election administration. These measures included the protection of the voting rights of military voters and voters who moved during the final 30 days before an election, and the repeal of obsolete constitutional provisions, such as permitting township elections to be held in October. In response to the National Voter Registration Act of 1993, Indiana's voter registration statutes were comprehensively revised in 1995. The Census Data Advisory Committee was created as a permanent, standing body of the legislature to review and recommend changes to Indiana election laws. As a result of this Committee's work, significant election reform legislation was enacted in 1995, 1997, 1999, and 2003.

The 2003 legislative session also witnessed the enactment of Senate Enrolled Act 268, another comprehensive effort at election reform focused on the implementation of the Help America Vote Act in Indiana.

As a result of this rich heritage, Indiana stood in an enviable position to continue election reform in response to the 2000 general election and the enactment of the Help America Vote Act of 2002. It is hoped that the work of the members of the Bipartisan Task Force in 2001, and the Vote Indiana Team in 2003, the hundreds of county election administrators, and thousands of poll workers throughout the state will contribute to the success of the ongoing effort for election reform in Indiana.

*Compiled and written by  
J. Bradley King,  
Co-Director, Indiana Election Division*

## **APPENDIX 2**

### **Indiana Bond Bank**

#### **Hoosier Equipment Lease Purchase (HELP) Program**

##### **Letter from the Chairman**

To all potential participants:

The Primary mission of the Indiana Bond Bank is to assist local government in obtaining low-cost financing for their operations. To achieve our mission, the Bond Bank has developed several programs tailored to specific financing needs. The HELP program is one of these programs. Through the Hoosier Equipment Lease Purchase Program, local communities can acquire equipment at cash prices and utilize tax-exempt interest rates. Since its beginning in 1989, the program has assisted more than 135 communities in obtaining over \$82 million in equipment. Interest rates for the program are based on the current U.S. Treasury Yield. According to a recent Internal Revenue Service Private Letter Ruling, small entities can also benefit from participation and still maintain their "small issuer" status. I encourage you to find out more about this standardized and streamlined lease-purchase program offered by the Indiana Bond Bank.

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## Nonrule Policy Documents

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Sincerely,

Tim Berry  
Chairman, Indiana Bond Bank  
Treasurer, State of Indiana

### Description of Program

- ▶ Assists communities in acquiring essential equipment through a standardized and streamlined lease-purchase process
- ▶ Standard lease term
- ▶ Minimum lease amount is \$100,000
- ▶ Repayment flexibility; monthly, quarterly, semi-annually, or annually
- ▶ Eliminates the need to bid financing
- ▶ Rates are updated daily
- ▶ Over 135 communities assisted

### Application Procedures

1. Complete one page application
2. Submit certain financial information
  - Most recent audit report
  - Current Budget
3. Approval process usually within seven business days  
Applications can be submitted at any time. Upon credit approval from the Bond Bank lender, only lease documentation is required to complete the transaction.

### Lease Equipment

Computers	Voting Machines	Buses
Phone Systems	Cafeteria Equipment	Ambulances
911 Emergency Equipment/System	Maintenance Equipment	Garbage Trucks
Safety, Security and	Police Cars	Tandem Trucks
Surveillance Equipment	Fire Trucks	Sewer Vacs

**For questions about eligible equipment, contact the Indiana Bond Bank at  
317.233.0888 or 800.535.6974.**

**Information can also be found at [www.in.gov/bond](http://www.in.gov/bond).**

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# Rules Affected by Volumes 26 and 27

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE				45 IAC 18-1-5	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2313</b>
10 IAC 1.5	RA	03-102	26 IR 3425					*AROC (26 IR 2472)
10 IAC 1.5-1-2			*ERR (26 IR 3046)					*CPH (25 IR 4129)
10 IAC 1.5-1-7			*ERR (26 IR 3046)	45 IAC 18-1-6	R	02-40	25 IR 3238	*ARR (26 IR 2376) <b>26 IR 2313</b>
10 IAC 1.5-2-2			*ERR (26 IR 3046)					*AROC (26 IR 2472)
10 IAC 1.5-2-3			*ERR (26 IR 3046)					*CPH (25 IR 4129)
10 IAC 1.5-2-5			*ERR (26 IR 3046)	45 IAC 18-1-7	R	02-40	25 IR 3238	*ARR (26 IR 2376) <b>26 IR 2313</b>
10 IAC 1.5-3-5			*ERR (26 IR 3046)					*AROC (26 IR 2472)
10 IAC 1.5-3-7			*ERR (26 IR 3046)					*CPH (25 IR 4129)
10 IAC 1.5-3-8			*ERR (26 IR 3046)					*ARR (26 IR 2376) <b>26 IR 2313</b>
10 IAC 1.5-4-7			*ERR (26 IR 3046)					*AROC (26 IR 2472)
10 IAC 1.5-6	N	03-101	26 IR 3374	45 IAC 18-1-8	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2313</b>
10 IAC 3-1-1	A	03-167	26 IR 3909					*AROC (26 IR 2472)
10 IAC 3-1-2	A	03-167	26 IR 3911					*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2313</b>
TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL				45 IAC 18-1-9	N	02-40	25 IR 3220	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2300</b>
11 IAC 1-1-3.5	N	02-238	26 IR 420					*AROC (26 IR 2472)
			*AROC (26 IR 883)					*CPH (25 IR 4129)
			<b>26 IR 2300</b>					*ARR (26 IR 2376) <b>26 IR 2300</b>
11 IAC 2-5-4			*ERR (26 IR 35)					*AROC (26 IR 2472)
11 IAC 2-5-5	N	02-324	26 IR 1598	45 IAC 18-1-10	N	02-40	25 IR 3220	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2301</b>
11 IAC 2-6-1	A	02-110	25 IR 3213					*AROC (26 IR 2472)
11 IAC 2-6-5	A	02-110	25 IR 3213					*CPH (25 IR 4129)
11 IAC 2-6-6	N	02-110	25 IR 3213					*ARR (26 IR 2376) <b>26 IR 2301</b>
11 IAC 3	N	03-165	26 IR 3911	45 IAC 18-1-11	N	02-40	25 IR 3220	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2301</b>
TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION				45 IAC 18-1-12	N	02-40	25 IR 3220	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2301</b>
25 IAC 2-19	R	02-150	26 IR 86					*AROC (26 IR 2472)
			*ARR (26 IR 3047)					*CPH (25 IR 4129)
			<b>26 IR 3313</b>					*ARR (26 IR 2376) <b>26 IR 2301</b>
25 IAC 2-20	R	02-150	26 IR 86					*AROC (26 IR 2472)
			*ARR (26 IR 3047)					*CPH (25 IR 4129)
			<b>26 IR 3313</b>					*ARR (26 IR 2376) <b>26 IR 2301</b>
25 IAC 5	N	02-150	26 IR 67	45 IAC 18-1-13	N	02-40	25 IR 3220	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2301</b>
			*ARR (26 IR 3047)					*AROC (26 IR 2472)
			<b>26 IR 3296</b>					*CPH (25 IR 4129)
TITLE 31 STATE PERSONNEL DEPARTMENT								*ARR (26 IR 2376) <b>26 IR 2301</b>
31 IAC 1-9-3	A	02-10	25 IR 3214					*AROC (26 IR 2472)
31 IAC 1-9-4	A	02-10	25 IR 3215	45 IAC 18-1-14	N	02-40	25 IR 3221	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2301</b>
31 IAC 1-9-4.5	A	02-10	25 IR 3215					*AROC (26 IR 2472)
31 IAC 1-12.1	R	02-10	25 IR 3219					*CPH (25 IR 4129)
31 IAC 2-11-3	A	02-10	25 IR 3216					*ARR (26 IR 2376) <b>26 IR 2301</b>
31 IAC 2-11-4	A	02-10	25 IR 3217	45 IAC 18-1-15	N	02-40	25 IR 3221	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2301</b>
31 IAC 2-11-4.5	A	02-10	25 IR 3217					*AROC (26 IR 2472)
31 IAC 2-17.1	R	02-10	25 IR 3219					*CPH (25 IR 4129)
31 IAC 4	R	02-10	25 IR 3219					*ARR (26 IR 2376) <b>26 IR 2302</b>
31 IAC 5	N	02-10	25 IR 3218	45 IAC 18-1-16	N	02-40	25 IR 3221	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2302</b>
TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND								*AROC (26 IR 2472)
35 IAC 8-1-1	A	02-163	25 IR 4134	45 IAC 18-1-17	N	02-40	25 IR 3221	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2302</b>
35 IAC 8-1-2	A	02-163	25 IR 4134					*AROC (26 IR 2472)
35 IAC 8-2-1	A	02-163	25 IR 4135					*CPH (25 IR 4129)
35 IAC 9-1-1	A	02-163	25 IR 4136	45 IAC 18-1-18	N	02-40	25 IR 3221	*ARR (26 IR 2376) <b>26 IR 2302</b>
35 IAC 9-1-2	A	02-163	25 IR 4136					*AROC (26 IR 2472)
35 IAC 9-1-3	A	02-163	25 IR 4136					*CPH (25 IR 4129)
35 IAC 9-1-4	A	02-163	25 IR 4136					*ARR (26 IR 2376) <b>26 IR 2302</b>
35 IAC 10	N	02-163	25 IR 4137					*AROC (26 IR 2472)
35 IAC 11	N	03-131	26 IR 3678	45 IAC 18-1-19	N	02-40	25 IR 3221	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2302</b>
TITLE 45 DEPARTMENT OF STATE REVENUE								*AROC (26 IR 2472)
45 IAC 3.1-1-99.1	N	02-305	26 IR 817					*CPH (25 IR 4129)
45 IAC 18-1-2	R	02-40	25 IR 3238	45 IAC 18-1-20	N	02-40	25 IR 3221	*ARR (26 IR 2376) <b>26 IR 2313</b>
			*ARR (26 IR 2376)					*AROC (26 IR 2472)
			*AROC (26 IR 2472)					*CPH (25 IR 4129)
45 IAC 18-1-3	R	02-40	25 IR 3238	45 IAC 18-1-21	N	02-40	25 IR 3222	*ARR (26 IR 2376) <b>26 IR 2302</b>
			*CPH (25 IR 4129)					*AROC (26 IR 2472)
			*ARR (26 IR 2376)					*CPH (25 IR 4129)
			<b>26 IR 2313</b>					*ARR (26 IR 2376) <b>26 IR 2302</b>
45 IAC 18-1-4	R	02-40	25 IR 3238	45 IAC 18-1-22	N	02-40	25 IR 3222	*AROC (26 IR 2472) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2302</b>
			*AROC (26 IR 2472)					*AROC (26 IR 2472)
			*CPH (25 IR 4129)					
			*ARR (26 IR 2376)					
			<b>26 IR 2313</b>					
			*AROC (26 IR 2472)					

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45 IAC 18-1-23	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2303</b> *AROC (26 IR 2472)	45 IAC 18-1-41	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2306</b> *AROC (26 IR 2472)
45 IAC 18-1-24	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2303</b> *AROC (26 IR 2472)	45 IAC 18-1-42	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2306</b> *AROC (26 IR 2472)
45 IAC 18-1-25	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2303</b> *AROC (26 IR 2472)	45 IAC 18-1-43	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2306</b> *AROC (26 IR 2472)
45 IAC 18-1-26	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2303</b> *AROC (26 IR 2472)	45 IAC 18-2-1	A	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2306</b> *AROC (26 IR 2472)
45 IAC 18-1-27	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2303</b> *AROC (26 IR 2472)	45 IAC 18-2-2	A	02-40	25 IR 3226	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-1-28	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2303</b> *AROC (26 IR 2472)	45 IAC 18-2-3	A	02-40	25 IR 3227	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-1-29	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2304</b> *AROC (26 IR 2472)	45 IAC 18-2-4	A	02-40	25 IR 3228	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-1-30	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2304</b> *AROC (26 IR 2472)	45 IAC 18-3-1	A	02-40	25 IR 3228	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-1-31	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2304</b> *AROC (26 IR 2472)	45 IAC 18-3-2	A	02-40	25 IR 3229	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-1-32	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2304</b> *AROC (26 IR 2472)	45 IAC 18-3-3	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2313</b> *AROC (26 IR 2472)
45 IAC 18-1-33	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-3-4	N	02-40	25 IR 3231	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2307</b> *AROC (26 IR 2472)
45 IAC 18-1-34	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-3-5	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2307</b> *AROC (26 IR 2472)
45 IAC 18-1-35	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-3-6	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2308</b> *AROC (26 IR 2472)
45 IAC 18-1-36	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-3-7	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2308</b> *AROC (26 IR 2472)
45 IAC 18-1-37	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-3-8	N	02-40	25 IR 3233	*ERR (26 IR 2375) *CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2308</b> *AROC (26 IR 2472)
45 IAC 18-1-38	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-4-1	A	02-40	25 IR 3233	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2309</b> *AROC (26 IR 2472)
45 IAC 18-1-39	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2305</b> *AROC (26 IR 2472)	45 IAC 18-4-2	A	02-40	25 IR 3234	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2309</b> *AROC (26 IR 2472)
45 IAC 18-1-40	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2306</b> *AROC (26 IR 2472)	45 IAC 18-5-2	A	02-40	25 IR 3235	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2310</b> *AROC (26 IR 2472)
					45 IAC 18-6-1	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2313</b> *AROC (26 IR 2472)

## Rules Affected by Volumes 26 and 27

45 IAC 18-6-2	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2313</b>	50 IAC 15-5-2	A	01-266	25 IR 414	*AROC (25 IR 2591) <b>26 IR 1520</b>
				*AROC (26 IR 2472)	50 IAC 15-5-4	A	01-266	25 IR 414	*AROC (25 IR 2591) <b>26 IR 1520</b>
45 IAC 18-6-3	A	02-40	25 IR 3235	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2310</b>	50 IAC 15-5-5	A	01-266	25 IR 414	*AROC (25 IR 2591) <b>26 IR 1520</b>
				*AROC (26 IR 2472)	50 IAC 15-5-6	A	01-266	25 IR 415	*AROC (25 IR 2591) <b>26 IR 1521</b>
45 IAC 18-7	N	02-40	25 IR 3236	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)	50 IAC 15-5-7	A	01-266	25 IR 415	*AROC (25 IR 2591) <b>26 IR 1521</b>
45 IAC 18-8	N	02-40	25 IR 3236	*CPH (25 IR 4129) *ARR (26 IR 2376) <b>26 IR 2311</b>	50 IAC 15-5-8	A	01-266	25 IR 415	*AROC (25 IR 2591) <b>26 IR 1521</b>
				*AROC (26 IR 2472)	50 IAC 18	N	02-81	26 IR 1117	*AROC (26 IR 1263)
					50 IAC 19	N	02-342	26 IR 2397	*ARR (26 IR 3885) *AROC (27 IR 287) <b>27 IR 450</b>

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

50 IAC 2.3-1-1	A	01-305	25 IR 835	<b>26 IR 6</b>
	A	01-402	26 IR 86	*AROC (26 IR 183)
				*AROC (26 IR 184)
				<b>26 IR 2314</b>
	A	02-240	26 IR 88	<b>26 IR 2315</b>
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)
				<b>26 IR 2314</b>
50 IAC 3.1-1	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.1-2-1	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.1-2-5	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.1-2-6	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.1-2-7	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.1-2-8	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.1-2-9	R	01-367	25 IR 2550	<b>26 IR 328</b>
50 IAC 3.2	N	01-367	25 IR 2548	<b>26 IR 326</b>
				*ERR (26 IR 382)
50 IAC 14-3-1				*ERR (26 IR 3046)
50 IAC 14-4-1				*ERR (26 IR 382)
				*ERR (26 IR 3046)
50 IAC 14-5-1				*ERR (26 IR 3046)
50 IAC 14-5-3				*ERR (26 IR 3046)
50 IAC 14-6-1				*ERR (26 IR 382)
50 IAC 14-7-1				*ERR (26 IR 382)
50 IAC 14-8-1				*ERR (26 IR 3046)
50 IAC 15-1-1.5	N	01-266		† <b>26 IR 1516</b>
50 IAC 15-1-2.5	N	01-266	25 IR 410	*AROC (25 IR 2591)
				<b>26 IR 1516</b>
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591)
				<b>26 IR 1516</b>
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591)
				<b>26 IR 1522</b>
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591)
				<b>26 IR 1522</b>
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)
				<b>26 IR 1516</b>
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591)
				<b>26 IR 1516</b>
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591)
				<b>26 IR 1517</b>
50 IAC 15-3-4	A	01-266	25 IR 411	*AROC (25 IR 2591)
				<b>26 IR 1517</b>
50 IAC 15-3-5	A	01-266	25 IR 411	*AROC (25 IR 2591)
				<b>26 IR 1517</b>
50 IAC 15-3-6	N	01-266	25 IR 411	*AROC (25 IR 2591)
				<b>26 IR 1518</b>
50 IAC 15-4-1	A	01-266	25 IR 412	*AROC (25 IR 2591)
				<b>26 IR 1518</b>
50 IAC 15-5-1	A	01-266	25 IR 413	*AROC (25 IR 2591)
				<b>26 IR 1519</b>

TITLE 52 INDIANA BOARD OF TAX REVIEW

52 IAC 1	N 02-206	26 IR 89	<b>26 IR 2316</b>
52 IAC 2	N 03-179	26 IR 3915	
52 IAC 3	N 03-179	26 IR 3926	
52 IAC 4	N 03-259	27 IR 555	

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

60 IAC 2-1-1	A	02-261	26 IR 1118	<b>26 IR 2604</b>
60 IAC 2-1-2	R	02-261	26 IR 1121	<b>26 IR 2607</b>
60 IAC 2-1-3	R	02-261	26 IR 1121	<b>26 IR 2607</b>
60 IAC 2-2-1	A	02-261	26 IR 1118	<b>26 IR 2604</b>
60 IAC 2-2-2	A	02-261	26 IR 1118	<b>26 IR 2604</b>
60 IAC 2-2-3	A	02-261	26 IR 1119	<b>26 IR 2605</b>
60 IAC 2-2-3.1	N	02-261	26 IR 1120	<b>26 IR 2605</b>
60 IAC 2-2-4	A	02-261	26 IR 1120	<b>26 IR 2605</b>
60 IAC 2-2-5	A	02-261	26 IR 1120	<b>26 IR 2606</b>
60 IAC 2-2-5.1	N	02-261	26 IR 1121	<b>26 IR 2606</b>
60 IAC 2-2-6	R	02-261	26 IR 1121	<b>26 IR 2607</b>
60 IAC 2-2-7	R	02-261	26 IR 1121	<b>26 IR 2607</b>

TITLE 65 STATE LOTTERY COMMISSION

FILE NO	DATE	EXPIRATION	REMARKS
65 IAC 3-3-3	A	02-252	*ER (26 IR 40)
65 IAC 3-3-10	A	02-252	*ER (26 IR 40)
65 IAC 3-4-4	A	02-252	*ER (26 IR 41)
65 IAC 3-4-5	A	02-252	*ER (26 IR 42)
65 IAC 4-2-4	A	02-253	*ER (26 IR 42)
65 IAC 4-2-8	A	02-253	*ER (26 IR 43)
65 IAC 4-206	N	03-121	*ER (26 IR 3348)
65 IAC 4-319	N	03-148	*ER (26 IR 3360)
65 IAC 4-329	N	03-237	*ER (27 IR 192)
65 IAC 4-330	N	03-246	*ER (27 IR 199)
65 IAC 4-331	N	03-247	*ER (27 IR 200)
65 IAC 4-452	N	02-353	*ER (26 IR 1585)
65 IAC 4-453	N	02-350	*ER (26 IR 1580)
65 IAC 5-2-4	A	02-253	*ER (26 IR 43)
65 IAC 5-2-8	A	02-253	*ER (26 IR 43)
65 IAC 5-5-5	A	03-113	*ER (26 IR 3057)
65 IAC 5-12-2	A	02-254	*ER (26 IR 44)
65 IAC 5-12-3	A	02-254	*ER (26 IR 45)
65 IAC 5-12-4	A	02-254	*ER (26 IR 45)
65 IAC 5-12-5	A	02-254	*ER (26 IR 46)
65 IAC 5-12-6	A	02-254	*ER (26 IR 46)
65 IAC 5-12-7	A	02-254	*ER (26 IR 47)
65 IAC 5-12-9	A	02-254	*ER (26 IR 47)
65 IAC 5-12-10	A	02-254	*ER (26 IR 47)
65 IAC 5-12-11	A	02-254	*ER (26 IR 48)
65 IAC 5-12-12	A	02-254	*ER (26 IR 49)
65 IAC 5-12-12.5	A	02-254	*ER (26 IR 49)
65 IAC 5-12-14	A	02-254	*ER (26 IR 51)
65 IAC 5-15-10	N	03-14	*ER (26 IR 1946)
65 IAC 5-15-11	N	03-14	*ER (26 IR 1946)
65 IAC 6-1-1.1	N	02-255	*ER (26 IR 51)

## Rules Affected by Volumes 26 and 27

65 IAC 6-1-1.2	N	02-255	*ER (26 IR 51)	71 IAC 4.5-3-1	A	03-52	*ER (26 IR 2382)
65 IAC 6-1-2.1	N	02-255	*ER (26 IR 51)	71 IAC 5.5-4-4	A	03-52	*ER (26 IR 2382)
65 IAC 6-1-2.2	N	02-255	*ER (26 IR 51)	71 IAC 5.5-5-3	A	02-250	*ER (26 IR 55)
65 IAC 6-1-4.1	N	02-255	*ER (26 IR 51)	71 IAC 6.5-1-4	A	02-250	*ER (26 IR 55)
65 IAC 6-1-10	N	02-255	*ER (26 IR 52)	71 IAC 7-1-15	A	03-52	*ER (26 IR 2383)
65 IAC 6-2-3	A	02-255	*ER (26 IR 52)	71 IAC 7-1-28	A	03-52	*ER (26 IR 2383)
65 IAC 6-2-4	A	02-255	*ER (26 IR 52)	71 IAC 7-1-37	R	03-52	*ER (26 IR 2388)
65 IAC 6-2-5	A	02-255	*ER (26 IR 52)	71 IAC 7-3-6	A	03-244	*ER (27 IR 205)
65 IAC 6-2-8	A	02-255	*ER (26 IR 53)	71 IAC 7.5-1-4	A	03-52	*ER (26 IR 2383)
65 IAC 6-2-9	A	02-255	*ER (26 IR 53)		A	03-244	*ER (27 IR 205)
65 IAC 6-3-2	A	02-255	*ER (26 IR 53)	71 IAC 7.5-1-14	N	03-52	*ER (26 IR 2383)
65 IAC 6-3-3	R	02-255	*ER (26 IR 54)	71 IAC 7.5-6-1	A	03-52	*ER (26 IR 2384)
65 IAC 6-4-6	R	02-255	*ER (26 IR 54)	71 IAC 7.5-6-3	A	03-244	*ER (27 IR 206)
65 IAC 6-4-7	R	02-255	*ER (26 IR 54)	71 IAC 7.5-10	N	02-250	*ER (26 IR 56)
65 IAC 6-4-8	R	02-255	*ER (26 IR 54)	71 IAC 8-1-1	A	03-52	*ER (26 IR 2384)
65 IAC 6-4-9	R	02-255	*ER (26 IR 54)	71 IAC 8-4-1	A	03-52	*ER (26 IR 2385)
65 IAC 6-4-10	R	02-255	*ER (26 IR 54)	71 IAC 8-6-2	N	03-52	*ER (26 IR 2385)
65 IAC 6-4-11	R	02-255	*ER (26 IR 54)	71 IAC 8.5-1-1	A	03-52	*ER (26 IR 2385)
65 IAC 6-4-12	R	02-255	*ER (26 IR 54)	71 IAC 8.5-3-1	A	03-52	*ER (26 IR 2386)
				71 IAC 8.5-4-8	N	02-250	*ER (26 IR 57)
				71 IAC 8.5-5-2	N	02-250	*ER (26 IR 57)
					N	03-52	*ER (26 IR 2386)
TITLE 68 INDIANA GAMING COMMISSION				71 IAC 8.5-10-6	A	02-250	*ER (26 IR 58)
68 IAC 3	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	71 IAC 10-2-9	A	03-52	*ER (26 IR 2387)
			<b>26 IR 1261</b>	71 IAC 12-2-15	A	02-251	*ER (26 IR 58)
68 IAC 4	RA	01-418 25 IR 2589	*CPH (25 IR 3208)		A	02-282	*ER (26 IR 394)
68 IAC 4-1-1	RA	03-132 26 IR 3750	*CPH (27 IR 208)		A	03-52	*ER (26 IR 2387)
68 IAC 4-1-2	RA	03-132 26 IR 3751	*CPH (27 IR 208)		A	03-52	*ER (26 IR 2388)
68 IAC 4-1-3	RA	03-132 26 IR 3751	*CPH (27 IR 208)		A	02-251	*ER (26 IR 59)
68 IAC 4-1-4	RA	03-132 26 IR 3751	*CPH (27 IR 208)	71 IAC 12-2-18	A	03-52	*ERR (26 IR 382)
68 IAC 4-1-5	RA	03-132 26 IR 3752	*CPH (27 IR 208)	71 IAC 12-2-19	A	02-251	*ER (26 IR 395)
68 IAC 4-1-6	RA	03-132 26 IR 3752	*CPH (27 IR 208)		A	02-282	*ER (26 IR 1952)
68 IAC 4-1-7	RA	03-132 26 IR 3752	*CPH (27 IR 208)	71 IAC 12-2-20	A	02-282	*ER (26 IR 1952)
68 IAC 4-1-8	RA	03-132 26 IR 3753	*CPH (27 IR 208)	71 IAC 13.5-3-3	A	03-25	
68 IAC 4-1-9	RA	03-132 26 IR 3753	*CPH (27 IR 208)	71 IAC 14.5-1-3	A	03-25	
68 IAC 4-1-10	RA	03-132 26 IR 3754	*CPH (27 IR 208)				
68 IAC 5	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	TITLE 80 STATE FAIR COMMISSION			
			<b>26 IR 1261</b>	80 IAC 4-3-3	A	02-200 26 IR 420	<b>26 IR 3536</b>
68 IAC 6-3	N	03-204 27 IR 212		80 IAC 4-3-5	A	02-200 26 IR 420	<b>26 IR 3536</b>
68 IAC 10	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	80 IAC 4-4	N	02-243 26 IR 2398	<b>26 IR 3537</b>
			<b>26 IR 1261</b>				
68 IAC 11	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION			
			<b>26 IR 1261</b>	105 IAC 9-1-1	A	03-17 26 IR 2400	<b>27 IR 451</b>
68 IAC 12	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-1-2	A	03-17 26 IR 2400	<b>27 IR 452</b>
			<b>26 IR 1261</b>	105 IAC 9-2-1	A	02-231 26 IR 421	<b>27 IR 7</b>
68 IAC 13	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-2	R	02-231	††27 IR 52
			<b>26 IR 1261</b>	105 IAC 9-2-3	N	02-231	††27 IR 7
68 IAC 14	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-4	N	02-231	††27 IR 7
			<b>26 IR 1261</b>	105 IAC 9-2-5	N	02-231	††27 IR 7
68 IAC 15	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-6	N	02-231	††27 IR 7
			<b>26 IR 1261</b>	105 IAC 9-2-7	N	02-231	††27 IR 8
68 IAC 16	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-8	N	02-231	††27 IR 8
			<b>26 IR 1261</b>	105 IAC 9-2-9	N	02-231	††27 IR 8
68 IAC 17	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-10	N	02-231	††27 IR 8
			<b>26 IR 1261</b>	105 IAC 9-2-11	N	02-231	††27 IR 9
68 IAC 18	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-12	N	02-231	††27 IR 9
			<b>26 IR 1261</b>	105 IAC 9-2-13	N	02-231	††27 IR 9
68 IAC 19	RA	01-418 25 IR 2589	*CPH (25 IR 3208)	105 IAC 9-2-14	N	02-231	††27 IR 9
			<b>26 IR 1261</b>	105 IAC 9-2-15	N	02-231	††27 IR 10
				105 IAC 9-2-16	N	02-231	††27 IR 10
				105 IAC 9-2-17	N	02-231	††27 IR 10
				105 IAC 9-2-18	N	02-231	††27 IR 10
				105 IAC 9-2-19	N	02-231	††27 IR 10
				105 IAC 9-2-20	N	02-231	††27 IR 11
				105 IAC 9-2-21	N	02-231	††27 IR 11
				105 IAC 9-2-22	N	02-231	††27 IR 11
				105 IAC 9-2-23	N	02-231	††27 IR 11
				105 IAC 9-2-24	N	02-231	††27 IR 12
				105 IAC 9-2-25	N	02-231	††27 IR 12
				105 IAC 9-2-26	N	02-231	††27 IR 12
				105 IAC 9-2-27	N	02-231	††27 IR 12
TITLE 71 INDIANA HORSE RACING COMMISSION							
71 IAC 1-1-41.5	N	02-282	*ER (26 IR 394)				
71 IAC 1.5-1-37.5	N	02-282	*ER (26 IR 394)				
			*ERR (26 IR 793)				
71 IAC 3-2-9	A	03-52	*ER (26 IR 2380)				
71 IAC 3.5-2-9	A	03-52	*ER (26 IR 2380)				
71 IAC 4-2-4	A	03-52	*ER (26 IR 2380)				
71 IAC 4-2-5	A	03-52	*ER (26 IR 2381)				
71 IAC 4-3-1	A	03-52	*ER (26 IR 2381)				
71 IAC 4.5-2-4	A	03-52	*ER (26 IR 2381)				
71 IAC 4.5-2-5	A	03-52	*ER (26 IR 2382)				

## Rules Affected by Volumes 26 and 27

[illegible]

## Rules Affected by Volumes 26 and 27

105 IAC 9-2-166	N	02-231	††27 IR 47	135 IAC 2-7-3	A	02-171	25 IR 4148	
105 IAC 9-2-167	N	02-231	††27 IR 47	135 IAC 2-7-7	A	02-171	25 IR 4148	
105 IAC 9-2-168	N	02-231	††27 IR 47	135 IAC 2-7-11	A	02-171	25 IR 4149	
105 IAC 9-2-169	N	02-231	††27 IR 47	135 IAC 2-7-15	A	02-171	25 IR 4149	
105 IAC 9-2-170	N	02-231	††27 IR 48	135 IAC 2-7-18	A	02-171	25 IR 4149	
105 IAC 9-2-171	N	02-231	††27 IR 48	135 IAC 2-7-19	R	02-171	25 IR 4151	
105 IAC 9-2-172	N	02-231	††27 IR 48	135 IAC 2-7-20	A	02-171	25 IR 4149	
105 IAC 9-2-173	N	02-231	††27 IR 49	135 IAC 2-7-23	A	02-171	25 IR 4149	
105 IAC 9-2-174	N	02-231	††27 IR 49	135 IAC 2-8-1	A	02-171	25 IR 4149	
105 IAC 9-2-175	N	02-231	††27 IR 49	135 IAC 2-8-3	A	02-171	25 IR 4150	
105 IAC 9-2-176	N	02-231	††27 IR 49	135 IAC 2-8-5	A	02-171	25 IR 4150	
105 IAC 9-2-177	N	02-231	††27 IR 49	135 IAC 2-8-7	A	02-171	25 IR 4150	
105 IAC 9-2-178	N	02-231	††27 IR 50	135 IAC 2-8-11	A	02-171	25 IR 4150	
105 IAC 9-2-179	N	02-231	††27 IR 50	135 IAC 2-10-1	A	02-171	25 IR 4151	
105 IAC 9-2-180	N	02-231	††27 IR 50	135 IAC 2-10-2	A	02-171	25 IR 4151	
105 IAC 9-2-181	N	02-231	††27 IR 50	135 IAC 3	RA	02-175	25 IR 4219	26 IR 882
105 IAC 9-2-182	N	02-231	††27 IR 51	TITLE 170 INDIANA UTILITY REGULATORY COMMISSION				
105 IAC 9-2-183	N	02-231	††27 IR 51	170 IAC 4-1-26	A	02-44	25 IR 2751	26 IR 328
105 IAC 9-2-184	N	02-231	††27 IR 51	170 IAC 7-1-2				*ERR (26 IR 382)
105 IAC 9-2-185	N	02-231	††27 IR 51	170 IAC 7-1.2-10	A	03-194	27 IR 558	
105 IAC 9-2-186	N	02-231	††27 IR 51	170 IAC 7-1.3				*ERR (26 IR 382)
105 IAC 9-2-187	N	02-231	††27 IR 51	170 IAC 7-1.3-2				*ERR (26 IR 1565)
105 IAC 9-2-188	N	02-231	††27 IR 52					*ERR (26 IR 2375)
105 IAC 9-2-189	N	02-231	††27 IR 52	TITLE 210 DEPARTMENT OF CORRECTION				
105 IAC 9-2-190	N	02-231	††27 IR 52	210 IAC 1-6-1	A	02-259	26 IR 817	26 IR 3538
105 IAC 12-1-2	A	03-58	26 IR 3077	210 IAC 1-6-2	A	02-259	26 IR 818	26 IR 3539
105 IAC 12-1-5	A	03-58	26 IR 3077	210 IAC 1-6-3	R	02-259	26 IR 829	26 IR 3550
105 IAC 12-1-14.5	N	03-58	26 IR 3077	210 IAC 1-6-4	A	02-259	26 IR 818	26 IR 3539
105 IAC 12-1-14.6	N	03-58	26 IR 3077	210 IAC 1-6-5	A	02-259	26 IR 819	26 IR 3540
105 IAC 12-1-18	A	03-58	26 IR 3077	210 IAC 1-6-6	A	02-259	26 IR 820	26 IR 3541
105 IAC 12-1-22	A	03-58	26 IR 3077	210 IAC 1-6-7	A	02-259	26 IR 821	26 IR 3542
105 IAC 12-1-23	A	03-58	26 IR 3078	210 IAC 1-10	N	02-259	26 IR 821	26 IR 3542
105 IAC 12-2-4	A	03-58	26 IR 3078	210 IAC 5-1-1	A	02-259	26 IR 823	26 IR 3544
105 IAC 12-2-6	A	03-58	26 IR 3078	210 IAC 5-1-2	A	02-259	26 IR 824	26 IR 3545
105 IAC 12-2-7	A	03-58	26 IR 3078	210 IAC 5-1-3	A	02-259	26 IR 824	26 IR 3545
105 IAC 12-2-10	A	03-58	26 IR 3078	210 IAC 5-1-4	A	02-259	26 IR 827	26 IR 3548
105 IAC 12-2-11	A	03-58	26 IR 3078	210 IAC 6-1-1	A	02-173	25 IR 4152	26 IR 1064
105 IAC 12-2-13	A	03-58	26 IR 3079	210 IAC 6-2-1	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-2-14	A	03-58	26 IR 3079	210 IAC 6-2-2	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-2-16	A	03-58	26 IR 3079	210 IAC 6-2-3	A	02-173	25 IR 4152	26 IR 1064
105 IAC 12-2-17	A	03-58	26 IR 3080	210 IAC 6-2-4	A	02-173	25 IR 4152	26 IR 1064
105 IAC 12-2-18	N	03-58	26 IR 3080	210 IAC 6-2-5	A	02-173	25 IR 4152	26 IR 1064
105 IAC 12-2-19	N	03-58	26 IR 3080	210 IAC 6-2-6	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-2-20	N	03-58	26 IR 3080	210 IAC 6-2-7	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-2-21	N	03-58	26 IR 3081	210 IAC 6-2-8	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-3-1	A	03-58	26 IR 3082	210 IAC 6-2-9	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-3-2	A	03-58	26 IR 3082	210 IAC 6-2-10	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-3-4	A	03-58	26 IR 3082	210 IAC 6-2-11	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-3-5	A	03-58	26 IR 3083	210 IAC 6-2-12	RA	02-174	25 IR 4219	26 IR 882
105 IAC 12-4-3	A	03-58	26 IR 3084	210 IAC 6-2-13	A	02-173	25 IR 4152	26 IR 1064
105 IAC 12-4-4	A	03-58	26 IR 3084	210 IAC 6-3-1	A	02-173	25 IR 4152	26 IR 1064
105 IAC 12-4-5	A	03-58	26 IR 3084	210 IAC 6-3-2	A	02-173	25 IR 4153	26 IR 1065
TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY				210 IAC 6-3-3	A	02-173	25 IR 4153	26 IR 1065
135 IAC 2	RA	02-175	25 IR 4219	210 IAC 6-3-4	A	02-173	25 IR 4154	26 IR 1066
135 IAC 2-1-1	A	02-171	25 IR 4138	210 IAC 6-3-5	A	02-173	25 IR 4155	26 IR 1067
135 IAC 2-2-1	A	02-171	25 IR 4140	210 IAC 6-3-6	RA	02-174	25 IR 4219	26 IR 882
135 IAC 2-2-3	A	02-171	25 IR 4140	210 IAC 6-3-7	RA	02-174	25 IR 4219	26 IR 882
135 IAC 2-2-5	A	02-171	25 IR 4140	210 IAC 6-3-8	RA	02-174	25 IR 4219	26 IR 882
135 IAC 2-2-10	A	02-171	25 IR 4141	210 IAC 6-3-9	A	02-173	25 IR 4155	26 IR 1067
135 IAC 2-2-12	A	02-171	25 IR 4141	210 IAC 6-3-10	A	02-173	25 IR 4155	26 IR 1068
135 IAC 2-3-1	A	02-171	25 IR 4141	210 IAC 6-3-11	A	02-173	25 IR 4155	26 IR 1068
135 IAC 2-3-2	A	02-171	25 IR 4141	210 IAC 6-3-12	RA	02-174	25 IR 4219	26 IR 882
135 IAC 2-4-1	A	02-171	25 IR 4141	210 IAC 7	RA	03-54	26 IR 3147	26 IR 3960
135 IAC 2-4-4	A	02-171	25 IR 4142	TITLE 240 STATE POLICE DEPARTMENT				
135 IAC 2-5-1	A	02-171	25 IR 4142	240 IAC 1-4-3	RA	03-98	26 IR 3425	
135 IAC 2-5-2	A	02-171	25 IR 4142	240 IAC 1-4-24.1	RA	03-98	26 IR 3425	27 IR 286
135 IAC 2-6-1	A	02-171	25 IR 4148	240 IAC 7-1-6	RA	02-139	25 IR 3882	26 IR 546
135 IAC 2-7-1	A	02-171	25 IR 4148					



# Rules Affected by Volumes 26 and 27

## 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
250 IAC 2	N	02-339	26 IR 3679

## TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

305 IAC 1-2-6	A	02-328	26 IR 1598
	A	03-212	27 IR 216
305 IAC 1-3-4	A	02-328	26 IR 1599
	A	03-212	27 IR 216
305 IAC 1-4-1	A	02-328	26 IR 1599
	A	03-212	27 IR 217
305 IAC 1-4-2	A	02-328	26 IR 1599
	A	03-212	27 IR 217
305 IAC 1-5	N	02-328	26 IR 1600
	N	03-212	27 IR 217

## TITLE 307 INDIANA BOARD OF REGISTRATION FOR SOIL SCIENTISTS

307 IAC	N	03-32	26 IR 2652	*GRAT (27 IR 291)
				<b>27 IR 53</b>
				*ERR (27 IR 538)

## TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	<b>26 IR 546</b>
312 IAC 2-4-1	A	02-236	26 IR 1126	<b>26 IR 3318</b>
312 IAC 2-4-2	A	02-236	26 IR 1126	<b>26 IR 3318</b>
312 IAC 2-4-4	A	02-236	26 IR 1127	<b>26 IR 3318</b>
312 IAC 2-4-6	A	02-236	26 IR 1127	<b>26 IR 3319</b>
312 IAC 2-4-7	A	02-236	26 IR 1127	<b>26 IR 3319</b>
312 IAC 2-4-8	R	02-236	26 IR 1131	<b>26 IR 3323</b>
312 IAC 2-4-9	A	02-236	26 IR 1128	<b>26 IR 3319</b>
312 IAC 2-4-9.5	A	02-236	26 IR 1128	<b>26 IR 3320</b>
312 IAC 2-4-10	R	02-236	26 IR 1131	<b>26 IR 3323</b>
312 IAC 2-4-12	A	02-236	26 IR 1128	<b>26 IR 3320</b>
312 IAC 2-4-13	N	02-236	26 IR 1129	<b>26 IR 3321</b>
312 IAC 3	RA	02-72	25 IR 3461	<b>26 IR 546</b>
312 IAC 3-1-1	A	02-2	25 IR 2552	<b>26 IR 7</b>
312 IAC 3-1-2	A	02-2	25 IR 2553	<b>26 IR 8</b>
312 IAC 3-1-3	A	02-2	25 IR 2553	<b>26 IR 8</b>
312 IAC 3-1-8	A	02-2	25 IR 2553	<b>26 IR 8</b>
312 IAC 3-1-12	A	02-294	26 IR 1131	<b>26 IR 3323</b>
312 IAC 3-1-14	A	02-2	25 IR 2554	<b>26 IR 9</b>
312 IAC 3-1-18	A	02-2	25 IR 2554	<b>26 IR 9</b>
312 IAC 5-2-47	A	03-24	26 IR 2401	<b>26 IR 3868</b>
312 IAC 5-3-1	A	02-236	26 IR 1130	<b>26 IR 3321</b>

312 IAC 5-3-2	A	02-236	26 IR 1130	<b>26 IR 3322</b>
312 IAC 5-3-3	A	02-236	26 IR 1130	<b>26 IR 3322</b>
312 IAC 5-6-5	A	03-92	27 IR 220	
312 IAC 5-6-6	A	02-162	25 IR 4165	<b>26 IR 1900</b>
	A	03-29	26 IR 2660	<b>27 IR 59</b>
312 IAC 5-13-2	A	03-24	26 IR 2401	<b>26 IR 3869</b>
312 IAC 6	RA	02-331	26 IR 2133	<b>27 IR 286</b>
312 IAC 7	RA	02-331	26 IR 2133	<b>27 IR 286</b>
312 IAC 8-1-2	A	03-50	26 IR 3085	<b>27 IR 455</b>
312 IAC 8-1-4	A	03-50	26 IR 3085	<b>27 IR 455</b>
312 IAC 8-2-3	A	03-50	26 IR 3086	<b>27 IR 456</b>
312 IAC 8-2-6	A	03-50	26 IR 3088	<b>27 IR 457</b>
312 IAC 8-2-9	A	03-50	26 IR 3088	<b>27 IR 458</b>
312 IAC 8-2-11	A	03-50	26 IR 3088	<b>27 IR 458</b>
312 IAC 9	RA	02-331	26 IR 2133	<b>27 IR 286</b>
312 IAC 9-2-11	A	03-50	26 IR 3089	<b>27 IR 459</b>
312 IAC 9-2-13	A	02-68	25 IR 2751	<b>26 IR 1068</b>
312 IAC 9-6-1	A	02-318	26 IR 1966	<b>26 IR 3866</b>
312 IAC 9-6-7	A	02-318	26 IR 1967	<b>26 IR 3868</b>
312 IAC 9-10-3	A	03-35	26 IR 3374	
312 IAC 9-10-4	A	02-232	26 IR 1602	*AWR (26 IR 3347)
	A	03-149	27 IR 246	
312 IAC 9-10-6	A	02-68	25 IR 2752	<b>26 IR 1069</b>
312 IAC 9-10-11	A	01-444	25 IR 2551	<b>26 IR 692</b>
312 IAC 9-11-14	A	02-322	26 IR 1603	<b>26 IR 3324</b>
312 IAC 11-5-1	A	03-30	26 IR 2661	<b>27 IR 61</b>
312 IAC 12-3-2				*ERR (26 IR 1565)
312 IAC 14	RA	02-331	26 IR 2133	<b>27 IR 286</b>
312 IAC 15	RA	02-331	26 IR 2133	<b>27 IR 286</b>
312 IAC 16-3-2	A	02-73	25 IR 4156	<b>26 IR 1896</b>
312 IAC 16-3.5	N	02-73	25 IR 4158	<b>26 IR 1898</b>
312 IAC 16-4-1	A	02-73	25 IR 4158	<b>26 IR 1898</b>
312 IAC 16-4-2	A	02-73	25 IR 4159	<b>26 IR 1898</b>
312 IAC 16-4-5	A	02-73	25 IR 4159	<b>26 IR 1899</b>
312 IAC 18	RA	02-72	25 IR 3461	<b>26 IR 546</b>
312 IAC 18-3-8	A	02-202	26 IR 1123	<b>26 IR 3315</b>
312 IAC 18-3-12	A	02-201	26 IR 1121	<b>26 IR 3313</b>
312 IAC 18-3-15	N	03-213	27 IR 559	
312 IAC 18-3-16	N	03-213	27 IR 560	
312 IAC 18-3-17	N	03-213	27 IR 560	
312 IAC 18-5-2	A	03-213	27 IR 561	
312 IAC 18-5-4	A	03-91	26 IR 3375	
312 IAC 20-2-1.7	N	03-12	26 IR 3084	<b>27 IR 454</b>
312 IAC 20-2-4.3	N	03-12	26 IR 3084	<b>27 IR 454</b>
312 IAC 20-2-4.7	N	03-12	26 IR 3085	<b>27 IR 454</b>
312 IAC 20-3-3	N	03-12	26 IR 3085	<b>27 IR 454</b>
312 IAC 20-5	N	02-329	26 IR 2658	<b>27 IR 452</b>
312 IAC 22.5				*ERR (26 IR 383)
312 IAC 24	RA	02-331	26 IR 2133	<b>27 IR 286</b>
312 IAC 25-1-8	A	03-93	27 IR 221	
312 IAC 25-1-45.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)
				<b>26 IR 3860</b>
312 IAC 25-1-60.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)
				<b>26 IR 3860</b>
312 IAC 25-1-75.5	N	03-93	27 IR 222	
312 IAC 25-1-109.5	N	02-104		† <b>26 IR 3860</b>
312 IAC 25-1-155.5	N	03-93	27 IR 222	
312 IAC 25-4-17	A	03-93	27 IR 222	
312 IAC 25-4-43	A	02-104	25 IR 4160	*AROC (26 IR 1736)
				<b>26 IR 3860</b>
312 IAC 25-4-45	A	03-93	27 IR 223	
312 IAC 25-4-47	A	02-104	25 IR 4161	*AROC (26 IR 1736)
				<b>26 IR 3861</b>
312 IAC 25-4-49	A	03-93	27 IR 224	
312 IAC 25-4-85	A	02-104	25 IR 4162	*AROC (26 IR 1736)
				<b>26 IR 3862</b>
312 IAC 25-4-87	A	03-93	27 IR 225	
312 IAC 25-4-93	A	02-104	25 IR 4163	*AROC (26 IR 1736)
				<b>26 IR 3863</b>

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312 IAC 25-4-102	A	03-93	27 IR 226	326 IAC 2-9-13			*ERR (26 IR 1566)
312 IAC 25-4-105.5	N	03-93	27 IR 227		A	02-337	26 IR 2014
312 IAC 25-4-113	A	03-93	27 IR 228	326 IAC 3-4-1			*ERR (26 IR 1566)
312 IAC 25-4-114	A	03-93	27 IR 228		A	02-337	26 IR 2016
312 IAC 25-4-115	A	03-93	27 IR 229	326 IAC 3-4-3			*ERR (26 IR 1566)
312 IAC 25-4-118	A	03-93	27 IR 230		A	02-337	26 IR 2016
312 IAC 25-5-7	A	03-93	27 IR 231	326 IAC 3-5-2			*ERR (26 IR 1566)
312 IAC 25-5-16	A	03-93	27 IR 232		A	02-337	26 IR 2017
312 IAC 25-6-12.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)	326 IAC 3-5-3		*ERR (26 IR 1567)
			<b>26 IR 3864</b>		A	02-337	26 IR 2019
312 IAC 25-6-17	A	03-93	27 IR 233	326 IAC 3-5-4			*ERR (26 IR 1567)
312 IAC 25-6-20	A	03-93	27 IR 235		A	02-337	26 IR 2019
312 IAC 25-6-23	A	03-93	27 IR 237	326 IAC 3-5-5			*ERR (26 IR 1567)
312 IAC 25-6-25	A	03-93	27 IR 238		A	02-337	26 IR 2020
312 IAC 25-6-31	A	03-169	27 IR 248	326 IAC 3-6-1			*ERR (26 IR 1567)
312 IAC 25-6-66	A	03-93	27 IR 238		A	02-337	26 IR 2022
312 IAC 25-6-76.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)	326 IAC 3-6-3		*ERR (26 IR 1567)
			<b>26 IR 3865</b>		A	02-337	26 IR 2022
312 IAC 25-6-81	A	03-93	27 IR 239	326 IAC 3-6-5			*ERR (26 IR 1567)
312 IAC 25-6-84	A	03-93	27 IR 241		A	02-337	26 IR 2023
312 IAC 25-6-130	A	03-93	27 IR 243	326 IAC 3-7-2			*ERR (26 IR 1567)
312 IAC 25-7-1	A	03-93	27 IR 244		A	02-337	26 IR 2024
312 IAC 25-7-20	A	03-93	27 IR 246	326 IAC 3-7-4			*ERR (26 IR 1567)
312 IAC 25-9-5	A	03-169	27 IR 249		A	02-337	26 IR 2025
312 IAC 25-9-8	A	03-169	27 IR 249	326 IAC 4-1-4.1	A	02-88	25 IR 3240
				326 IAC 4-1-8			<b>26 IR 1077</b>
				326 IAC 4-2-1	A	00-44	24 IR 2754
							*ERR (26 IR 1567)
							*CPH (25 IR 2542)
							*CPH (25 IR 3208)
							<b>26 IR 1071</b>
				326 IAC 4-2-2	A	00-44	24 IR 2754
							*CPH (25 IR 2542)
							*CPH (25 IR 3208)
							<b>26 IR 1071</b>
				326 IAC 5-1-2			*ERR (26 IR 1567)
					A	01-407	26 IR 2026
				326 IAC 5-1-4			*CPH (26 IR 2391)
					A	02-337	26 IR 2026
				326 IAC 5-1-5			*ERR (26 IR 1567)
					A	02-337	26 IR 2027
				326 IAC 6-1-1			*ERR (26 IR 383)
				326 IAC 6-1-10.1	A	01-407	26 IR 1970
							*CPH (26 IR 2391)
				326 IAC 6-1-10.2	A	01-407	26 IR 1994
							<b>27 IR 61</b>
				326 IAC 6-1-14	A	02-122	26 IR 98
							*CPH (26 IR 811)
							<b>27 IR 85</b>
				326 IAC 6-2-3			*CPH (26 IR 811)
				326 IAC 6-4-5			<b>26 IR 2318</b>
				326 IAC 6-5-7			*ERR (26 IR 1567)
				326 IAC 6-6-2			*ERR (26 IR 1567)
				326 IAC 6-6-4			*ERR (26 IR 1568)
				326 IAC 7-2-1			*ERR (26 IR 1568)
					A	02-337	26 IR 2028
				326 IAC 7-4-10			*ERR (26 IR 1568)
					A	02-337	26 IR 2029
				326 IAC 7-4-14			*ERR (26 IR 1568)
				326 IAC 8-1-2	A	01-251	25 IR 2754
				326 IAC 8-1-4			<b>26 IR 1073</b>
							*ERR (26 IR 1565)
				326 IAC 8-2-9	A	02-337	26 IR 2030
				326 IAC 8-4-6	A	02-88	25 IR 3241
				326 IAC 8-4-9	A	02-337	26 IR 2032
							<b>26 IR 1078</b>
				326 IAC 8-7-7	A	02-337	26 IR 2035
							*ERR (26 IR 1568)
				326 IAC 8-7-10	A	02-337	26 IR 2036
				326 IAC 8-8.1-1			*ERR (26 IR 1568)
				326 IAC 8-9-2			*ERR (26 IR 1568)
					A	02-337	26 IR 2037
				326 IAC 8-9-3			*ERR (26 IR 1568)
					A	02-337	26 IR 2037
				326 IAC 8-9-4			*ERR (26 IR 1568)
					A	02-337	26 IR 2038

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326 IAC 8-9-5			*ERR (26 IR 1568)	326 IAC 13-1.1-13			*ERR (26 IR 1570)
326 IAC 8-9-6	A	02-337	26 IR 2040	326 IAC 13-1.1-14	A	02-337	26 IR 2064
326 IAC 8-10-5	A	02-337	26 IR 2042	326 IAC 13-1.1-16	A	02-337	26 IR 2065
326 IAC 8-10-6			*ERR (26 IR 1568)	326 IAC 13-2.1-3	A	02-337	26 IR 2066
326 IAC 8-10-7			*ERR (26 IR 1568)	326 IAC 13-3-1	A	02-88	25 IR 3242
326 IAC 8-11-2	A	02-337	26 IR 2044	326 IAC 13-3-2			<b>26 IR 1079</b>
326 IAC 8-11-3	A	02-337	26 IR 2044	326 IAC 13-3-5			*ERR (26 IR 1570)
326 IAC 8-11-6			*ERR (26 IR 1568)	326 IAC 13-3-6	A	02-337	26 IR 2066
326 IAC 8-11-7	A	02-337	26 IR 2046	326 IAC 14-1-1	A	02-337	26 IR 2067
326 IAC 8-12-3	A	02-337	26 IR 2050	326 IAC 14-1-2	R	02-337	26 IR 2099
326 IAC 8-12-5			*ERR (26 IR 1569)	326 IAC 14-3-1			*ERR (26 IR 1570)
326 IAC 8-12-6	A	02-337	26 IR 2052	326 IAC 14-4-1	A	02-337	26 IR 2067
326 IAC 8-12-7	A	02-337	26 IR 2053	326 IAC 14-5-1	A	02-337	26 IR 2067
326 IAC 8-13-5	A	02-337	26 IR 2054	326 IAC 14-6-1	A	02-337	26 IR 2068
326 IAC 9-1-1	A	00-44	24 IR 2777	326 IAC 14-7-1			*ERR (26 IR 1571)
326 IAC 9-1-2	A	00-44	24 IR 2777	326 IAC 14-8-1	A	02-337	26 IR 2068
326 IAC 10-1-2			*CPH (25 IR 2542)	326 IAC 14-8-3	A	02-337	26 IR 2069
326 IAC 10-1-4	A	02-337	26 IR 2056	326 IAC 14-8-4	A	02-337	26 IR 2069
326 IAC 10-1-5	A	02-337	26 IR 2057	326 IAC 14-8-5	A	02-337	26 IR 2069
326 IAC 10-1-6	A	02-337	26 IR 2059	326 IAC 14-9-5	A	02-337	26 IR 2070
326 IAC 10-3-1	A	02-54	26 IR 1134	326 IAC 14-9-7			*ERR (26 IR 1571)
326 IAC 10-3-3			*CPH (25 IR 3208)	326 IAC 14-9-8	A	02-337	26 IR 2071
326 IAC 10-4-1	A	02-54	26 IR 1134	326 IAC 14-9-9	A	02-337	26 IR 2071
326 IAC 10-4-2	A	02-54	26 IR 1136	326 IAC 14-10-1	A	02-337	26 IR 2072
326 IAC 10-4-3			*ERR (26 IR 1569)	326 IAC 14-10-2	A	02-337	26 IR 2074
326 IAC 10-4-4			*ERR (26 IR 1569)	326 IAC 14-10-3	A	02-337	26 IR 2076
326 IAC 10-4-8	A	02-54	26 IR 1142	326 IAC 14-10-4	A	02-337	26 IR 2078
326 IAC 10-4-9			*CPH (26 IR 2391)	326 IAC 15-1-2	A	02-337	26 IR 2080
326 IAC 10-4-10	A	02-54	26 IR 1148	326 IAC 15-1-4	A	02-337	26 IR 2083
326 IAC 10-4-12			<b>26 IR 3550</b>	326 IAC 16-2-3			*ERR (26 IR 1571)
326 IAC 10-4-13	A	02-54	26 IR 1152	326 IAC 16-3-1	A	02-337	26 IR 2084
326 IAC 10-4-14	A	02-54	26 IR 1155	326 IAC 18-1-2	A	02-337	26 IR 2084
326 IAC 10-4-15	A	02-54	26 IR 1156	326 IAC 18-1-5	A	02-337	26 IR 2086
326 IAC 11-3-4			*ERR (26 IR 1569)	326 IAC 18-1-7	A	02-337	26 IR 2087
326 IAC 11-4-5	A	01-407	26 IR 2060	326 IAC 18-1-8	A	02-337	26 IR 2088
326 IAC 11-5	A	00-43	25 IR 2285	326 IAC 18-2-2	A	02-337	26 IR 2088
326 IAC 11-7-1	R	99-177	25 IR 1984	326 IAC 18-2-3	A	02-337	26 IR 2090
326 IAC 13-1.1-1	A	02-337	26 IR 2061	326 IAC 18-2-6	A	02-337	26 IR 2096
326 IAC 13-1.1-8	A	02-337	26 IR 2062	326 IAC 18-2-7	A	02-337	26 IR 2097
326 IAC 13-1.1-10	A	02-337	26 IR 2063	326 IAC 19-1	R	00-44	24 IR 2791
	A	02-337	26 IR 2063	326 IAC 20-25-1	A	02-55	26 IR 92
			*ERR (26 IR 1570)	326 IAC 20-25-3	A	02-55	26 IR 92
			*ERR (26 IR 1570)	326 IAC 20-25-4	A	02-55	26 IR 94
							*CPH (25 IR 2542)
							*CPH (25 IR 3208)
							<b>26 IR 1073</b>
							*CPH (26 IR 811)
							<b>26 IR 2607</b>
							*CPH (26 IR 811)
							<b>26 IR 2607</b>
							*CPH (26 IR 811)
							<b>26 IR 2609</b>

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326 IAC 20-25-5	A	02-55	26 IR 94	*CPH (26 IR 811) <b>26 IR 2610</b>	326 IAC 23-2-4	A	02-189	26 IR 2416	<b>27 IR 469</b>
326 IAC 20-25-7	A	02-55	26 IR 95	*CPH (26 IR 811) <b>26 IR 2610</b>	326 IAC 23-2-5	A	02-189	26 IR 2418	<b>27 IR 471</b>
326 IAC 20-48	N	02-55	26 IR 95	*CPH (26 IR 811) <b>26 IR 2611</b>	326 IAC 23-2-6	A	02-189	26 IR 2419	<b>27 IR 471</b>
326 IAC 20-49	N	02-336	26 IR 3090		326 IAC 23-2-6.5	N	02-189	26 IR 2419	<b>27 IR 472</b>
326 IAC 20-50	N	02-336	26 IR 3090		326 IAC 23-2-7	A	02-189	26 IR 2420	<b>27 IR 473</b>
326 IAC 20-51	N	02-336	26 IR 3090		326 IAC 23-2-8	A	02-189	26 IR 2421	<b>27 IR 474</b>
326 IAC 20-52	N	02-336	26 IR 3091		326 IAC 23-2-9	A	02-189	26 IR 2422	<b>27 IR 474</b>
326 IAC 20-53	N	02-336	26 IR 3091		326 IAC 23-3-1	A	02-189	26 IR 2422	<b>27 IR 475</b>
326 IAC 20-54	N	02-336	26 IR 3091		326 IAC 23-3-2	A	02-189	26 IR 2422	<b>27 IR 475</b>
326 IAC 20-55	N	02-336	26 IR 3091		326 IAC 23-3-3	A	02-189	26 IR 2423	<b>27 IR 476</b>
326 IAC 22-1-1				*ERR (26 IR 1572)	326 IAC 23-3-5	A	02-189	26 IR 2426	<b>27 IR 479</b>
	A	02-337	26 IR 2098		326 IAC 23-3-7	A	02-189	26 IR 2426	<b>27 IR 479</b>
326 IAC 23-1-4	A	02-189	26 IR 2407	<b>27 IR 459</b>	326 IAC 23-3-11	A	02-189	26 IR 2428	<b>27 IR 480</b>
326 IAC 23-1-5	A	02-189	26 IR 2408	<b>27 IR 460</b>	326 IAC 23-3-12	A	02-189	26 IR 2428	<b>27 IR 481</b>
326 IAC 23-1-5.5	N	02-189	26 IR 2408	<b>27 IR 460</b>	326 IAC 23-3-13	A	02-189	26 IR 2428	<b>27 IR 481</b>
326 IAC 23-1-6.5	N	02-189	26 IR 2408	<b>27 IR 460</b>	326 IAC 23-4-1	A	02-189	26 IR 2429	<b>27 IR 481</b>
326 IAC 23-1-7.5	N	02-189	26 IR 2408	<b>27 IR 460</b>	326 IAC 23-4-2	A	02-189	26 IR 2429	<b>27 IR 482</b>
326 IAC 23-1-7.6	N	02-189	26 IR 2408	<b>27 IR 460</b>	326 IAC 23-4-3	A	02-189	26 IR 2429	<b>27 IR 482</b>
326 IAC 23-1-9	A	02-189	26 IR 2408	<b>27 IR 460</b>	326 IAC 23-4-4	A	02-189	26 IR 2430	<b>27 IR 483</b>
326 IAC 23-1-10	A	02-189	26 IR 2409	<b>27 IR 461</b>	326 IAC 23-4-5	A	02-189	26 IR 2431	<b>27 IR 484</b>
326 IAC 23-1-11	A	02-189	26 IR 2409	<b>27 IR 461</b>	326 IAC 23-4-6	A	02-189	26 IR 2432	<b>27 IR 485</b>
326 IAC 23-1-11.5	N	02-189	26 IR 2409	<b>27 IR 461</b>	326 IAC 23-4-7	A	02-189	26 IR 2434	<b>27 IR 486</b>
326 IAC 23-1-12.5	N	02-189	26 IR 2409	<b>27 IR 461</b>	326 IAC 23-4-9	A	02-189	26 IR 2434	<b>27 IR 487</b>
326 IAC 23-1-17	A	02-189	26 IR 2409	<b>27 IR 462</b>	326 IAC 23-4-11	A	02-189	26 IR 2435	<b>27 IR 488</b>
326 IAC 23-1-21	A	02-189	26 IR 2410	<b>27 IR 462</b>	326 IAC 23-4-12	A	02-189	26 IR 2435	<b>27 IR 488</b>
326 IAC 23-1-21.5	N	02-189	26 IR 2410	<b>27 IR 462</b>	326 IAC 23-4-13	A	02-189	26 IR 2435	<b>27 IR 488</b>
326 IAC 23-1-22	A	02-189	26 IR 2437	<b>27 IR 462</b>	326 IAC 23-5	N	02-189	26 IR 2436	<b>27 IR 489</b>
326 IAC 23-1-23	R	02-189	26 IR 2437	<b>27 IR 490</b>	TITLE 327 WATER POLLUTION CONTROL BOARD				
326 IAC 23-1-26.5	N	02-189	26 IR 2410		327 IAC 5-1-1.5	A	02-327	26 IR 3097	*CPH (26 IR 3366)
326 IAC 23-1-27	A	02-189	26 IR 2410	<b>27 IR 462</b>	327 IAC 5-2-9	A	00-136	26 IR 427	<b>26 IR 2613</b>
326 IAC 23-1-27.5	N	02-189	26 IR 2410	<b>27 IR 463</b>	327 IAC 5-2-11.6				*ERR (26 IR 3884)
326 IAC 23-1-31	A	02-337	26 IR 2099		327 IAC 5-2-1	N	00-136	26 IR 427	<b>26 IR 2613</b>
326 IAC 23-1-32.1	N	02-189	26 IR 2410	<b>27 IR 463</b>	327 IAC 5-4-3	A	01-51	26 IR 3698	
326 IAC 23-1-32.2	N	02-189	26 IR 2411	<b>27 IR 463</b>	327 IAC 5-4-6	A	01-96	26 IR 845	*CPH (26 IR 1113)
326 IAC 23-1-34	A	02-189	26 IR 2411	<b>27 IR 463</b>					<b>26 IR 3575</b>
326 IAC 23-1-34.5	N	02-189	26 IR 2411	<b>27 IR 463</b>	327 IAC 6.1-1-1	A	01-238	26 IR 1165	*ERR (27 IR 191)
326 IAC 23-1-34.8	N	02-189	26 IR 2411	<b>27 IR 463</b>	327 IAC 6.1-1-3	A	01-238	26 IR 1166	<b>26 IR 3596</b>
326 IAC 23-1-37	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-1-4	A	01-238	26 IR 1166	<b>26 IR 3597</b>
326 IAC 23-1-40	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-1-5	A	01-238	26 IR 1167	<b>26 IR 3597</b>
326 IAC 23-1-42	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-1-7	A	01-238	26 IR 1167	<b>26 IR 3597</b>
326 IAC 23-1-43	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-2-3	A	01-238	26 IR 1167	<b>26 IR 3597</b>
326 IAC 23-1-44	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-2-6	A	01-238	26 IR 1167	<b>26 IR 3597</b>
326 IAC 23-1-45	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-2-6.5	N	01-238		†† <b>26 IR 3598</b>
326 IAC 23-1-46	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-2-7	A	01-238	26 IR 1167	<b>26 IR 3598</b>
326 IAC 23-1-47	R	02-189	26 IR 2437	<b>27 IR 490</b>	327 IAC 6.1-2-7.5	N	01-238	26 IR 1167	<b>26 IR 3598</b>
326 IAC 23-1-48.5	N	02-189	26 IR 2411	<b>27 IR 463</b>	327 IAC 6.1-2-8	A	01-238	26 IR 1168	<b>26 IR 3598</b>
326 IAC 23-1-52	A	02-189	26 IR 2411	<b>27 IR 463</b>	327 IAC 6.1-2-10	R	01-238	26 IR 1201	<b>26 IR 3632</b>
326 IAC 23-1-52.5	N	02-189	26 IR 2411	<b>27 IR 464</b>	327 IAC 6.1-2-12	R	01-238	26 IR 1201	<b>26 IR 3632</b>
326 IAC 23-1-54.5	N	02-189	26 IR 2412	<b>27 IR 464</b>	327 IAC 6.1-2-13	A	01-238	26 IR 1168	<b>26 IR 3598</b>
326 IAC 23-1-55.5	N	02-189	26 IR 2412	<b>27 IR 464</b>	327 IAC 6.1-2-14	A	01-238	26 IR 1168	<b>26 IR 3599</b>
326 IAC 23-1-58.5	N	02-189	26 IR 2412	<b>27 IR 464</b>	327 IAC 6.1-2-20.5	N	01-238	26 IR 1168	<b>26 IR 3599</b>
326 IAC 23-1-58.7	N	02-189	26 IR 2412	<b>27 IR 464</b>	327 IAC 6.1-2-28	A	01-238	26 IR 1169	<b>26 IR 3599</b>
326 IAC 23-1-60.1	N	02-189	26 IR 2412	<b>27 IR 464</b>	327 IAC 6.1-2-30	A	01-238	26 IR 1169	<b>26 IR 3599</b>
326 IAC 23-1-60.5	N	02-189	26 IR 2412	<b>27 IR 465</b>	327 IAC 6.1-2-31.5	N	01-238	26 IR 1169	<b>26 IR 3599</b>
326 IAC 23-1-60.6	N	02-189	26 IR 2413	<b>27 IR 465</b>	327 IAC 6.1-2-35	A	01-238	26 IR 1169	<b>26 IR 3600</b>
326 IAC 23-1-61.5	N	02-189	26 IR 2413	<b>27 IR 465</b>	327 IAC 6.1-2-42	A	01-238	26 IR 1169	<b>26 IR 3600</b>
326 IAC 23-1-62.5	N	02-189	26 IR 2413	<b>27 IR 465</b>	327 IAC 6.1-2-43	A	01-238	26 IR 1170	<b>26 IR 3600</b>
326 IAC 23-1-62.6	N	02-189	26 IR 2413	<b>27 IR 465</b>	327 IAC 6.1-2-54	A	01-238	26 IR 1170	<b>26 IR 3600</b>
326 IAC 23-1-63	A	02-189	26 IR 2413	<b>27 IR 466</b>	327 IAC 6.1-2-55	A	01-238	26 IR 1170	<b>26 IR 3600</b>
326 IAC 23-1-64	A	02-189	26 IR 2414	<b>27 IR 466</b>	327 IAC 6.1-2-55.3	N	01-238		†† <b>26 IR 3601</b>
326 IAC 23-1-69.5	N	02-189	26 IR 2414	<b>27 IR 466</b>	327 IAC 6.1-2-55.5	N	01-238	26 IR 1170	<b>26 IR 3601</b>
326 IAC 23-1-69.6	N	02-189	26 IR 2414	<b>27 IR 466</b>	327 IAC 6.1-2-61	R	01-238	26 IR 1201	<b>26 IR 3632</b>
326 IAC 23-1-69.7	N	02-189	26 IR 2414	<b>27 IR 466</b>	327 IAC 6.1-3-1	A	01-238	26 IR 1170	<b>26 IR 3601</b>
326 IAC 23-1-71	N	02-189	26 IR 2414	<b>27 IR 467</b>	327 IAC 6.1-3-2	A	01-238	26 IR 1171	<b>26 IR 3602</b>
326 IAC 23-2-1	A	02-189	26 IR 2414	<b>27 IR 467</b>	327 IAC 6.1-3-3	A	01-238	26 IR 1172	<b>26 IR 3602</b>
326 IAC 23-2-3	A	02-189	26 IR 2415	<b>27 IR 467</b>	327 IAC 6.1-3-4	A	01-238	26 IR 1172	<b>26 IR 3602</b>
					327 IAC 6.1-3-7	A	01-238	26 IR 1172	<b>26 IR 3603</b>

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327 IAC 6.1-3-8	N	01-238	26 IR 1173	<b>26 IR 3603</b>	327 IAC 8-2.1-16	A	01-348	26 IR 122	*CPH (26 IR 812)
327 IAC 6.1-4-1	A	01-238	26 IR 1173	<b>26 IR 3604</b>					<b>26 IR 2829</b>
327 IAC 6.1-4-3	A	01-238	26 IR 1173	<b>26 IR 3604</b>	327 IAC 8-2.1-17	A	01-348	26 IR 126	*CPH (26 IR 812)
327 IAC 6.1-4-4	A	01-238	26 IR 1174	<b>26 IR 3605</b>					<b>26 IR 2833</b>
327 IAC 6.1-4-5	A	01-238	26 IR 1175	<b>26 IR 3605</b>	327 IAC 8-2.5	N	01-348	26 IR 133	*CPH (26 IR 812)
327 IAC 6.1-4-5.5	N	01-238	26 IR 1175	<b>26 IR 3606</b>					<b>26 IR 2840</b>
327 IAC 6.1-4-6	A	01-238	26 IR 1176	<b>26 IR 3607</b>	327 IAC 8-2.6	N	01-348	26 IR 146	*CPH (26 IR 812)
327 IAC 6.1-4-7	A	01-238	26 IR 1177	<b>26 IR 3608</b>					<b>26 IR 2854</b>
327 IAC 6.1-4-8	A	01-238	26 IR 1178	<b>26 IR 3609</b>	327 IAC 15-2-3	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-4-9	A	01-238	26 IR 1179	<b>26 IR 3610</b>					*CPH (26 IR 2392)
327 IAC 6.1-4-10	A	01-238	26 IR 1181	<b>26 IR 3612</b>					*CPH (26 IR 2645)
327 IAC 6.1-4-11	A	01-238	26 IR 1182	<b>26 IR 3613</b>	327 IAC 15-2-6	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-4-13	A	01-238	26 IR 1182	<b>26 IR 3613</b>					*CPH (26 IR 2392)
327 IAC 6.1-4-16	A	01-238	26 IR 1184	<b>26 IR 3615</b>					*CPH (26 IR 2645)
327 IAC 6.1-4-17	A	01-238	26 IR 1186	<b>26 IR 3617</b>	327 IAC 15-2-8	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-4-18	A	01-238	26 IR 1187	<b>26 IR 3618</b>					*CPH (26 IR 2392)
327 IAC 6.1-4-19	A	01-238	26 IR 1187	<b>26 IR 3618</b>					*CPH (26 IR 2645)
327 IAC 6.1-5-1	A	01-238	26 IR 1187	<b>26 IR 3618</b>	327 IAC 15-2-9	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-5-2	A	01-238	26 IR 1187	<b>26 IR 3618</b>					*CPH (26 IR 2392)
327 IAC 6.1-5-3	A	01-238	26 IR 1188	<b>26 IR 3619</b>					*CPH (26 IR 2645)
327 IAC 6.1-5-4	A	01-238	26 IR 1188	<b>26 IR 3619</b>	327 IAC 15-3-1	A	01-95	26 IR 1616	*CPH (26 IR 1961)
327 IAC 6.1-6-1	A	01-238	26 IR 1189	<b>26 IR 3620</b>					*CPH (26 IR 2392)
327 IAC 6.1-6-2	A	01-238	26 IR 1189	<b>26 IR 3620</b>					*CPH (26 IR 2645)
327 IAC 6.1-6-3	A	01-238	26 IR 1190	<b>26 IR 3621</b>	327 IAC 15-3-2	A	01-95	26 IR 1616	*CPH (26 IR 1961)
327 IAC 6.1-7-1	A	01-238	26 IR 1191	<b>26 IR 3622</b>					*CPH (26 IR 2392)
327 IAC 6.1-7-2	A	01-238	26 IR 1191	<b>26 IR 3622</b>					*CPH (26 IR 2645)
327 IAC 6.1-7-3	A	01-238	26 IR 1192	<b>26 IR 3623</b>		A	02-327	26 IR 3098	*CPH (26 IR 3366)
327 IAC 6.1-7-4	A	01-238	26 IR 1193	<b>26 IR 3624</b>	327 IAC 15-3-3	A	01-95	26 IR 1617	*CPH (26 IR 1961)
327 IAC 6.1-7-5	A	01-238	26 IR 1193	<b>26 IR 3625</b>					*CPH (26 IR 2392)
327 IAC 6.1-7-6	A	01-238	26 IR 1194	<b>26 IR 3625</b>					*CPH (26 IR 2645)
327 IAC 6.1-7-9	A	01-238	26 IR 1195	<b>26 IR 3626</b>	327 IAC 15-5-1	A	01-95	26 IR 1617	*CPH (26 IR 1961)
327 IAC 6.1-7-10	A	01-238	26 IR 1195	<b>26 IR 3626</b>					*CPH (26 IR 2392)
327 IAC 6.1-7-11	A	01-238	26 IR 1196	<b>26 IR 3627</b>					*CPH (26 IR 2645)
327 IAC 6.1-7-5	N	01-238	26 IR 1197	<b>26 IR 3628</b>	327 IAC 15-5-2	A	01-95	26 IR 1617	*CPH (26 IR 1961)
327 IAC 6.1-8-1	A	01-238	26 IR 1198	<b>26 IR 3629</b>					*CPH (26 IR 2392)
327 IAC 6.1-8-2	A	01-238	26 IR 1199	<b>26 IR 3630</b>					*CPH (26 IR 2645)
327 IAC 6.1-8-3	A	01-238	26 IR 1199	<b>26 IR 3630</b>	327 IAC 15-5-3	A	01-95	26 IR 1618	*CPH (26 IR 1961)
327 IAC 6.1-8-4	A	01-238	26 IR 1199	<b>26 IR 3630</b>					*CPH (26 IR 2392)
327 IAC 6.1-8-5	A	01-238	26 IR 1200	<b>26 IR 3631</b>					*CPH (26 IR 2645)
327 IAC 6.1-8-6	A	01-238	26 IR 1200	<b>26 IR 3631</b>	327 IAC 15-5-4	A	01-95	26 IR 1619	*CPH (26 IR 1961)
327 IAC 6.1-8-7	A	01-238	26 IR 1200	<b>26 IR 3632</b>					*CPH (26 IR 2392)
327 IAC 6.1-8-8	A	01-238	26 IR 1201	<b>26 IR 3632</b>					*CPH (26 IR 2645)
327 IAC 8-2-1	A	01-348	26 IR 101	*CPH (26 IR 812)	327 IAC 15-5-5	A	01-95	26 IR 1620	*CPH (26 IR 1961)
				<b>26 IR 2808</b>					*CPH (26 IR 2392)
327 IAC 8-2-5	A	01-348	26 IR 105	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2812</b>	327 IAC 15-5-6	A	01-95	26 IR 1621	*CPH (26 IR 1961)
327 IAC 8-2-5.3	A	01-348	26 IR 107	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2814</b>					*CPH (26 IR 2645)
327 IAC 8-2-6	R	01-348	26 IR 152	*CPH (26 IR 812)	327 IAC 15-5-6.5	N	01-95	26 IR 1622	*CPH (26 IR 1961)
327 IAC 8-2-8.5	A	01-348	26 IR 109	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2816</b>					*CPH (26 IR 2645)
327 IAC 8-2-13	A	01-348	26 IR 110	*CPH (26 IR 812)	327 IAC 15-5-7	A	01-95	26 IR 1625	*CPH (26 IR 1961)
				<b>26 IR 2817</b>					*CPH (26 IR 2392)
327 IAC 8-2-29	R	01-348	26 IR 152	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2859</b>	327 IAC 15-5-7.5	N	01-95	26 IR 1627	*CPH (26 IR 1961)
327 IAC 8-2-30	A	01-348	26 IR 110	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2817</b>					*CPH (26 IR 2645)
327 IAC 8-2-31	A	01-348	26 IR 111	*CPH (26 IR 812)	327 IAC 15-5-8	A	01-95	26 IR 1628	*CPH (26 IR 1961)
				<b>26 IR 2818</b>					*CPH (26 IR 2392)
327 IAC 8-2-48	N	01-348	26 IR 111	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2818</b>	327 IAC 15-5-10	A	01-95	26 IR 1629	*CPH (26 IR 1961)
327 IAC 8-2.1-3	A	01-348	26 IR 112	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2818</b>					*CPH (26 IR 2645)
327 IAC 8-2.1-4	A	01-348	26 IR 114	*CPH (26 IR 812)	327 IAC 15-5-11	R	01-95	26 IR 1646	*CPH (26 IR 1961)
				<b>26 IR 2821</b>					*CPH (26 IR 2392)
327 IAC 8-2.1-6	A	01-348	26 IR 115	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2822</b>	327 IAC 15-5-12	N	01-95	26 IR 1629	*CPH (26 IR 1961)
327 IAC 8-2.1-8	A	01-348	26 IR 121	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2828</b>					*CPH (26 IR 2645)

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327 IAC 15-6-1	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 3.1-12-2 329 IAC 9-1-1	A	01-161	26 IR 1209	*ERR (26 IR 3046) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-2	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)					
327 IAC 15-6-4	A	01-95	26 IR 1632	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-5	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)					
327 IAC 15-6-6	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-7	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-7.3	N	01-95	26 IR 1641	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)					
327 IAC 15-6-7.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.4	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-8.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-10	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)					
327 IAC 15-6-11	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-6-12	N	01-95	26 IR 1644	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)					
327 IAC 15-13	N	01-96	26 IR 847	*CPH (26 IR 1113) <b>26 IR 3577</b> *ERR (27 IR 191) *CPH (26 IR 3366)	329 IAC 9-1-14	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
327 IAC 15-14	N	02-327	26 IR 3098						
327 IAC 15-15	N	01-51	26 IR 3701		329 IAC 9-1-14.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
TITLE 329 SOLID WASTE MANAGEMENT BOARD									
329 IAC 3.1-1-7	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)	329 IAC 9-1-14.3	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 3.1-4-1	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)	329 IAC 9-1-14.5	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 3.1-7-2	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)	329 IAC 9-1-14.7	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 3.1-7-15				*ERR (26 IR 3046)					
329 IAC 3.1-9-2	A	02-235	26 IR 1241	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)	329 IAC 9-1-25	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 3.1-10-2	A	02-235	26 IR 1242	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367) *CPH (26 IR 3672)	329 IAC 9-1-27	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)

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329 IAC 9-1-29.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-3.1-1	A	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-36	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-3.1-2	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-39.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-41	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-41.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-41.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-42.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-47	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-1-47.1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-3.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-2-1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-3.2	N	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-2-2	A	01-161	26 IR 1214	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-4.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-2.1-1	A	01-161	26 IR 1215	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-4.2	N	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3-1	A	01-161	26 IR 1216	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-5.1	A	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)
329 IAC 9-3-2	N	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 9-5-6	A	01-161	26 IR 1226	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)

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329 IAC 9-5-7	A	01-161	26 IR 1227	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-11	A	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-6-1	A	01-161	26 IR 1229	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-29	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-6-2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-29.5	N	01-288	26 IR 1653	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 9-6-2.5	N	01-161	26 IR 1230	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-32	A	01-288	26 IR 1653	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 9-6-3	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-33	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-6-4	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-41	A	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-6-5	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-41.1	A	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-7-1	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-53	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-7-2	A	01-161	26 IR 1236	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-60	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-7-4	A	01-161	26 IR 1237	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-63.5	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-64	A	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-1-4	A	00-185	26 IR 432	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-66.1	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-1-4.5	N	00-185	26 IR 433	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-66.2	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-6	R	00-185	26 IR 511	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671)	329 IAC 10-2-66.3	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
				*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-69	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)



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329 IAC 10-2-72.1	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-2-116	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-74	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-117	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-75	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-121.1	A	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-75.1	N	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-127	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-76	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-128	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-96	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-130	A	01-288	26 IR 1655	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-97.1	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-132.2	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-99	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-132.3	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-100	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-135.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-105.3	N	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-135.5	N	01-288	26 IR 1655	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-106	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-142.5	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-109	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-147.2	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-111.5	N	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-149	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-112	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-2-158	A	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-115	A	01-288	26 IR 1654	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-2-165.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
					329 IAC 10-2-172.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)

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329 IAC 10-2-174	A	01-288	26 IR 1655	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-6-4	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-177	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-7.1	R	01-288	26 IR 1674	*CPH (26 IR 3671) *CPH (27 IR 208) *CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-179	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-7.2	N	01-288	26 IR 1656	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-181.2	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-8.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-181.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-8.2	N	01-288	26 IR 1657	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-181.6	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-9-2	A	01-288	26 IR 1659	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-187.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-9-4	A	01-288	26 IR 1659	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-2-197.1	A	01-288	26 IR 1656	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-10-1	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-199.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-10-2	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-201.1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-11-2.1	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-203	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-11-2.5	A	00-185	26 IR 441	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-2-205	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-11-5.1	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-3-1	A	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-11-6	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-3-2	A	00-185	26 IR 439	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-12-1	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-3-3	A	00-185	26 IR 439	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-13-1	A	00-185	26 IR 445	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-5-1	A	01-288	26 IR 1656	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-13-5	A	00-185	26 IR 445	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)

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329 IAC 10-13-6	A	00-185	26 IR 446	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-17-18	A	00-185	26 IR 458	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-14-1	A	00-185	26 IR 446	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-19-1	A	00-185	26 IR 458	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-14-2	A	01-288	26 IR 1661	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 10-20-3	A	00-185	26 IR 459	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-15-1	A	00-185	26 IR 447	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-8	A	00-185	26 IR 460	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-15-2	A	00-185	26 IR 448	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-11	A	00-185	26 IR 461	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-15-5	A	00-185	26 IR 449	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-12	A	00-185	26 IR 462	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-15-8	A	00-185	26 IR 450	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-13	A	00-185	26 IR 463	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-15-12	N	00-185	26 IR 451	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-14.1	A	01-288	26 IR 1662	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903) *CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-16-1	A	00-185	26 IR 452	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-20	A	00-185	26 IR 463	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-16-8	A	00-185	26 IR 453	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-24	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-16-12				*ERR (26 IR 3046)	329 IAC 10-20-26	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-17-2	A	00-185	26 IR 453	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-28	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-17-7	A	00-185	26 IR 454	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-20-29	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903) *CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-17-9	A	00-185	26 IR 456	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-21-1	A	00-185	26 IR 465	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-17-12	A	00-185	26 IR 457	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-21-2	A	00-185	26 IR 468	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)

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329 IAC 10-21-4	A	00-185	26 IR 474	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-22-8	A	00-185	26 IR 496	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-21-6	A	00-185	26 IR 477	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-23-2	A	00-185	26 IR 496	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-21-7	A	00-185	26 IR 479	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-23-3	A	00-185	26 IR 497	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-21-8	A	00-185	26 IR 480	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-23-4	A	00-185	26 IR 498	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-21-9	A	00-185	26 IR 481	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-24-4	A	00-185	26 IR 499	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-21-10	A	00-185	26 IR 482	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-28-21	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-21-13	A	00-185	26 IR 484	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-28-24	A	01-288	26 IR 1664	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-21-15	A	00-185	26 IR 488	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-29-1	A	00-185	26 IR 499	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-21-16	A	00-185	26 IR 488	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-30-4	A	00-185	26 IR 500	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-22-2	A	00-185	26 IR 493	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-36-19	A	01-288	26 IR 1665	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-22-3	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-37-4	A	00-185	26 IR 501	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-22-5	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-39-1	A	00-185	26 IR 501	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-22-6	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-39-2	A	00-185	26 IR 502	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
329 IAC 10-22-7	A	00-185	26 IR 495	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 10-39-3	A	00-185	26 IR 508	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)
					329 IAC 10-39-7	A	00-185	26 IR 509	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)

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329 IAC 10-39-9	A	00-185	26 IR 509	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 11-21-8	A	01-288	26 IR 1672	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903) *CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 10-39-10	A	00-185	26 IR 510	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3671) *CPH (27 IR 208)	329 IAC 12-8-4	A	01-288	26 IR 1672	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 11-2-19.5	N	01-288	26 IR 1665	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	329 IAC 13-3-1	A	01-288	26 IR 1673	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)
329 IAC 11-2-39	A	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH				
329 IAC 11-2-44	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-3	A	02-107	25 IR 4170	<b>26 IR 1523</b>
329 IAC 11-3-2	A	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-4	A	02-107	25 IR 4171	<b>26 IR 1524</b>
329 IAC 11-6-1	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-8	R	02-107	25 IR 4182	<b>26 IR 1535</b>
329 IAC 11-7	R	01-288	26 IR 1674	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-11	A	02-107	25 IR 4171	<b>26 IR 1524</b>
329 IAC 11-8-2	A	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-12	A	02-107	25 IR 4172	<b>26 IR 1525</b>
329 IAC 11-8-2.5	N	01-288	26 IR 1666	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-13	A	02-107	25 IR 4172	<b>26 IR 1525</b>
329 IAC 11-8-3	A	01-288	26 IR 1667	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-14	A	02-107	25 IR 4173	<b>26 IR 1526</b>
329 IAC 11-9-6	N	01-288	26 IR 1667	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-15	A	02-107	25 IR 4173	<b>26 IR 1527</b>
329 IAC 11-13-4	A	01-288	26 IR 1667	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-16	R	02-107	25 IR 4182	<b>26 IR 1535</b>
329 IAC 11-13-6	A	01-288	26 IR 1668	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-16.5	N	02-107	25 IR 4174	<b>26 IR 1527</b>
329 IAC 11-15-1	A	01-288	26 IR 1668	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-22	A	03-9	26 IR 3108	<b>27 IR 490</b>
329 IAC 11-19-2	A	01-288	26 IR 1669	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-30	A	01-413	25 IR 2774	<b>26 IR 345</b>
329 IAC 11-19-3	A	01-288	26 IR 1670	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-31	A	02-323	26 IR 3102	<b>27 IR 87</b>
329 IAC 11-20-1	A	01-288	26 IR 1670	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-3-32	N	02-323	26 IR 3104	<b>27 IR 89</b>
329 IAC 11-21-4	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-5-1	A	03-9	26 IR 3108	<b>27 IR 90</b>
329 IAC 11-21-5	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-6-2	A	02-323	26 IR 3105	<b>27 IR 90</b>
329 IAC 11-21-6	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 1-6-3	A	02-323	26 IR 3105	<b>27 IR 90</b>
329 IAC 11-21-7	A	01-288	26 IR 1671	*CPH (26 IR 2647) *CPH (26 IR 3672) *CPH (26 IR 3903)	345 IAC 2-7-1	A	01-413	25 IR 2775	<b>26 IR 346</b>
					345 IAC 2-7-2.4	N	02-323	26 IR 3106	<b>27 IR 92</b>
					345 IAC 2-7-2.5	N	02-323	26 IR 3107	<b>27 IR 92</b>
					345 IAC 2-7-3	A	01-413	25 IR 2776	<b>26 IR 347</b>
					345 IAC 2-7-4	A	02-323	26 IR 3107	<b>27 IR 92</b>
					345 IAC 2-7-5	A	01-413	25 IR 2777	<b>26 IR 348</b>
					345 IAC 3-5.1-1.2	A	01-413	25 IR 2778	<b>26 IR 349</b>
					345 IAC 3-5.1-1.5	A	02-107	25 IR 4175	<b>26 IR 1528</b>
					345 IAC 3-5.1-2	A	02-107	25 IR 4176	<b>26 IR 1529</b>
					345 IAC 3-5.1-3	A	02-107	25 IR 4176	<b>26 IR 1529</b>
					345 IAC 3-5.1-3.5	N	02-107	25 IR 4177	<b>26 IR 1530</b>
					345 IAC 3-5.1-4	A	02-107	25 IR 4177	<b>26 IR 1530</b>
					345 IAC 3-5.1-6	A	02-107	25 IR 4177	<b>26 IR 1531</b>
					345 IAC 3-5.1-7	A	02-107	25 IR 4178	<b>26 IR 1531</b>
					345 IAC 3-5.1-8.5	A	02-107	25 IR 4179	<b>26 IR 1533</b>
					345 IAC 3-5.1-8.7	A	02-107	25 IR 4180	<b>26 IR 1533</b>
					345 IAC 3-5.1-8.8	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 3-5.1-8.9	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 3-5.1-9	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 3-5.1-10	A	02-107	25 IR 4181	<b>26 IR 1535</b>
					345 IAC 3-5.1-12	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 3-5.1-14	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 3-5.1-15	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 7-5-1	A	02-126	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 7-5-2.1	N	02-126	25 IR 4183	<b>26 IR 1536</b>
					345 IAC 7-5-2.5	A	02-126	25 IR 4183	<b>26 IR 1536</b>
					345 IAC 7-5-3	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-4	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-5	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-6	A	02-126	25 IR 4184	<b>26 IR 1537</b>
					345 IAC 7-5-7	A	02-126	25 IR 4184	<b>26 IR 1537</b>
					345 IAC 7-5-8	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-9	A	02-126	25 IR 4184	<b>26 IR 1538</b>
					345 IAC 7-5-11	A	02-126	25 IR 4185	<b>26 IR 1538</b>
					345 IAC 7-5-15.1	A	02-126	25 IR 4185	<b>26 IR 1539</b>
					345 IAC 7-5-16	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-16.1	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-21	R	02-126	25 IR 4187	<b>26 IR 1540</b>
					345 IAC 7-5-22	A	02-126	25 IR 4186	<b>26 IR 1539</b>

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345 IAC 7-5-24	A	02-126	25 IR 4186	<b>26 IR 1539</b>	370 IAC 1-6-1	A	01-419	26 IR 156	<b>26 IR 1545</b>
345 IAC 7-5-25.7	R	02-126	25 IR 4187	<b>26 IR 1540</b>	370 IAC 1-8-1	A	01-419	26 IR 156	<b>26 IR 1545</b>
345 IAC 7-5-26	R	02-126	25 IR 4187	<b>26 IR 1540</b>	370 IAC 1-9-1	A	01-419	26 IR 156	<b>26 IR 1545</b>
345 IAC 7-5-27	R	02-126	25 IR 4187	<b>26 IR 1540</b>	370 IAC 1-10-1	A	01-419	26 IR 156	<b>26 IR 1546</b>
345 IAC 7-5-28	A	02-126	25 IR 4186	<b>26 IR 1540</b>	370 IAC 1-10-2	A	01-419	26 IR 157	<b>26 IR 1546</b>
345 IAC 7-7-1.5	N	01-377	25 IR 1991	*ARR (25 IR 3770)	TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES				
			25 IR 4166	<b>26 IR 693</b>					
345 IAC 7-7-2	A	01-377	25 IR 1991	*ARR (25 IR 3770)	405 IAC 1-8-2	A	03-164	26 IR 3929	
			25 IR 4166	<b>26 IR 694</b>	405 IAC 1-8-3	A	03-164	26 IR 3929	
345 IAC 7-7-3	A	01-377	25 IR 1992	*ARR (25 IR 3770)	405 IAC 1-10.5-2	A	03-164	26 IR 3930	
			25 IR 4167	<b>26 IR 694</b>	405 IAC 1-10.5-3	A	03-18	26 IR 3378	*NRA (27 IR 207)
345 IAC 7-7-3.5	N	01-377	25 IR 1993	*ARR (25 IR 3770)		A	03-164	26 IR 3932	
			25 IR 4168	<b>26 IR 695</b>	405 IAC 1-12-1	A	02-16	25 IR 2791	*NRA (25 IR 4128)
345 IAC 7-7-4	A	01-377	25 IR 1993	*ARR (25 IR 3770)					<b>26 IR 718</b>
			25 IR 4168	<b>26 IR 695</b>	405 IAC 1-12-2	A	02-16	25 IR 2791	*NRA (25 IR 4128)
345 IAC 7-7-5	A	01-377	25 IR 1993	*ARR (25 IR 3770)					<b>26 IR 718</b>
			25 IR 4168	<b>26 IR 696</b>	405 IAC 1-12-4	A	02-16	25 IR 2793	*NRA (25 IR 4128)
345 IAC 7-7-6	R	01-377	25 IR 1994	*ARR (25 IR 3770)					<b>26 IR 720</b>
			25 IR 4169	<b>26 IR 696</b>	405 IAC 1-12-5	A	02-16	25 IR 2794	*NRA (25 IR 4128)
345 IAC 7-7-7	A	01-377	25 IR 1994	*ARR (25 IR 3770)					<b>26 IR 721</b>
			25 IR 4169	<b>26 IR 696</b>	405 IAC 1-12-6	A	02-16	25 IR 2795	*NRA (25 IR 4128)
345 IAC 7-7-8	R	01-377	25 IR 1994	*ARR (25 IR 3770)					<b>26 IR 722</b>
			25 IR 4169	<b>26 IR 696</b>	405 IAC 1-12-7	A	02-16	25 IR 2796	*NRA (25 IR 4128)
345 IAC 7-7-9	R	01-377	25 IR 1994	*ARR (25 IR 3770)					<b>26 IR 723</b>
			25 IR 4169	<b>26 IR 696</b>	405 IAC 1-12-8	A	02-16	25 IR 2796	*NRA (25 IR 4128)
345 IAC 7-7-10	A	01-377	25 IR 1994	*ARR (25 IR 3770)					<b>26 IR 723</b>
			25 IR 4169	<b>26 IR 696</b>	405 IAC 1-12-9	A	02-16	25 IR 2797	*NRA (25 IR 4128)
345 IAC 8-2-1.1	A	01-392	25 IR 2758	<b>26 IR 329</b>					<b>26 IR 724</b>
345 IAC 8-2-1.5	N	01-392	25 IR 2760	<b>26 IR 331</b>	405 IAC 1-12-12	A	02-16	25 IR 2797	*NRA (25 IR 4128)
345 IAC 8-2-1.7	N	01-392	25 IR 2760	<b>26 IR 331</b>					<b>26 IR 724</b>
345 IAC 8-2-1.9	N	01-392	25 IR 2761	<b>26 IR 332</b>	405 IAC 1-12-13	A	02-16	25 IR 2798	*NRA (25 IR 4128)
345 IAC 8-2-2	A	01-392	25 IR 2762	<b>26 IR 333</b>					<b>26 IR 725</b>
345 IAC 8-2-3	A	01-392	25 IR 2764	<b>26 IR 335</b>	405 IAC 1-12-14	A	02-16	25 IR 2799	*NRA (25 IR 4128)
345 IAC 8-2-3.5	N	01-392	25 IR 2766	<b>26 IR 337</b>					<b>26 IR 726</b>
345 IAC 8-2-4	A	01-392	25 IR 2767	<b>26 IR 338</b>	405 IAC 1-12-15	A	02-16	25 IR 2799	*NRA (25 IR 4128)
345 IAC 8-3-1	A	01-392	25 IR 2769	<b>26 IR 340</b>					<b>26 IR 726</b>
345 IAC 8-3-2	A	01-392	25 IR 2770	<b>26 IR 341</b>	405 IAC 1-12-16	A	02-16	25 IR 2800	*NRA (25 IR 4128)
345 IAC 8-3-3	N	01-392	25 IR 2770						<b>26 IR 727</b>
345 IAC 8-3-4	N	01-392	25 IR 2771		405 IAC 1-12-17	A	02-16	25 IR 2801	*NRA (25 IR 4128)
345 IAC 8-3-9	N	01-392		†† <b>26 IR 341</b>					<b>26 IR 728</b>
				*ERR (26 IR 793)	405 IAC 1-12-19	A	02-16	25 IR 2802	*NRA (25 IR 4128)
345 IAC 8-3-10	N	01-392		†† <b>26 IR 342</b>					<b>26 IR 729</b>
				*ERR (26 IR 793)	405 IAC 1-12-24	A	02-16	25 IR 2802	*NRA (25 IR 4128)
345 IAC 8-4-1	A	01-392	25 IR 2771	<b>26 IR 342</b>					<b>26 IR 730</b>
345 IAC 9-2.1-1	A	02-127	25 IR 4187	<b>26 IR 1540</b>	405 IAC 1-12-26	A	02-16	25 IR 2803	*NRA (25 IR 4128)
345 IAC 10-2.1-1	A	02-127	25 IR 4188	<b>26 IR 1541</b>					<b>26 IR 730</b>
TITLE 357 INDIANA PESTICIDE REVIEW BOARD					405 IAC 1-14.5-13	A	02-144	25 IR 3826	*NRA (26 IR 415)
357 IAC 1-10	N	02-292	26 IR 1243	<b>26 IR 2859</b>					<b>26 IR 1080</b>
				*AROC (26 IR 3149)	405 IAC 1-14.5-14	A	02-144	25 IR 3827	*NRA (26 IR 415)
357 IAC 1-11	N	02-332	26 IR 3109	*CPH (26 IR 3673)					<b>26 IR 1081</b>
TITLE 370 STATE EGG BOARD					405 IAC 1-14.5-15	A	02-144	25 IR 3827	*NRA (26 IR 415)
370 IAC 1-1-1	A	01-419	26 IR 153	<b>26 IR 1542</b>					<b>26 IR 1081</b>
370 IAC 1-1-2	A	01-419	26 IR 153	<b>26 IR 1542</b>	405 IAC 1-14.6-2	A	02-13	25 IR 2779	*NRA (26 IR 61)
370 IAC 1-1-3	A	01-419	26 IR 153	<b>26 IR 1542</b>					<b>26 IR 707</b>
370 IAC 1-1-4	A	01-419	26 IR 153	<b>26 IR 1542</b>	405 IAC 1-14.6-4	A	02-13	25 IR 2782	*NRA (26 IR 61)
370 IAC 1-1-5	A	01-419	26 IR 153	<b>26 IR 1542</b>					<b>26 IR 3869</b>
370 IAC 1-2-1	A	01-419	26 IR 154	<b>26 IR 1543</b>	405 IAC 1-14.6-6	A	02-13	25 IR 2784	*NRA (26 IR 61)
370 IAC 1-2-2	A	01-419	26 IR 154	<b>26 IR 1543</b>					<b>26 IR 712</b>
370 IAC 1-2-3	N	01-419	26 IR 154	<b>26 IR 1543</b>					*NRA (26 IR 3365)
370 IAC 1-3-1	A	01-419	26 IR 154	<b>26 IR 1543</b>	405 IAC 1-14.6-7	A	02-13	25 IR 2785	*NRA (26 IR 61)
370 IAC 1-3-2	A	01-419	26 IR 154	<b>26 IR 1543</b>					<b>26 IR 712</b>
370 IAC 1-3-3	A	01-419	26 IR 154	<b>26 IR 1543</b>					*ERR (26 IR 2375)
370 IAC 1-3-4	A	01-419	26 IR 155	<b>26 IR 1544</b>					*NRA (26 IR 3365)
370 IAC 1-4-1	A	01-419	26 IR 155	<b>26 IR 1544</b>	405 IAC 1-14.6-9	A	02-13	25 IR 2786	<b>26 IR 3873</b>
370 IAC 1-4-2	A	01-419	26 IR 155	<b>26 IR 1545</b>					*NRA (26 IR 61)
370 IAC 1-4-3	A	01-419	26 IR 156	<b>26 IR 1545</b>					<b>26 IR 714</b>
370 IAC 1-5-1	A	01-419	26 IR 156	<b>26 IR 1545</b>					*NRA (26 IR 3365)
									<b>26 IR 3874</b>

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405 IAC 1-14.6-12	A	02-13	25 IR 2787	*NRA (26 IR 61) <b>26 IR 715</b>	405 IAC 5-12-1	A	02-49	25 IR 2555	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644)
405 IAC 1-14.6-16	A	02-13	25 IR 2788	*NRA (26 IR 61) <b>26 IR 716</b>	405 IAC 5-12-2	A	02-49	25 IR 2556	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644) <b>26 IR 2861</b>
405 IAC 1-14.6-22	A	02-13	25 IR 2788	*NRA (26 IR 61) <b>26 IR 716</b>	405 IAC 5-12-3	A	02-49	25 IR 2556	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644) <b>26 IR 2861</b>
405 IAC 1-16-2	A	02-340	26 IR 2105	*NRA (26 IR 3365) <b>26 IR 3875</b>	405 IAC 5-12-4	R	02-49	25 IR 2556	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644) <b>26 IR 2861</b>
405 IAC 1-16-4	A	02-214	26 IR 158	*NRA (26 IR 61) <b>26 IR 716</b>	405 IAC 5-12-5	R	02-49	25 IR 2556	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644) <b>26 IR 2861</b>
405 IAC 1-17-1	A	02-214	26 IR 159	*NRA (26 IR 3365) <b>26 IR 3876</b>	405 IAC 5-12-6	R	02-49	25 IR 2556	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644) <b>26 IR 2862</b>
405 IAC 1-17-2	A	02-214	26 IR 158	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3634</b>	405 IAC 5-12-7	A	02-49	25 IR 2556	*AROC (26 IR 884) *NRA (26 IR 1960) *ARR (26 IR 2625) *NRA (2644) <b>26 IR 2862</b>
405 IAC 1-17-3	A	03-61	26 IR 3111	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3635</b>	405 IAC 5-14-1	A	02-50	25 IR 2556	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 415) <b>26 IR 1546</b>
405 IAC 1-17-4	A	03-61	26 IR 3111	*NRA (26 IR 3670) <b>27 IR 93</b>	405 IAC 5-14-2	A	02-140	25 IR 3823	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2862</b>
405 IAC 1-17-5	A	03-61	26 IR 3112	*NRA (26 IR 3670) <b>27 IR 94</b>	405 IAC 5-14-3	A	02-140	25 IR 3824	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2863</b>
405 IAC 1-17-6	A	03-61	26 IR 3113	*NRA (26 IR 3670) <b>27 IR 94</b>	405 IAC 5-14-4	A	02-277	26 IR 864	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2863</b>
405 IAC 1-17-7	A	03-61	26 IR 3114	*NRA (26 IR 3670) <b>27 IR 95</b>	405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2863</b>
405 IAC 1-17-9	A	03-61	26 IR 3115	*NRA (26 IR 3670) <b>27 IR 96</b>	405 IAC 5-14-10	R	02-277	26 IR 866	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2863</b>
405 IAC 1-18-2	A	03-61	26 IR 3114	*NRA (26 IR 3670) <b>27 IR 96</b>					<b>26 IR 2865</b>
405 IAC 1-18-3	A	03-61	26 IR 3114	*NRA (26 IR 3670) <b>27 IR 97</b>					
405 IAC 1-18-2	A	02-121	25 IR 3243	*NRA (26 IR 3670) <b>27 IR 98</b>					
405 IAC 1-18-3	R	02-121	25 IR 3243	*NRA (26 IR 61) <b>26 IR 1079</b>					
405 IAC 1-19	N	02-184	26 IR 511	*NRA (26 IR 61) <b>26 IR 1080</b>					
405 IAC 1-20	N	02-184	26 IR 512	*NRA (26 IR 1960) <b>26 IR 2865</b>					
405 IAC 1-21	N	03-184	27 IR 258	*NRA (26 IR 1960) <b>26 IR 2866</b>					
405 IAC 2-3-1.1	A	03-205	27 IR 262						
405 IAC 2-3-1.2	A	02-234	26 IR 516	*ERR (26 IR 35) *NRA (26 IR 1960) <b>26 IR 2868</b>					
405 IAC 2-3-17	A	02-234	26 IR 517	*NRA (26 IR 1960) <b>26 IR 2868</b>					
405 IAC 2-3-21	A	02-234	26 IR 517	*NRA (26 IR 1960) <b>26 IR 2868</b>					
405 IAC 2-3-23	N	02-45	25 IR 2555	*NRA (25 IR 3804) <b>26 IR 731</b>					
405 IAC 2-8-1	A	02-87	25 IR 2804	*NRA (26 IR 61) <b>26 IR 731</b>					
405 IAC 2-8-1.1	A	03-134	26 IR 3706						
405 IAC 2-9	N	02-87	25 IR 2805	*NRA (26 IR 61) <b>26 IR 732</b>					
405 IAC 2-10	A	03-134	26 IR 3707						
405 IAC 2-10-3	N	02-145	25 IR 3829	*ERR (26 IR 35) *NRA (26 IR 415) <b>26 IR 1547</b>					
405 IAC 2-10-7	A	03-134	26 IR 3707						
405 IAC 2-10-7.1	N	03-134	26 IR 3707						
405 IAC 2-10-8	A	03-134	26 IR 3708						
405 IAC 2-10-9	A	03-134	26 IR 3708						
405 IAC 2-10-10	R	03-134	26 IR 3709						
405 IAC 2-10-11	N	03-134	26 IR 3709						
405 IAC 4-1	RA	02-275	26 IR 544	<b>26 IR 1261</b>					
405 IAC 4-1-1				*ERR (26 IR 383)					
405 IAC 5-3-13	A	03-66	26 IR 3381	*NRA (26 IR 3902) *ARR (27 IR 539) *NRA (27 IR 550)					

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405 IAC 5-14-11	A	02-277	26 IR 865	<b>26 IR 2864</b>	405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-14-15	A	02-277	26 IR 865	<b>26 IR 2864</b>					
405 IAC 5-14-16	A	02-277	26 IR 866	<b>26 IR 2864</b>	405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-14-17	A	02-277	26 IR 866	<b>26 IR 2864</b>					
405 IAC 5-14-18	A	02-277	26 IR 866	<b>26 IR 2864</b>	405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-19-1	A	01-301	25 IR 3811	*NRA (26 IR 809) <b>26 IR 1901</b>					
405 IAC 5-19-3	A	02-207	26 IR 514	*NRA (26 IR 2644)	405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
	A	03-207	27 IR 267						
405 IAC 5-20-1	A	03-184	27 IR 259		405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-20-2	A	03-184	27 IR 260						
405 IAC 5-20-3.1	N	03-184	27 IR 260		405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-20-4	A	03-184	27 IR 261		405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-20-7	A	03-184	27 IR 261						
405 IAC 5-21-1	A	03-66	26 IR 3381	*NRA (26 IR 3902) *ARR (27 IR 539) *NRA (27 IR 550)	405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
				*NRA (26 IR 3902) *ARR (27 IR 539) *NRA (27 IR 550)	405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-21-7	A	03-66	26 IR 3382	*NRA (26 IR 3902) *ARR (27 IR 539) *NRA (27 IR 550)	405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-21-8	N	03-66	26 IR 3382	*NRA (26 IR 3902) *ARR (27 IR 539) *NRA (27 IR 550) *ERR (26 IR 35)					
405 IAC 5-24-4				*NRA (26 IR 62) <b>26 IR 732</b>	405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-24-7	A	02-141	25 IR 3825		405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
	A	03-206	27 IR 266						
405 IAC 5-24-13	N	02-207	26 IR 515	*NRA (26 IR 2644) <b>26 IR 3633</b>	405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-31-4	A	02-207	26 IR 515	*NRA (26 IR 2644) <b>26 IR 3633</b>	405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 700</b>
405 IAC 5-34-1	A	02-214	26 IR 159	*NRA (26 IR 2644) *AROC (26 IR 2695) <b>26 IR 3635</b>	405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 700</b>
405 IAC 5-34-2	A	02-214	26 IR 159	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3635</b>	405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 700</b>
405 IAC 5-34-3	A	02-214	26 IR 160	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3636</b>	405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-4	A	02-214	26 IR 160	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3636</b>	405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-4.1	N	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3638</b>	405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-4.2	N	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3638</b>	405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-5	A	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3638</b>	405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-6	A	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3639</b>	405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 702</b>
405 IAC 5-34-7	A	02-214	26 IR 163	*NRA (2644) *AROC (26 IR 2695) <b>26 IR 3640</b>	405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 702</b>
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					



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405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 702</b>	410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
405 IAC 7	N	02-234	26 IR 518	*NRA (26 IR 1960) <b>26 IR 2869</b>	410 IAC 16.2-1-23	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-24	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-25	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-26	R	02-89	25 IR 3277	<b>26 IR 1936</b>
TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM					410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
407 IAC 2-3-1				*ERR (26 IR 383)	410 IAC 16.2-1-27	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-28	R	02-89	25 IR 3277	<b>26 IR 1936</b>
TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH					410 IAC 16.2-1-29	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 1-2.3-47	A	03-4	26 IR 3131		410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 1-2.3-48	A	03-4	26 IR 3134		410 IAC 16.2-1-30	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 1-2.3-97.5	N	03-4	26 IR 3135		410 IAC 16.2-1-31	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 3-3-7.1	A	03-19	26 IR 3385	*ARR (27 IR 539)	410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-2	R	02-142	25 IR 4197	*CPH (26 IR 812) *AROC (26 IR 3149) <b>26 IR 3334</b>	410 IAC 16.2-1-32	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-2.1	N	02-142	25 IR 4188	*CPH (26 IR 812) *AROC (26 IR 3149) <b>26 IR 3325</b>	410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
					410 IAC 16.2-1-33	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-7.1				*ERR (26 IR 36)	410 IAC 16.2-1-34	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-7.2				*ERR (26 IR 36)	410 IAC 16.2-1-35	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-7.2-17	A	02-295	26 IR 2662	<b>27 IR 98</b>	410 IAC 16.2-1-36	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-7.2-29	A	02-295	26 IR 2662	<b>27 IR 99</b>	410 IAC 16.2-1-37	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-7.2-30	A	02-295	26 IR 2663	<b>27 IR 99</b>	410 IAC 16.2-1-38	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-8.1	R	02-321	26 IR 3131	*CPH (26 IR 3368)	410 IAC 16.2-1-39	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-8.2	N	02-321	26 IR 3116	*CPH (26 IR 3368)	410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-9-3				*ERR (26 IR 3884)	410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 6-10	R	02-321	26 IR 3131	*CPH (26 IR 3368)	410 IAC 16.2-1-42	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 7-19	R	02-317	26 IR 3385		410 IAC 16.2-1-44	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 7-22	N	02-266	26 IR 1245	<b>26 IR 3334</b>	410 IAC 16.2-1-45	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 7-23	N	02-317	26 IR 3383		410 IAC 16.2-1-46	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 15-1.5-4	A	02-43	26 IR 164	<b>26 IR 1550</b>	410 IAC 16.2-1-47	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 15-1.5-5	A	02-43	26 IR 166	<b>26 IR 1551</b>	410 IAC 16.2-1-48	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-1.1	N	02-89	25 IR 3244	<b>26 IR 1902</b>
410 IAC 16.2-1-1	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	<b>26 IR 1911</b>
410 IAC 16.2-1-2	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	<b>26 IR 1912</b>
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	<b>26 IR 1914</b>
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	<b>26 IR 1919</b>
410 IAC 16.2-1-3	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	<b>26 IR 1921</b>
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	<b>26 IR 1923</b>
410 IAC 16.2-1-5	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	<b>26 IR 1925</b>
410 IAC 16.2-1-6	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-2	A	02-89	25 IR 3269	<b>26 IR 1929</b>
410 IAC 16.2-1-7	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-3	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-8	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-4	A	02-89	25 IR 3270	<b>26 IR 1929</b>
410 IAC 16.2-1-9	R	02-89	25 IR 3276	<b>26 IR 1936</b>	410 IAC 16.2-5-5	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	<b>26 IR 1931</b>
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-6	A	02-89	25 IR 3272	<b>26 IR 1932</b>
410 IAC 16.2-1-11	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-7	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	<b>26 IR 1933</b>
410 IAC 16.2-1-14	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-8	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	<b>26 IR 1934</b>
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-9	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-10	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-11	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	<b>26 IR 1935</b>
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	<b>26 IR 1936</b>	410 IAC 16.2-5-12	N	02-89	25 IR 3276	<b>26 IR 1935</b>
410 IAC 16.2-1-16	R	02-89	25 IR 3277	<b>26 IR 1936</b>	TITLE 412 INDIANA HEALTH FACILITIES COUNCIL				
410 IAC 16.2-1-17	R	02-89	25 IR 3277	<b>26 IR 1936</b>	412 IAC 2				*ERR (26 IR 36)
410 IAC 16.2-1-18	R	02-89	25 IR 3277	<b>26 IR 1936</b>					*ERR (26 IR 1572)
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>	412 IAC 2-1-1	A	02-41	25 IR 4198	<b>26 IR 1937</b>
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>	412 IAC 2-1-2.1	N	02-41	25 IR 4198	<b>26 IR 1937</b>
410 IAC 16.2-1-19	R	02-89	25 IR 3277	<b>26 IR 1936</b>					*ERR (26 IR 2375)
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>	412 IAC 2-1-2.2	N	02-41	25 IR 4198	<b>26 IR 1937</b>
410 IAC 16.2-1-20	R	02-89	25 IR 3277	<b>26 IR 1936</b>					*ERR (26 IR 2375)
410 IAC 16.2-1-21	R	02-89	25 IR 3277	<b>26 IR 1936</b>	412 IAC 2-1-6	A	02-41	25 IR 4199	<b>26 IR 1937</b>
410 IAC 16.2-1-22	R	02-89	25 IR 3277	<b>26 IR 1936</b>	412 IAC 2-1-8	A	02-41	25 IR 4199	<b>26 IR 1938</b>
					412 IAC 2-1-10	N	02-41	25 IR 4199	<b>26 IR 1938</b>

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412 IAC 2-1-11	N	02-41	25 IR 4200	<b>26 IR 1939</b>	460 IAC 3.5	RA	02-237	26 IR 2694	<b>26 IR 2694</b>
412 IAC 2-1-12	N	02-41	25 IR 4200	<b>26 IR 1939</b>	460 IAC 3.5-1-1	A	03-180	27 IR 269	
412 IAC 2-1-13	N	02-41	25 IR 4200	<b>26 IR 1939</b>	460 IAC 3.5-2-1	A	03-180	27 IR 269	
412 IAC 2-1-14	N	02-41	25 IR 4200	<b>26 IR 1939</b>	460 IAC 5-1-13	A	02-151	26 IR 524	
					460 IAC 6	N	02-46	25 IR 3832	<b>26 IR 749</b>
TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL									*AROC (26 IR 883)
431 IAC 1.1-1-2				*ERR (26 IR 36)	460 IAC 6-2-2	A	03-123	26 IR 3935	
431 IAC 7	N	02-211	26 IR 2108	<b>26 IR 3640</b>	460 IAC 6-2-3	A	03-123	26 IR 3935	
TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION					460 IAC 6-3-2.1	N	02-326	26 IR 2664	<b>27 IR 101</b>
440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)	460 IAC 6-3-5.1	N	02-326	26 IR 2665	<b>27 IR 101</b>
				<b>26 IR 745</b>	460 IAC 6-3-5.2	N	02-326	26 IR 2665	<b>27 IR 101</b>
440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62)	460 IAC 6-3-6.1	N	02-326	26 IR 2665	<b>27 IR 101</b>
				<b>26 IR 733</b>	460 IAC 6-3-10.1	N	02-326	26 IR 2665	<b>27 IR 101</b>
440 IAC 4-3-1	A	02-218	26 IR 519	*NRA (26 IR 2390)	460 IAC 6-3-15.1	N	02-326	26 IR 2665	<b>27 IR 101</b>
				<b>26 IR 2616</b>	460 IAC 6-3-15.2	N	03-123	26 IR 3935	
440 IAC 4.1-2-1	A	02-218	26 IR 519	*NRA (26 IR 2390)	460 IAC 6-3-15.3	N	02-326	26 IR 2665	†† <b>27 IR 101</b>
				<b>26 IR 2616</b>	460 IAC 6-3-18	A	02-326	26 IR 2666	<b>27 IR 102</b>
440 IAC 4.1-2-4	A	02-218	26 IR 520	*NRA (26 IR 2390)	460 IAC 6-3-25	A	02-326	26 IR 2666	<b>27 IR 102</b>
				<b>26 IR 2617</b>	460 IAC 6-3-29.5	N	02-326	26 IR 2666	<b>27 IR 102</b>
440 IAC 4.1-2-5	A	02-218	26 IR 521	*NRA (26 IR 2390)	460 IAC 6-3-31	A	02-326	26 IR 2666	<b>27 IR 102</b>
				<b>26 IR 2618</b>	460 IAC 6-3-32	A	02-326	26 IR 2666	<b>27 IR 102</b>
440 IAC 4.1-2-9	A	02-218	26 IR 521	*NRA (26 IR 2390)	460 IAC 6-3-38.5	N	02-326	26 IR 2666	<b>27 IR 103</b>
				<b>26 IR 2618</b>	460 IAC 6-3-38.6	N	02-326	26 IR 2667	<b>27 IR 103</b>
440 IAC 4.1-3	N	02-218	26 IR 522	*NRA (26 IR 2390)	460 IAC 6-3-41.1	N	02-326	26 IR 2667	<b>27 IR 103</b>
				<b>26 IR 2619</b>	460 IAC 6-3-52.1	N	02-326	26 IR 2667	<b>27 IR 103</b>
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62)	460 IAC 6-3-56	A	02-326	26 IR 2667	<b>27 IR 103</b>
				<b>26 IR 745</b>	460 IAC 6-4-1	A	02-326	26 IR 2667	<b>27 IR 103</b>
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62)	460 IAC 6-5-4	A	02-326	26 IR 2668	<b>27 IR 104</b>
				<b>26 IR 746</b>	460 IAC 6-5-7	A	02-326	26 IR 2669	<b>27 IR 105</b>
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62)	460 IAC 6-5-21	A	02-326	26 IR 2669	<b>27 IR 105</b>
				<b>26 IR 747</b>	460 IAC 6-5-32	N	02-326	26 IR 2669	<b>27 IR 105</b>
440 IAC 5.2	N	03-57	26 IR 3386	*NRA (26 IR 3902)	460 IAC 6-5-33	N	02-326	26 IR 2670	<b>27 IR 106</b>
				<b>27 IR 492</b>	460 IAC 6-5-34	N	02-326	26 IR 2670	<b>27 IR 106</b>
440 IAC 6-2-2				*ERR (26 IR 1572)	460 IAC 6-5-35	N	02-326	26 IR 2670	<b>27 IR 106</b>
440 IAC 9-2-10	N	02-106	25 IR 4201	*NRA (26 IR 1112)	460 IAC 6-5-36	N	02-326	26 IR 2670	<b>27 IR 106</b>
				<b>26 IR 1940</b>	460 IAC 6-6-2	A	02-326	26 IR 2670	<b>27 IR 106</b>
440 IAC 9-2-11	N	02-106	25 IR 4202	*NRA (26 IR 1112)	460 IAC 6-6-3	A	02-326	26 IR 2670	<b>27 IR 107</b>
				<b>26 IR 1941</b>	460 IAC 6-7-2	A	02-326	26 IR 2671	<b>27 IR 107</b>
440 IAC 9-2-12	N	02-106	25 IR 4203	*NRA (26 IR 1112)	460 IAC 6-7-3	A	02-326	26 IR 2671	<b>27 IR 108</b>
				<b>26 IR 1942</b>	460 IAC 6-9-5	A	02-326	26 IR 2672	<b>27 IR 108</b>
440 IAC 9-2-13	N	02-265	26 IR 867	<b>26 IR 3337</b>	460 IAC 6-9-7	N	02-326	26 IR 2673	<b>27 IR 109</b>
TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES					460 IAC 6-10-5	A	02-326	26 IR 2673	<b>27 IR 110</b>
460 IAC 1-3-1	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-10-8	A	02-326	26 IR 2674	<b>27 IR 110</b>
460 IAC 1-3-2	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-10-13	A	02-326	26 IR 2674	<b>27 IR 110</b>
460 IAC 1-3-3	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-13-2	A	02-326	26 IR 2675	<b>27 IR 111</b>
	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-14-4	A	02-326	26 IR 2675	<b>27 IR 111</b>
460 IAC 1-3-4	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-14-6	N	03-123	26 IR 3935	
460 IAC 1-3-5	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-14-7	N	03-123	26 IR 3935	
460 IAC 1-3-6	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-15-2	A	03-123	26 IR 3935	
	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-17-3	A	02-326	26 IR 2675	<b>27 IR 111</b>
460 IAC 1-3-7	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-17-4	A	02-326	26 IR 2676	<b>27 IR 112</b>
	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-19-6	A	02-326	26 IR 2676	<b>27 IR 113</b>
460 IAC 1-3-8	R	02-319	26 IR 2112	<b>26 IR 3644</b>		A	03-123	26 IR 3936	
460 IAC 1-3-9	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-24-1	A	02-236	26 IR 2677	<b>27 IR 113</b>
460 IAC 1-3-10	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-24-2	A	02-326	26 IR 2677	<b>27 IR 114</b>
460 IAC 1-3-11	R	02-319		†† <b>26 IR 3644</b>	460 IAC 6-25-10	A	02-326	26 IR 2677	<b>27 IR 114</b>
460 IAC 1-3-12	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-29-4	A	02-326	26 IR 2678	<b>27 IR 114</b>
	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-29-9	N	02-326	26 IR 2678	<b>27 IR 115</b>
460 IAC 1-3-13	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-31-1	A	03-123	26 IR 3936	
460 IAC 1-3-14	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-35	N	02-326	26 IR 2678	<b>27 IR 115</b>
460 IAC 1-3-15	R	02-319	26 IR 2112	<b>26 IR 3644</b>	460 IAC 6-36	N	03-123	26 IR 3937	
460 IAC 1-3.3	N	02-319	26 IR 2111	<b>26 IR 3643</b>	460 IAC 7	N	02-210	26 IR 525	*ARR (26 IR 1110)
460 IAC 1-8	N	01-337	25 IR 2557	<b>26 IR 350</b>				26 IR 1247	*AROC (26 IR 2472)
460 IAC 2-3-1	A	02-9	25 IR 2286	<b>26 IR 747</b>					<b>26 IR 2870</b>
460 IAC 2-3-2	A	02-9	25 IR 2286	<b>26 IR 747</b>	460 IAC 8	N	03-99	26 IR 3392	
460 IAC 2-3-3	A	02-9	25 IR 2287	<b>26 IR 748</b>	TITLE 470 DIVISION OF FAMILY AND CHILDREN				
					470 IAC 3-4.1	R	02-298	26 IR 1719	*NRA (26 IR 3365)
									*AROC (26 IR 3756)
									*AROC (27 IR 288)
									<b>27 IR 162</b>

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470 IAC 3-4.2	R	02-298	26 IR 1719	*NRA (26 IR 3365) *AROC (26 IR 3756) *AROC (27 IR 288) <b>27 IR 162</b>	511 IAC 6.2-6-8 511 IAC 6.2-6-12 511 IAC 6.2-7 511 IAC 6.2-7-8	A A N A	02-264 02-264 02-264 03-219	26 IR 1720 26 IR 1720 26 IR 1720 27 IR 564	<b>27 IR 163</b> <b>27 IR 163</b> <b>27 IR 163</b>
470 IAC 3-4.7	N	02-298	26 IR 1675	*NRA (26 IR 3365) *AROC (26 IR 3756) *AROC (27 IR 288) <b>27 IR 116</b>	TITLE 515 PROFESSIONAL STANDARDS BOARD				
470 IAC 3.1-12-2	A	02-74	26 IR 167	*NRA (26 IR 1112) *AROC (26 IR 1264) <b>26 IR 2320</b>	515 IAC 1-3 515 IAC 1-4-1 515 IAC 1-4-2 515 IAC 1-6 515 IAC 1-7	R A A N	02-314 02-75 02-75 02-314	26 IR 1257 25 IR 4207 25 IR 4208 26 IR 1254	*ARR (26 IR 3346) <b>27 IR 505</b> <b>26 IR 2322</b> <b>26 IR 2323</b> *ERR (26 IR 36) *ARR (26 IR 3346) <b>27 IR 501</b>
470 IAC 3.1-12-7	N	02-74	26 IR 168	*NRA (26 IR 1112) *AROC (26 IR 1264) <b>26 IR 2320</b>	515 IAC 3 515 IAC 4	N	02-8	25 IR 2292	*ERR (26 IR 37) *ARR (25 IR 3183) *ARR (25 IR 3770)
470 IAC 6-2-1	A	03-136	26 IR 3709	*NRA (27 IR 207)	515 IAC 5	N	02-80	25 IR 2808	<b>26 IR 2325</b>
470 IAC 6-2-13	A	03-136	26 IR 3709	*NRA (27 IR 207)	515 IAC 8	N	03-10	26 IR 2437	<b>27 IR 166</b>
470 IAC 6-4.1-4	A	03-136	26 IR 3710		515 IAC 9	N	03-11	26 IR 2451	*ERR (27 IR 538)
470 IAC 8.1-2-12	A	02-152	26 IR 530	*NRA (26 IR 3670) <b>27 IR 500</b>	515 IAC 12	N	03-65	26 IR 3943	*CPH (26 IR 2648)
470 IAC 10.1-3-4	R	03-33	26 IR 2682	*NRA (26 IR 3670) <b>27 IR 500</b>	TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY				
470 IAC 10.1-3-4.1	R	03-33	26 IR 2682	*NRA (26 IR 3670) <b>27 IR 500</b>	540 IAC 1-1-1 540 IAC 1-1-2 540 IAC 1-1-5 540 IAC 1-1-8 540 IAC 1-1-10 540 IAC 1-1-15 540 IAC 1-1-18 540 IAC 1-2 540 IAC 1-3-1 540 IAC 1-4-1 540 IAC 1-4-2 540 IAC 1-7-2	RA RA RA RA RA RA RA RA RA RA A	03-112 03-112 03-112 03-112 03-112 03-112 03-112 03-112 03-112 03-112 02-287	26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 3754 26 IR 1257	<b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> *CPH (26 IR 1593) <b>26 IR 3338</b>
470 IAC 10.1-3-5	R	03-33	26 IR 2682	*NRA (26 IR 3670) <b>27 IR 500</b>	540 IAC 1-8-2	A	02-287	26 IR 1258	*CPH (26 IR 1593) <b>26 IR 3338</b>
470 IAC 10.2	N	03-33	26 IR 2680	*NRA (26 IR 3670) <b>27 IR 498</b>	540 IAC 1-8-8 540 IAC 1-9-2.6	RA R	03-112 02-287	26 IR 3754 26 IR 1258	<b>27 IR 570</b> *CPH (26 IR 1593) <b>26 IR 3338</b>
470 IAC 11.1-1-5	A	02-203	26 IR 169	*NRA (26 IR 1112) <b>26 IR 2321</b>	540 IAC 1-10-1 540 IAC 1-10-2 540 IAC 1-11 540 IAC 1-12-1 540 IAC 1-12-3 540 IAC 1-12-4	A	02-287	26 IR 1258	*CPH (26 IR 1593) <b>26 IR 3338</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b> <b>27 IR 570</b>
TITLE 511 INDIANA STATE BOARD OF EDUCATION					TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND				
511 IAC 1-3-1	A	03-185	27 IR 270		550 IAC 2-2-7	A	03-155	26 IR 3944	*CPH (27 IR 551)
511 IAC 1-6-2	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 3-1-1	A	02-325	26 IR 2112	<b>26 IR 3877</b>
511 IAC 1-6-3	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 3-1-2	A	02-325	26 IR 2113	<b>26 IR 3878</b>
511 IAC 1-6-4	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 3-1-3	A	02-325	26 IR 2113	<b>26 IR 3878</b>
511 IAC 4-4-3	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 3-2-1	A	02-325	26 IR 2113	<b>26 IR 3878</b>
511 IAC 4-4-4	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 3-2-2	A	02-325	26 IR 2114	<b>26 IR 3879</b>
511 IAC 5-1-1	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 5	N	02-325	26 IR 2114	<b>26 IR 3879</b>
511 IAC 5-1-2	A	02-67	25 IR 2807	<b>26 IR 786</b>	550 IAC 6	N	02-325	26 IR 2115	<b>26 IR 3880</b>
511 IAC 5-1-3	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	550 IAC 7	N	03-100	26 IR 3710	
511 IAC 5-1-3.5	A	02-67	25 IR 2807	<b>26 IR 787</b>	TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION				
511 IAC 5-1-4	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	570 IAC 1-14	N	02-233	26 IR 867	<b>26 IR 3338</b>
511 IAC 5-1-4.5	RA	03-56	26 IR 3147	<b>26 IR 3960</b>	TITLE 575 STATE SCHOOL BUS COMMITTEE				
511 IAC 5-1-5	A	02-67	25 IR 2807	<b>26 IR 787</b>	575 IAC 1-1-4.6	N	02-315	26 IR 1723	<b>26 IR 3341</b>
511 IAC 5-1-6	A	02-67	25 IR 2807	<b>26 IR 787</b>	TITLE 610 DEPARTMENT OF LABOR				
511 IAC 5-2-3	A	02-170	25 IR 4204	<b>26 IR 3645</b>	610 IAC 4-2-1	A	03-36	26 IR 2463	
511 IAC 5-2-4	A	02-170	25 IR 4205	<b>26 IR 3645</b>	610 IAC 4-2-11	R	03-36	26 IR 2464	
511 IAC 5-3-1	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 5-3-2	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-7-2	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-7-4	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-7-6.1	A	03-150	26 IR 3938						
511 IAC 6-7-6.5	A	02-177	25 IR 4205	<b>26 IR 3646</b>					
511 IAC 6-7-7	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-8-1	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-8-2	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-8-3	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-8-5	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6-8-6	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6.1-1-2	A	03-219	27 IR 561						
511 IAC 6.1-1-11.5				*ERR (26 IR 36)					
511 IAC 6.1-5-3.5	RA	03-56	26 IR 3147	<b>26 IR 3960</b>					
511 IAC 6.1-5-1-5	A	02-177	25 IR 4206	<b>26 IR 3646</b>					
	A	02-178	25 IR 4207	<b>26 IR 3647</b>					
511 IAC 6.1-5-1-8	A	02-274	26 IR 1252	<b>26 IR 3648</b>					
511 IAC 6.1-5-1-9	A	03-151	26 IR 3939						
511 IAC 6.1-5-1-10.1	A	03-151	26 IR 3940						
511 IAC 6.2-2.5	N	03-219	27 IR 563						
511 IAC 6.2-6-4	A	02-264	26 IR 1719	<b>27 IR 162</b>					
511 IAC 6.2-6-6.1	N	02-264	26 IR 1720	<b>27 IR 163</b>					

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610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770) <b>26 IR 370</b>	675 IAC 14-4.2-89.2	N	03-71	26 IR 3728	
				*AROC (26 IR 547)	675 IAC 14-4.2-89.6	A	03-71	26 IR 3728	
610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770) <b>26 IR 353</b>	675 IAC 14-4.2-89.7	R	03-71	26 IR 3737	
				*AROC (26 IR 547)	675 IAC 14-4.2-89.8	A	03-71	26 IR 3728	
610 IAC 4-6-11	A	03-37	26 IR 2464		675 IAC 14-4.2-89.9	A	03-71	26 IR 3728	
610 IAC 4-6-13	R	03-253	27 IR 565		675 IAC 14-4.2-89.10	R	03-71	26 IR 3737	
610 IAC 4-6-23	A	03-252	27 IR 564		675 IAC 14-4.2-89.11	R	03-71	26 IR 3737	
TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION					675 IAC 14-4.2-95	A	03-71	26 IR 3729	
655 IAC 1-1				*ERR (26 IR 383)	675 IAC 14-4.2-96.2	N	03-71	26 IR 3729	
655 IAC 1-2.1	RA	02-128	25 IR 3883	*CPH (26 IR 416) <b>26 IR 1262</b>	675 IAC 14-4.2-97.5	N	03-71	26 IR 3729	
				*ERR (26 IR 383)	675 IAC 14-4.2-97.9	N	03-71	26 IR 3729	
655 IAC 1-3				*ERR (26 IR 383)	675 IAC 14-4.2-107	A	03-71	26 IR 3729	
655 IAC 1-4				*ERR (26 IR 383)	675 IAC 14-4.2-112.5	N	03-71	26 IR 3735	
TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION					675 IAC 14-4.2-117	A	03-71	26 IR 3736	
675 IAC 12-3-13	N	02-90	25 IR 2573	<b>26 IR 1556</b>	675 IAC 14-4.2-171.5	N	03-71	26 IR 3736	
675 IAC 12-3-14	N	02-90	25 IR 2574	<b>26 IR 1557</b>	675 IAC 14-4.2-174.5	N	03-71	26 IR 3736	
675 IAC 12-3-15	N	02-90		†† <b>26 IR 1558</b>	675 IAC 14-4.2-177.5	N	03-71	26 IR 3736	
675 IAC 13-1-4	RA	03-48	26 IR 2693	*CPH (27 IR 551)	675 IAC 14-4.2-181.1	N	01-376	25 IR 1248	†† <b>26 IR 11</b>
675 IAC 13-1-5	RA	03-48	26 IR 2693	*CPH (27 IR 551)	675 IAC 14-4.2-182.1	N	01-376	25 IR 1248	<b>26 IR 11</b>
675 IAC 13-1-8	A	02-51	25 IR 2561	<b>26 IR 1095</b>	675 IAC 14-4.2-185.1	N	01-376	25 IR 1248	<b>26 IR 11</b>
675 IAC 13-1-9.5	RA	03-48	26 IR 2693	*CPH (27 IR 551)	675 IAC 14-4.2-187	A	01-376	25 IR 1248	<b>26 IR 11</b>
675 IAC 13-1-9.6	RA	03-48	26 IR 2693	*CPH (27 IR 551)	675 IAC 14-4.2-187.1	N	01-376	25 IR 1248	<b>26 IR 12</b>
675 IAC 13-1-10	A	02-51	25 IR 2564	<b>26 IR 1098</b>	675 IAC 14-4.2-187.2	N	01-376	25 IR 1248	<b>26 IR 12</b>
675 IAC 13-1-28	RA	03-48	26 IR 2693	*CPH (27 IR 551)	675 IAC 14-4.2-187.3	N	01-376	25 IR 1248	<b>26 IR 12</b>
675 IAC 13-2.3	R	02-115	25 IR 3366	*ARR (26 IR 2376) <b>26 IR 2951</b>	675 IAC 14-4.2-187.4	N	01-376	25 IR 1248	<b>26 IR 12</b>
				<b>26 IR 2875</b>	675 IAC 14-4.2-189	A	03-71	26 IR 3736	
675 IAC 13-2.4	N	02-115	25 IR 3291	*ARR (26 IR 2376)	675 IAC 14-4.2-189.2	N	03-71	26 IR 3736	
					675 IAC 14-4.2-189.2	N	03-71	26 IR 3736	
675 IAC 14-4.2-1	A	03-71	26 IR 3712		675 IAC 14-4.2-190.1	N	01-376	25 IR 1249	<b>26 IR 12</b>
675 IAC 14-4.2-2	A	03-71	26 IR 3712		675 IAC 14-4.2-190.2	N	01-376	25 IR 1249	<b>26 IR 12</b>
675 IAC 14-4.2-3	A	03-71	26 IR 3714		675 IAC 14-4.2-190.3	N	01-376	25 IR 1249	<b>26 IR 12</b>
675 IAC 14-4.2-6	A	03-71	26 IR 3715		675 IAC 14-4.2-190.4	N	01-376	25 IR 1249	<b>26 IR 12</b>
675 IAC 14-4.2-7	A	03-71	26 IR 3719		675 IAC 14-4.2-190.5	N	01-376	25 IR 1249	<b>26 IR 12</b>
675 IAC 14-4.2-9	A	03-71	26 IR 3719		675 IAC 14-4.2-191.1	N	01-376	25 IR 1249	<b>26 IR 13</b>
675 IAC 14-4.2-13.5	N	03-71	26 IR 3719		675 IAC 14-4.2-191.2	N	01-376	25 IR 1249	<b>26 IR 13</b>
675 IAC 14-4.2-15.5	N	03-71	26 IR 3719		675 IAC 14-4.2-191.3	N	01-376	25 IR 1249	<b>26 IR 13</b>
675 IAC 14-4.2-19.5	N	03-71	26 IR 3720		675 IAC 14-4.2-191.4	N	01-376	25 IR 1249	†† <b>26 IR 13</b>
675 IAC 14-4.2-20.5	A	03-71	26 IR 3720			A	03-71	26 IR 3736	
675 IAC 14-4.2-21	A	03-71	26 IR 3720		675 IAC 14-4.2-191.5	N	01-376		†† <b>26 IR 13</b>
675 IAC 14-4.2-22	A	03-71	26 IR 3721		675 IAC 14-4.2-192	R	03-71	26 IR 3737	
675 IAC 14-4.2-26.5	N	03-71	26 IR 3722		675 IAC 14-4.2-192.1	N	01-376	25 IR 1250	<b>26 IR 13</b>
675 IAC 14-4.2-27.5	A	03-71	26 IR 3722		675 IAC 14-4.2-192.2	N	01-376	25 IR 1251	<b>26 IR 13</b>
675 IAC 14-4.2-29	A	03-71	26 IR 3722		675 IAC 14-4.2-192.3	N	01-376	25 IR 1250	<b>26 IR 14</b>
675 IAC 14-4.2-31	A	03-71	26 IR 3722		675 IAC 14-4.2-192.4	N	01-376	25 IR 1250	<b>26 IR 14</b>
675 IAC 14-4.2-34	A	03-71	26 IR 3723		675 IAC 14-4.2-192.5	N	01-376	25 IR 1250	<b>26 IR 14</b>
675 IAC 14-4.2-37.5	N	03-71	26 IR 3724		675 IAC 14-4.2-192.6	N	01-376	25 IR 1250	<b>26 IR 14</b>
675 IAC 14-4.2-45.3	N	03-71	26 IR 3724		675 IAC 14-4.2-193.1	N	01-376	25 IR 1251	<b>26 IR 14</b>
675 IAC 14-4.2-46.8	N	03-71	26 IR 3724		675 IAC 14-4.2-193.2	N	01-376	25 IR 1251	<b>26 IR 14</b>
675 IAC 14-4.2-49.1	N	03-71	26 IR 3724		675 IAC 14-4.2-193.3	N	01-376	25 IR 1251	<b>26 IR 14</b>
675 IAC 14-4.2-49.3	N	03-71	26 IR 3724		675 IAC 14-4.2-193.4	N	01-376	25 IR 1251	<b>26 IR 14</b>
675 IAC 14-4.2-52	A	03-71	26 IR 3725		675 IAC 14-4.2-193.5	N	01-376	25 IR 1251	<b>26 IR 14</b>
675 IAC 14-4.2-53	A	03-71	26 IR 3725		675 IAC 14-4.2-194.1	N	01-376	25 IR 1251	<b>26 IR 15</b>
675 IAC 14-4.2-53.7	N	03-71	26 IR 3725		675 IAC 14-4.2-194.2	N	01-376	25 IR 1251	<b>26 IR 15</b>
675 IAC 14-4.2-61	A	03-71	26 IR 3726		675 IAC 14-4.2-194.3	N	01-376	25 IR 1251	<b>26 IR 15</b>
675 IAC 14-4.2-63	A	03-71	26 IR 3726		675 IAC 14-4.2-194.4	N	01-376	25 IR 1252	<b>26 IR 15</b>
675 IAC 14-4.2-69.5	N	03-71	26 IR 3726		675 IAC 14-4.2-194.5	N	01-376	25 IR 1252	<b>26 IR 15</b>
675 IAC 14-4.2-71	A	03-71	26 IR 3726		675 IAC 14-4.2-194.6	N	01-376	25 IR 1252	<b>26 IR 15</b>
675 IAC 14-4.2-73.5	N	03-71	26 IR 3727		675 IAC 14-4.2-194.7	N	01-376	25 IR 1252	<b>26 IR 15</b>
675 IAC 14-4.2-77.6	N	03-71	26 IR 3727		675 IAC 17-1.5	R	01-376	25 IR 1255	<b>26 IR 19</b>
675 IAC 14-4.2-77.7	N	03-71	26 IR 3727		675 IAC 17-1.6	N	01-376	25 IR 1252	<b>26 IR 15</b>
675 IAC 14-4.2-81.2	N	03-71	26 IR 3727		675 IAC 17-1.6-12	A	03-71	26 IR 3737	
675 IAC 14-4.2-81.3	N	03-71	26 IR 3727		675 IAC 17-1.6-16	A	03-71	26 IR 3737	
675 IAC 14-4.2-81.7	N	03-71	26 IR 3727		675 IAC 18-1.3	R	02-116	25 IR 3381	*ARR (26 IR 2376) <b>26 IR 2967</b>
675 IAC 14-4.2-82	A	03-71	26 IR 3727						*ARR (26 IR 2376) <b>26 IR 2952</b>
675 IAC 14-4.2-83	A	03-71	26 IR 3728		675 IAC 18-1.4	N	02-116	25 IR 3366	
					675 IAC 19-3-4	A	03-71	26 IR 3737	
					675 IAC 20-2-17	A	02-52	25 IR 2566	<b>26 IR 1100</b>
					675 IAC 20-2-20	A	02-52	25 IR 2566	<b>26 IR 1101</b>
					675 IAC 20-2-24	A	02-52	25 IR 2567	<b>26 IR 1102</b>

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675 IAC 20-2-26	A	02-52	25 IR 2567	<b>26 IR 1102</b>	760 IAC 1-50-2	A	03-160	27 IR 271	
675 IAC 20-3-5	A	02-52	25 IR 2568	<b>26 IR 1102</b>	760 IAC 1-50-3	A	03-160	27 IR 271	
675 IAC 20-3-6	A	02-52	25 IR 2568	<b>26 IR 1103</b>	760 IAC 1-50-4	A	03-160	27 IR 272	
675 IAC 20-3-7	A	02-52	25 IR 2569	<b>26 IR 1103</b>	760 IAC 1-50-5	A	03-160	27 IR 272	
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38) <b>26 IR 1083</b>	760 IAC 1-50-7	A	03-160	27 IR 273	
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38) <b>26 IR 1084</b>	760 IAC 1-50-13	A	03-160	27 IR 273	
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-50-13.5	A	03-160	27 IR 273	
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-1	A	03-7	26 IR 3398	<b>27 IR 505</b>
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-2	A	03-7	26 IR 3398	<b>27 IR 505</b>
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38) <b>26 IR 1085</b>	760 IAC 1-57-3	A	03-7	26 IR 3398	<b>27 IR 506</b>
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-4	A	03-7	26 IR 3399	<b>27 IR 506</b>
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-5	A	03-7	26 IR 3399	<b>27 IR 507</b>
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38) <b>26 IR 1085</b>	760 IAC 1-57-6	A	03-7	26 IR 3400	<b>27 IR 515</b>
675 IAC 21-1-8	R	01-430		†† <b>26 IR 1095</b>	760 IAC 1-57-7	R	03-7	26 IR 3408	<b>27 IR 508</b>
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38) <b>26 IR 1086</b>	760 IAC 1-57-8	A	03-7	26 IR 3401	<b>27 IR 512</b>
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38) <b>26 IR 1086</b>	760 IAC 1-57-9	A	03-7	26 IR 3405	<b>27 IR 514</b>
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-10	A	03-7	26 IR 3407	<b>26 IR 2326</b>
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38) <b>26 IR 1087</b>	760 IAC 1-59-1	A	02-124	26 IR 170	<b>26 IR 2326</b>
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38) <b>26 IR 1087</b>	760 IAC 1-59-2	A	02-124	26 IR 170	<b>26 IR 2327</b>
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38) <b>26 IR 1090</b>	760 IAC 1-59-3	A	02-124	26 IR 171	<b>26 IR 2327</b>
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38) <b>26 IR 1090</b>	760 IAC 1-59-4	A	02-124	26 IR 171	<b>26 IR 2327</b>
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38) <b>26 IR 1092</b>	760 IAC 1-59-5	A	02-124	26 IR 171	<b>26 IR 2328</b>
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38) <b>26 IR 1092</b>	760 IAC 1-59-6	A	02-124	26 IR 172	<b>26 IR 2329</b>
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-59-7	A	02-124	26 IR 172	<b>26 IR 2330</b>
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-59-8	A	02-124	26 IR 173	<b>26 IR 2330</b>
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38) <b>26 IR 1093</b>	760 IAC 1-59-9	A	02-124	26 IR 174	<b>26 IR 2330</b>
675 IAC 22-2.2	R	02-117	25 IR 3442	*ARR (26 IR 2376) <b>26 IR 3031</b>	760 IAC 1-59-10	A	02-124	26 IR 174	<b>26 IR 2330</b>
675 IAC 22-2.2-14	A	02-53	25 IR 2569	<b>26 IR 1553</b>	760 IAC 1-59-11	A	02-124	26 IR 174	<b>26 IR 2331</b>
675 IAC 22-2.3	N	02-117	25 IR 3382	*ARR (26 IR 2376) <b>26 IR 2968</b>	760 IAC 1-59-12	A	02-124	26 IR 175	<b>26 IR 2331</b>
675 IAC 25	N	02-118	25 IR 3444	*ARR (26 IR 2376) <b>26 IR 3032</b>	760 IAC 1-59-13	R	02-124	26 IR 177	<b>26 IR 2333</b>
TITLE 760 DEPARTMENT OF INSURANCE					760 IAC 1-59-14	A	02-124	26 IR 175	<b>26 IR 2331</b>
760 IAC 1-5	R	01-399	25 IR 2582	*AROC (26 IR 183) *ARR (26 IR 38) <b>26 IR 26</b>	760 IAC 1-68	N	02-137	26 IR 531	*AROC (26 IR 883) <b>26 IR 3035</b>
760 IAC 1-5.1	N	01-399	25 IR 2575	*AROC (26 IR 183) *ARR (26 IR 38) <b>26 IR 19</b>	760 IAC 1-69	N	03-8	26 IR 3945	
760 IAC 1-14	R	01-399	25 IR 2582	*ERR (26 IR 3345) *AROC (26 IR 183) *ARR (26 IR 38) <b>26 IR 26</b>	TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION				
760 IAC 1-21-2	A	02-299	26 IR 1724	*AROC (26 IR 3427)	762 IAC 2	N	02-24	25 IR 2301	*ARR (25 IR 4114) <b>26 IR 27</b>
760 IAC 1-21-5	A	02-299	26 IR 1724	*AROC (26 IR 3427)	TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS				
760 IAC 1-21-8	A	02-299	26 IR 1724	*AROC (26 IR 3427)	804 IAC 1.1-1-1	A	03-20	26 IR 3136	<b>27 IR 180</b>
					804 IAC 1.1-3-1	A	02-20	25 IR 3446	<b>26 IR 370</b>
					804 IAC 1.1-3-2	RA	03-43	26 IR 3148	*ERR (26 IR 793) <b>26 IR 3960</b>
					TITLE 808 STATE BOXING COMMISSION				
					808 IAC 2-6-1	A	02-120	25 IR 4210	<b>26 IR 1104</b>
					TITLE 816 BOARD OF BARBER EXAMINERS				
					816 IAC 1-3-1	A	02-320	26 IR 1725	<b>26 IR 3648</b>
					TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS				
					820 IAC 4-1-11	A	03-21	26 IR 3137	*AROC (26 IR 3426) <b>27 IR 515</b>
					820 IAC 4-4-5				*ERR (26 IR 1109)
					820 IAC 4-4-14				*ERR (26 IR 1109)
					820 IAC 6-1-3	A	03-21	26 IR 3137	*AROC (26 IR 3426) <b>27 IR 516</b>
					820 IAC 6-2-1				*ERR (26 IR 1109)
					820 IAC 6-3	N	03-21	26 IR 3137	*AROC (26 IR 3426) <b>27 IR 516</b>
					TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION				
					825 IAC 1	RA	02-176	25 IR 4220	<b>26 IR 1262</b>
					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	

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### TITLE 828 STATE BOARD OF DENTISTRY

828 IAC 0.5-2-3	A	02-114	25 IR 3452	<b>26 IR 376</b>
828 IAC 0.5-2-4	A	02-114	25 IR 3453	<b>26 IR 376</b>
828 IAC 0.5-2-6	N	02-112	25 IR 3447	<b>26 IR 371</b>
828 IAC 1-1-3	A	03-73	26 IR 3408	*CPH (26 IR 3904)
828 IAC 1-1-6	A	03-73	26 IR 3409	*CPH (26 IR 3904)
828 IAC 1-1-7	A	03-73	26 IR 3409	*CPH (26 IR 3904)
828 IAC 1-1-12	A	03-73	26 IR 3409	*CPH (26 IR 3904)
828 IAC 1-2-3	A	03-73	26 IR 3409	*CPH (26 IR 3904)
828 IAC 1-2-6	A	03-73	26 IR 3410	*CPH (26 IR 3904)
828 IAC 1-2-7	A	03-73	26 IR 3410	*CPH (26 IR 3904)
828 IAC 1-2-12	A	03-73	26 IR 3410	*CPH (26 IR 3904)
828 IAC 1-3-1	R	02-113	25 IR 3452	<b>26 IR 375</b>
828 IAC 1-3-1.1	N	02-113	25 IR 3450	<b>26 IR 373</b>
				*ERR (26 IR 383)
828 IAC 1-3-1.5	N	02-113	25 IR 3451	<b>26 IR 374</b>
828 IAC 1-3-2	A	02-113	25 IR 3452	<b>26 IR 375</b>
828 IAC 1-3-3	A	02-113	25 IR 3452	<b>26 IR 375</b>
828 IAC 1-5-1	A	02-112	25 IR 3448	<b>26 IR 371</b>
828 IAC 1-5-1.5	N	02-112	25 IR 3448	<b>26 IR 371</b>
828 IAC 1-5-2	A	02-112	25 IR 3448	<b>26 IR 372</b>
828 IAC 1-5-2.5	N	02-112	25 IR 3449	<b>26 IR 372</b>
828 IAC 1-6-1	A	02-112	25 IR 3449	<b>26 IR 373</b>
828 IAC 1-7-1	A	02-114	25 IR 3453	<b>26 IR 376</b>
828 IAC 1-7-2	N	02-114	25 IR 3453	<b>26 IR 377</b>

### TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD

830 IAC 1-2-1	RA	03-55	26 IR 3755
830 IAC 1-2-2	RA	03-55	26 IR 3755
830 IAC 1-2-3	RA	03-55	26 IR 3755
830 IAC 1-2-4	RA	03-55	26 IR 3755
830 IAC 1-2-5	RA	03-55	26 IR 3755
830 IAC 1-3	RA	03-55	26 IR 3755
830 IAC 1-4	RA	03-55	26 IR 3755
830 IAC 1-5	RA	03-55	26 IR 3755

### TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

832 IAC 2-1-2	A	02-147	26 IR 870	<b>26 IR 2622</b>
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### TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES

#### COMMISSION

836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807)
				<b>26 IR 2333</b>
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807)
				<b>26 IR 2335</b>
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807)
				<b>26 IR 2336</b>
836 IAC 1-2-1	A	02-91	25 IR 2813	*CPH (25 IR 3807)
				<b>26 IR 2337</b>
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807)
				<b>26 IR 2338</b>
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807)
				<b>26 IR 2339</b>
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 1-3-5	A	02-91	25 IR 2818	*CPH (25 IR 3807)
				<b>26 IR 2342</b>
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807)
				<b>26 IR 2343</b>
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 1-11-1	A	02-91	25 IR 2819	*CPH (25 IR 3807)
				<b>26 IR 2343</b>
836 IAC 1-11-2	A	02-91	25 IR 2820	*CPH (25 IR 3807)
				<b>26 IR 2344</b>
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807)
				<b>26 IR 2345</b>
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>

836 IAC 2	RA	01-40	24 IR 2580	
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807)
				<b>26 IR 2345</b>
836 IAC 2-2-1	A	02-91	25 IR 2824	*CPH (25 IR 3807)
				<b>26 IR 2348</b>
				*ERR (26 IR 2624)
836 IAC 2-7-1-1	A	02-91	25 IR 2826	*CPH (25 IR 3807)
				<b>26 IR 2350</b>
836 IAC 2-7-2	N	02-91	25 IR 2828	*CPH (25 IR 3807)
				<b>26 IR 2353</b>
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807)
				<b>26 IR 2357</b>
836 IAC 3	RA	01-40	24 IR 2580	
836 IAC 3-2-4	A	02-91	25 IR 2834	*CPH (25 IR 3807)
				<b>26 IR 2358</b>
836 IAC 3-2-5	A	02-91	25 IR 2835	*CPH (25 IR 3807)
				<b>26 IR 2360</b>
836 IAC 3-2-8	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 3-3-4	A	02-91	25 IR 2836	*CPH (25 IR 3807)
				<b>26 IR 2360</b>
836 IAC 3-3-5	A	02-91	25 IR 2837	*CPH (25 IR 3807)
				<b>26 IR 2362</b>
836 IAC 3-3-8	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807)
				<b>26 IR 2362</b>
836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807)
				<b>26 IR 2364</b>
836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
				<b>26 IR 2365</b>
836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
				<b>26 IR 2366</b>
836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807)
				<b>26 IR 2366</b>
836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807)
				<b>26 IR 2367</b>
836 IAC 4-6-1	N	02-91	25 IR 2843	*CPH (25 IR 3807)
				<b>26 IR 2368</b>
836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807)
				<b>26 IR 2368</b>
836 IAC 4-7-1	N	02-91	25 IR 2844	*CPH (25 IR 3807)
				<b>26 IR 2369</b>
836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807)
				<b>26 IR 2372</b>
836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>

### TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

839 IAC 1-2-2.1	A	02-271	26 IR 874	<b>26 IR 2622</b>
839 IAC 1-2-5	A	02-271	26 IR 875	<b>26 IR 2623</b>
839 IAC 1-3-2	A	02-270	26 IR 871	*ARR (26 IR 1945)
			26 IR 3411	<b>27 IR 517</b>
839 IAC 1-4-5	A	02-270	26 IR 871	*ARR (26 IR 1945)
			26 IR 3411	<b>27 IR 518</b>
839 IAC 1-5-1	A	02-270	26 IR 872	*ARR (26 IR 1945)
			26 IR 3412	<b>27 IR 518</b>
839 IAC 1-5-1.5	N	02-270	26 IR 874	*ARR (26 IR 1945)
			26 IR 3414	<b>27 IR 520</b>

## Rules Affected by Volumes 26 and 27

### TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

840 IAC 1-1-4	A	02-219	26 IR 540	<b>26 IR 1943</b>
840 IAC 1-1-6	A	03-189	27 IR 566	
840 IAC 1-2-1	A	03-190	27 IR 566	

### TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 2.2-2-1	A	02-180	26 IR 177	<b>26 IR 1558</b>
844 IAC 2.2-2-2	A	02-180	26 IR 178	<b>26 IR 1559</b>
844 IAC 2.2-2-5	A	02-180	26 IR 179	<b>26 IR 1560</b>
844 IAC 2.2-2-8	A	02-180	26 IR 179	<b>26 IR 1560</b>
844 IAC 4-1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-3.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-4.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-6	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-7	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-9	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-10	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.1-11	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-4.5	N	02-12	25 IR 2302	*CPH (25 IR 2746) <b>26 IR 28</b>
844 IAC 4-5-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-6-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-6-2.1	N	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-6-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-6-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 4-7-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>
844 IAC 5-1-1	A	02-268	26 IR 2117	<b>27 IR 521</b>
844 IAC 5-1-3	A	02-268	26 IR 2118	<b>27 IR 522</b>
844 IAC 5-3	N	02-268	26 IR 2118	<b>27 IR 522</b>
844 IAC 5-4	N	02-268	26 IR 2120	<b>27 IR 524</b>
				*ERR (27 IR 538)
844 IAC 6-1-4	A	01-431	25 IR 3454	<b>26 IR 377</b>
844 IAC 6-3-5	A	01-432	25 IR 3455	<b>26 IR 378</b>
844 IAC 6-4-1	A	02-181	26 IR 541	<b>26 IR 2373</b>

### TITLE 845 BOARD OF PODIATRIC MEDICINE

845 IAC 1-3-1	A	03-46	26 IR 2683	<b>27 IR 526</b>
845 IAC 1-3-2	A	03-46	26 IR 2683	<b>27 IR 526</b>
845 IAC 1-3-3	N	03-46	26 IR 2684	<b>27 IR 527</b>
845 IAC 1-4.1-1	A	03-46	26 IR 2684	<b>27 IR 527</b>
845 IAC 1-4.1-2	A	03-46	26 IR 2684	<b>27 IR 527</b>
845 IAC 1-4.1-4	R	03-46	26 IR 2686	<b>27 IR 528</b>
845 IAC 1-4.1-7	A	03-46	26 IR 2685	<b>27 IR 527</b>
845 IAC 1-5-1	A	03-46	26 IR 2685	<b>27 IR 527</b>
845 IAC 1-5-2	R	01-363	25 IR 3456	*I (26 IR 1104)
	R	02-341	26 IR 2682	<b>27 IR 525</b>

845 IAC 1-5-2.1	N	01-363	25 IR 3455	*I (26 IR 1104)
	N	02-341	26 IR 2682	<b>27 IR 525</b>
845 IAC 1-5-3	A	03-46	26 IR 2685	<b>27 IR 528</b>
845 IAC 1-6-8	R	03-47	26 IR 2686	<b>27 IR 529</b>
845 IAC 1-6-9	N	03-47	26 IR 2686	<b>27 IR 529</b>

### TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-2.1	A	02-247	26 IR 2124	<b>26 IR 3652</b>
848 IAC 1-1-6	A	02-247	26 IR 2124	<b>26 IR 3653</b>
848 IAC 1-1-7	A	02-247	26 IR 2125	<b>26 IR 3654</b>
848 IAC 1-1-14	A	02-239	26 IR 2123	<b>26 IR 3651</b>
848 IAC 5-1-1	A	03-34	26 IR 3947	
848 IAC 5-1-3	A	03-34	26 IR 3948	
848 IAC 6	N	02-183	26 IR 2121	<b>26 IR 3649</b>

### TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-1.1-4	A	02-131	25 IR 3869	<b>26 IR 1944</b>
852 IAC 1-13-1	A	02-132	25 IR 3869	<b>26 IR 2373</b>
852 IAC 1-13-2	A	02-132	25 IR 3870	<b>26 IR 2374</b>
852 IAC 1-17	N	02-133	25 IR 3870	<b>26 IR 1561</b>

### TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-27-1	A	03-191	27 IR 276	
856 IAC 1-33-1	A	03-154	26 IR 3949	
	A	03-154	27 IR 274	
856 IAC 1-33-1.5	N	03-154	27 IR 274	
856 IAC 1-33-2	A	03-154	26 IR 3949	
	A	03-154	27 IR 275	
856 IAC 1-33-4	A	03-154	26 IR 3950	
	A	03-154	27 IR 275	
856 IAC 1-33-5	N	03-154	27 IR 275	
856 IAC 1-35-1	A	02-172	25 IR 4211	<b>26 IR 1561</b>
856 IAC 1-35-4	A	02-172	25 IR 4212	<b>26 IR 1562</b>
856 IAC 1-35-6	R	02-172	25 IR 4212	<b>26 IR 1562</b>
856 IAC 2-7	N	02-258	26 IR 1725	<b>27 IR 181</b>

### TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

857 IAC 1-4-1	RA	02-78	25 IR 3883	<b>26 IR 546</b>
857 IAC 2-3-16	A	02-123	25 IR 3873	<b>26 IR 1104</b>

### TITLE 862 PRIVATE DETECTIVES LICENSING BOARD

862 IAC 1-1-6	A	02-302	26 IR 1728	<b>26 IR 3341</b>
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### TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-2	A	01-405	25 IR 2848	<b>26 IR 379</b>
	A	03-125	26 IR 3737	
864 IAC 1.1-2-4	A	01-405	25 IR 2849	<b>26 IR 380</b>
864 IAC 1.1-12-1	A	01-405	25 IR 2850	<b>26 IR 380</b>
864 IAC 1.1-14	N	03-125	26 IR 3739	

### TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-4-8	A	02-56	25 IR 3456	<b>26 IR 1105</b>
865 IAC 1-7-3	A	03-22	26 IR 3950	
865 IAC 1-10-23	R	03-22	26 IR 3958	
865 IAC 1-10-24	R	03-22	26 IR 3958	
865 IAC 1-12-2	A	03-22	26 IR 3951	
865 IAC 1-12-3	A	03-22	26 IR 3952	
865 IAC 1-12-5	A	03-22	26 IR 3952	
865 IAC 1-12-6	A	03-22	26 IR 3953	
865 IAC 1-12-7	A	03-22	26 IR 3953	
865 IAC 1-12-9	A	03-22	26 IR 3954	
865 IAC 1-12-10	A	03-22	26 IR 3954	
865 IAC 1-12-11	A	03-22	26 IR 3954	
865 IAC 1-12-12	A	03-22	26 IR 3954	
865 IAC 1-12-13	A	03-22	26 IR 3955	
865 IAC 1-12-14	A	03-22	26 IR 3956	
865 IAC 1-12-18	A	03-22	26 IR 3956	

## Rules Affected by Volumes 26 and 27

865 IAC 1-12-28	A	02-56	25 IR 3456	<b>26 IR 1105</b>	876 IAC 3-6-3	A	02-246	26 IR 1729	<b>26 IR 3044</b>
865 IAC 1-13-4	A	03-41	26 IR 3739		876 IAC 3-6-4	A	02-245	26 IR 3141	<b>27 IR 186</b>
865 IAC 1-13-7	A	03-41	26 IR 3739		876 IAC 3-6-9	A	02-148	25 IR 4214	<b>26 IR 1108</b>
865 IAC 1-13-20	R	03-41	26 IR 3740			A	03-196	27 IR 282	
865 IAC 1-14-13	A	03-41	26 IR 3740		876 IAC 4-1-3	A	01-427	25 IR 3876	<b>26 IR 791</b>
865 IAC 1-14-14	A	03-41	26 IR 3740		876 IAC 4-2-2	A	01-369	26 IR 180	<b>26 IR 788</b>
865 IAC 1-14-15	A	03-41	26 IR 3740		876 IAC 4-2-3	A	01-369	26 IR 180	<b>26 IR 788</b>
865 IAC 1-14-20	R	03-41	26 IR 3740		876 IAC 4-2-3.5	N	02-300	26 IR 1730	<b>26 IR 3342</b>
					876 IAC 4-2-9	A	01-369	26 IR 180	<b>26 IR 788</b>
TITLE 868 STATE PSYCHOLOGY BOARD									
868 IAC 2	N	03-60	26 IR 3741		TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD				
TITLE 872 INDIANA BOARD OF ACCOUNTANCY					880 IAC 1-2	R	02-269	26 IR 879	*AWR (26 IR 2377)
872 IAC 1-1-2	A	03-126	27 IR 277			R	03-53	26 IR 3422	<b>27 IR 537</b>
872 IAC 1-1-6.1	A	02-213	26 IR 2465	*AROC (26 IR 3150) *ARR (26 IR 3656) <b>26 IR 3881</b>	880 IAC 1-2.1	N	02-269	26 IR 876	*AWR (26 IR 2377)
						N	03-53	26 IR 3419	<b>27 IR 534</b>
872 IAC 1-1-6.2	A	03-126	27 IR 277		TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS				
872 IAC 1-1-6.4	A	03-126	27 IR 277		888 IAC 1.1-6-1	A	02-134	25 IR 3877	<b>26 IR 1563</b>
872 IAC 1-1-6.5	A	03-126	27 IR 278		888 IAC 1.1-6-3	A	02-135	25 IR 3878	
872 IAC 1-1-6.6	A	03-126	27 IR 278		888 IAC 1.1-10-1	RA	03-77	26 IR 3148	
872 IAC 1-1-8	A	03-126	27 IR 278		888 IAC 1.1-10-2	RA	03-77	26 IR 3148	
872 IAC 1-1-8.3	A	03-126	27 IR 279		888 IAC 1.1-10-3	RA	03-77	26 IR 3148	
872 IAC 1-1-9	A	03-126	27 IR 279		888 IAC 1.1-10-4	RA	03-77	26 IR 3148	
872 IAC 1-1-9.5	A	03-126	27 IR 279		888 IAC 1.1-11	N	02-136	25 IR 3879	<b>26 IR 1563</b>
872 IAC 1-1-10	A	02-301	26 IR 2126	<b>26 IR 3654</b>	TITLE 905 ALCOHOL AND TOBACCO COMMISSION				
	A	03-126	27 IR 279		905 IAC 1-5.2-9	R	03-38	26 IR 2688	
872 IAC 1-1-12	A	02-213	26 IR 2466	*AROC (26 IR 3150) *ARR (26 IR 3656) <b>26 IR 3882</b>	905 IAC 1-5.2-9.1	N	03-38	26 IR 2687	
					905 IAC 1-5.2-9.2	N	03-38	26 IR 2687	
	A	03-126	27 IR 280		905 IAC 1-11.1-1	A	03-39	26 IR 2688	
872 IAC 1-1-14	A	03-126	27 IR 280		905 IAC 1-11.1-2	A	03-39	26 IR 2688	
872 IAC 1-1-17	R	03-126	27 IR 282		905 IAC 1-13-3	A	03-40	26 IR 2689	
872 IAC 1-1-19	A	03-126	27 IR 281		905 IAC 1-13-6	N	03-40	26 IR 2689	
872 IAC 1-1-22	R	03-126	27 IR 282		905 IAC 1-15.2-3	A	03-94	26 IR 3745	
872 IAC 1-1-23	R	03-126	27 IR 282		905 IAC 1-35.1	N	03-96	26 IR 3745	
872 IAC 1-1-25	A	03-126	27 IR 282		905 IAC 1-36-2	A	03-97	26 IR 3747	
872 IAC 1-3-14	A	02-213	26 IR 2466	*AROC (26 IR 3150) *ARR (26 IR 3656) <b>26 IR 3882</b>	905 IAC 1-39	RA	02-272	26 IR 545	<b>26 IR 1735</b>
					905 IAC 1-40	RA	02-272	26 IR 545	<b>26 IR 1735</b>
872 IAC 1-4	N	02-301	26 IR 2127	<b>26 IR 3655</b>	905 IAC 1-41	RA	02-272	26 IR 545	<b>26 IR 1735</b>
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876 IAC 1-1-30.1	N	02-244	26 IR 2127	<b>26 IR 3342</b>		N	03-120		*ETR (26 IR 3363)
876 IAC 1-4-1	A	03-42	26 IR 3142	<b>27 IR 186</b>		N	03-158		*ETR (26 IR 3364)
876 IAC 1-4-2	A	01-427	25 IR 3874	<b>26 IR 789</b>		N	03-208		*ETR (26 IR 3899)
	A	03-42	26 IR 3142	<b>27 IR 186</b>	Education Savings Authority, Indiana				
876 IAC 2-16-1	A	02-244	26 IR 2127	<b>26 IR 3342</b>		N	02-256		*ETR (26 IR 59)
876 IAC 3-2-4	A	02-148	25 IR 4213	<b>26 IR 1106</b>		N	02-307		*ETR (26 IR 808)
876 IAC 3-2-5	A	02-148	25 IR 4213	<b>26 IR 1107</b>	Family and Social Services, Office of the Secretary of				
876 IAC 3-2-7	A	02-148	25 IR 4213	<b>26 IR 1107</b>		N	02-278		*ETR (26 IR 396)
876 IAC 3-3-3	A	03-23	26 IR 3415	<b>27 IR 530</b>		N	02-279		*ETR (26 IR 396)
876 IAC 3-3-4	A	03-23	26 IR 3416	<b>27 IR 531</b>		N	02-280		*ETR (26 IR 406)
876 IAC 3-3-5	A	03-23	26 IR 3417	<b>27 IR 532</b>		N	02-281		*ETR (26 IR 407)
876 IAC 3-3-6				*ERR (26 IR 1109)		A	03-181		*ETR (26 IR 3664)
876 IAC 3-3-21				*ERR (26 IR 1109)		A	03-182		*ETR (26 IR 3667)
876 IAC 3-3-22	A	02-148	25 IR 4214	<b>26 IR 1107</b>		N	03-265		*ETR (27 IR 544)
876 IAC 3-4-8	A	03-23	26 IR 3418	<b>27 IR 533</b>		N	03-266		*ETR (27 IR 546)
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876 IAC 3-5-1.5	A	02-245	26 IR 3140	<b>27 IR 185</b>	Health, Indiana State Department of				
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876 IAC 3-5-7	A	02-245	26 IR 3141	<b>27 IR 185</b>		N	03-2		*ETR (26 IR 1956)
876 IAC 3-6-2	A	02-246	26 IR 1728	<b>26 IR 3043</b>		N	03-86		*ETR (26 IR 2638)
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N 02-348	*ETR (26 IR 1577)	Utility Regulatory Commission, Indiana	
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## \*Key:

A:	Amended Text
AGA:	Attorney General's Action
AROC:	Administrative Rules Oversight Committee Notice
ARR:	Agency Recalls Rule
AWR:	Agency Withdrew Rule
CPH:	Change in Public Hearing
DAG:	Disapproved by Attorney General
DG:	Disapproved by Governor
ER:	Emergency Rule
ERR:	Errata
ETR:	Emergency Temporary Rule
ETS:	Emergency Temporary Standard
GRAT:	Governor Requires Additional Time
I:	Document Ineffective
N:	New Text
NRA:	Notice of Rule Adoption
OAC:	Objection to Errata
ON:	Other Notices of Administrative Action
R:	Repealed Text
RA:	Readopted Rule
SAC:	Solicitation of Advance Comment
SPE:	Statutory Period for Promulgation Expired
SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
††:	Renumbered or Added in Final Rule

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

\*The index is cumulative for all proposed and final rulemaking actions published after September 1, 2002. Final rules published before that date have been incorporated into the 2003 edition of the Indiana Administrative Code. 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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	<b>26 IR 3882</b>		<b>26 IR 3313</b>	Initial training course	
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Licensing Applicability 326 IAC 23-2-1	26 IR 2414 <b>27 IR 467</b>	Lead abatement procedures; interior 326 IAC 23-4-7	26 IR 2434 <b>27 IR 486</b>	Motor vehicle inspection and maintenance re- quirements Definitions 326 IAC 13-1.1-1	26 IR 2062
Compliance requirements for lead-based paint activities contractors 326 IAC 23-2-6	26 IR 2419 <b>27 IR 471</b>	Lead-based paint abatement disposal procedures 326 IAC 23-4-11	26 IR 2435 <b>27 IR 488</b>	Facility and testing requirements 326 IAC 13-1.1-14	26 IR 2065
Duplicate lead-based paint program licenses 326 IAC 23-2-9	26 IR 2422 <b>27 IR 474</b>	Lead hazard screen 326 IAC 23-4-3	26 IR 2429 <b>27 IR 482</b>	Facility quality assurance program 326 IAC 13-1.1-16	26 IR 2066
Fees 326 IAC 23-2-8	26 IR 2421 <b>27 IR 474</b>	Post-abatement clearance procedures 326 IAC 23-4-9	26 IR 2434 <b>27 IR 487</b>	Test reports; repair forms 326 IAC 13-1.1-13	26 IR 2064
Lead-based paint license reciprocity 326 IAC 23-2-6.5	26 IR 2419 <b>27 IR 472</b>	Record keeping 326 IAC 23-4-13	26 IR 2435 <b>27 IR 488</b>	Testing procedures and standards 326 IAC 13-1.1-8	26 IR 2063
Lead-based paint license revocation; denial 326 IAC 23-2-7	26 IR 2420 <b>27 IR 473</b>	Risk assessment 326 IAC 23-4-4	26 IR 2430 <b>27 IR 483</b>	Waivers and compliance through diagnostic inspection 326 IAC 13-1.1-10	26 IR 2063
License; application 326 IAC 23-2-4	26 IR 2416 <b>27 IR 469</b>			<b>Nitrogen oxide rules</b> Nitrogen oxides budget trading program Applicability 326 IAC 10-4-1	26 IR 1134 <b>26 IR 3551</b>
				Compliance supplement pool 326 IAC 10-4-15	26 IR 1156 <b>26 IR 3572</b>

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Definitions		Federally enforceable state operating permit program		Shipbuilding or ship repair operations in Clark, Floyd, Lake, and Porter Counties	
326 IAC 10-4-2	26 IR 1136	Permit application		Compliance requirements	
	<b>26 IR 3552</b>	326 IAC 2-8-3	26 IR 2008	326 IAC 8-12-5	26 IR 2052
Individual opt-ins		Part 70 permit program		Definitions	
326 IAC 10-4-13	26 IR 1152	Permit issuance, renewal, and revisions		326 IAC 8-12-3	26 IR 2050
	<b>26 IR 3568</b>	326 IAC 2-7-8	26 IR 2006	Record keeping, notification, and reporting requirements	
NO <sub>x</sub> allowance allocations		Permit requirement		326 IAC 8-12-7	26 IR 2054
326 IAC 10-4-9	26 IR 1142	326 IAC 2-7-3	26 IR 2006	Test methods and procedures	
	<b>26 IR 3558</b>	Permit review by the U.S. EPA		326 IAC 8-12-6	26 IR 2053
NO <sub>x</sub> allowance banking		326 IAC 2-7-18	26 IR 2007	Sinter plants	
326 IAC 10-4-14	26 IR 1155	Prevention of significant deterioration		Test procedures	
	<b>26 IR 3572</b>	Ambient air ceilings		326 IAC 8-13-5	26 IR 2054
NO <sub>x</sub> allowance tracking system		326 IAC 2-2-16	26 IR 1999	Specific VOC reduction requirements for Lake, Porter, Clark, and Floyd Counties	
326 IAC 10-4-10	26 IR 1148	Area designation and redesignation		Applicability	
	<b>26 IR 3565</b>	326 IAC 2-2-13	26 IR 1998	326 IAC 8-7-2	24 IR 2755
Nitrogen oxides control in Clark and Floyd Counties		Increment consumption; requirements		Certification, record keeping, and reporting requirements for coating facilities	
Compliance procedures		326 IAC 2-2-6	27 IR 256	326 IAC 8-7-6	24 IR 2758
326 IAC 10-1-5	26 IR 2059	Definitions		Compliance methods	
Definitions		326 IAC 2-2-1	27 IR 250	326 IAC 8-7-4	24 IR 2756
326 IAC 10-1-2	26 IR 2056	Permit rescission		Compliance plan	
Emissions limits		326 IAC 2-2-12	27 IR 257	326 IAC 8-7-5	24 IR 2758
326 IAC 10-1-4	26 IR 2057	Source specific operating agreement program		Control system monitoring, record keeping, and reporting	
Emissions monitoring		Coal mines and coal preparation plants		326 IAC 8-7-10	24 IR 2759
326 IAC 10-1-6	26 IR 2059	326 IAC 2-9-10	26 IR 2013	Control system operation, maintenance, and testing	
Nitrogen oxides reduction program for specific source categories		Crushed stone processing plants		326 IAC 8-7-9	24 IR 2758
Applicability		326 IAC 2-9-8	26 IR 2010	Definitions	
326 IAC 10-3-1	26 IR 1134	External combustion sources		326 IAC 8-7-1	24 IR 2754
	<b>26 IR 3550</b>	326 IAC 2-9-13	26 IR 2014	Emission limits	
<b>Opacity regulations</b>		Ready-mix concrete batch plants		326 IAC 8-7-3	24 IR 2755
Limitations		326 IAC 2-9-9	26 IR 2011	General record keeping and reports	
Compliance determination		Sand and gravel plants		326 IAC 8-7-8	24 IR 2758
326 IAC 5-1-4	26 IR 2026	326 IAC 2-9-7	26 IR 2009	Test methods and procedures	
Opacity limitations		<b>State environmental policy</b>		326 IAC 8-7-7	24 IR 2758
326 IAC 5-1-2	26 IR 2025	General conformity		26 IR 2036	
Violations		Applicability; incorporation by reference of federal standards		Surface coating emission limitations	
326 IAC 5-1-5	26 IR 2026	326 IAC 16-3-1	26 IR 2084	Miscellaneous metal coating operation	
<b>Particulate rules</b>		<b>Stratospheric ozone protection</b>		326 IAC 8-2-9	25 IR 3241
Nonattainment area limitations		General provisions			<b>26 IR 1078</b>
Applicability		Incorporation of federal regulation		Volatile organic liquid storage vessels	
326 IAC 6-1-1	25 IR 710	326 IAC 22-1-1	26 IR 2098	Applicability	
Lake County PM <sub>10</sub> coke battery emission requirements		<b>Sulfur dioxide rules</b>		326 IAC 8-9-1	24 IR 2760
326 IAC 6-1-10.2	26 IR 1994	Compliance		Definitions	
	<b>27 IR 85</b>	Methods to determine compliance; reporting requirements		326 IAC 8-9-3	24 IR 2760
Lake County PM <sub>10</sub> emission requirements		326 IAC 7-2-1	26 IR 2028	26 IR 2037	
326 IAC 6-1-10.1	26 IR 1970	Emission limitations and requirements by county		Exemptions	
	<b>27 IR 61</b>	Warrick County		326 IAC 8-9-2	24 IR 2760
Wayne County		326 IAC 7-4-10	26 IR 2029	Record keeping and reporting requirements	
326 IAC 6-1-14	26 IR 98	<b>Volatile organic compounds</b>		326 IAC 8-9-6	24 IR 2765
	<b>26 IR 2318</b>	Automobile refinishing		26 IR 2042	
<b>Permit review rules</b>		Test procedures		Standards	
Emission offset		326 IAC 8-10-7	26 IR 2044	326 IAC 8-9-4	24 IR 2761
Definitions		General provisions		26 IR 2038	
326 IAC 2-3-1	26 IR 2000	Compliance methods		Testing and procedures	
Emission reporting		326 IAC 8-1-2	25 IR 2754	326 IAC 8-9-5	24 IR 2763
Applicability			<b>26 IR 1073</b>	26 IR 2040	
326 IAC 2-6-1	24 IR 3699	Testing procedures		Wood furniture coatings	
Compliance schedule		326 IAC 8-1-4	26 IR 2030	Applicability	
326 IAC 2-6-3	24 IR 3702	Petroleum sources		326 IAC 8-11-1	24 IR 2767
Definitions		Gasoline dispensing facilities		Compliance procedures and monitoring	
326 IAC 2-6-2	24 IR 3700	326 IAC 8-4-6	26 IR 2032	326 IAC 8-11-6	24 IR 2771
Requirements		Leaks from transports and vapor collection systems; records		26 IR 2046	
326 IAC 2-6-4	24 IR 3703	326 IAC 8-4-9	26 IR 2035		
26 IR 2005					
Violations					
326 IAC 2-6-5	24 IR 3705				

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Continuous compliance plan 326 IAC 8-11-5	24 IR 2771	CWD positive, CWD suspect, and CWD ex- posed animals 345 IAC 2-7-5	25 IR 2001 25 IR 2778 <b>26 IR 349</b>	Labeling 345 IAC 8-3-10	25 IR 2771 <b>26 IR 342</b>
Definitions 326 IAC 8-11-2	24 IR 2767 26 IR 2044	Definitions 345 IAC 2-7-1	25 IR 1998 25 IR 2775 <b>26 IR 346</b>	<b>Domestic animal disease control</b> Importation of domestic animals LSA Document #03-158(E)	<b>26 IR 3364</b> <b>26 IR 3899</b>
Emission limits 326 IAC 8-11-3	24 IR 2769	Herd registration 345 IAC 2-7-3	25 IR 1999 25 IR 2776 <b>26 IR 347</b>	Applicants and shipper, duties; violations; penalties 345 IAC 1-3-32	26 IR 3104 <b>27 IR 90</b>
Provisions for sources electing to use emissions averaging 326 IAC 8-11-10	24 IR 2777	Interstate movement 345 IAC 2-7-2.4	26 IR 3107 <b>27 IR 92</b>	Certificate of veterinary inspection and permit required for importation 345 IAC 1-3-4	25 IR 4172 <b>26 IR 1525</b> 25 IR 4171 <b>26 IR 1524</b>
Record keeping requirements 326 IAC 8-11-8	24 IR 2775	Intrastate movement 345 IAC 2-7-2.5	26 IR 3107 <b>27 IR 92</b>	Chronic wasting disease LSA Document #03-120(E)	<b>26 IR 3360</b> 25 IR 1997 25 IR 2774 <b>26 IR 345</b> 26 IR 3102 <b>27 IR 87</b>
Reporting requirements 326 IAC 8-11-9	24 IR 2776	<b>Dairy products</b> Drug residues and other adulterations Drug residues 345 IAC 8-4-1	25 IR 2771 <b>26 IR 342</b>	Chronic wasting disease; carcasses 345 IAC 1-3-31	26 IR 3104 <b>27 IR 89</b>
Test procedures 326 IAC 8-11-7	24 IR 2775 26 IR 2050	Production, handling, processing, packaging, and distribution of milk and milk products Bulk milk collection; pick-up tankers 345 IAC 8-2-4	25 IR 2767 <b>26 IR 338</b>	Definitions 345 IAC 1-3-1.5	25 IR 1996
Work practice standards 326 IAC 8-11-4	24 IR 2770	Definitions 345 IAC 8-2-1.1	25 IR 2758 <b>26 IR 329</b>	Feeder pigs 345 IAC 1-3-14	25 IR 4173 <b>26 IR 1526</b>
<b>ALCOHOL AND TOBACCO COMMISSION</b> <b>Auto race tracks</b> 905 IAC 1-35.1	26 IR 3745	“General requirement; permits” defined 345 IAC 8-2-1.9	25 IR 2761 <b>26 IR 332</b>	Identification required; exceptions 345 IAC 1-3-3	25 IR 4170 <b>26 IR 1523</b>
<b>Beer kegs; tracking</b> 905 IAC 1-45	26 IR 2128 <b>27 IR 189</b>	Manufactured grade dairy farms; construction; operation; sanitation 345 IAC 8-2-3	25 IR 2764 <b>26 IR 335</b>	Interstate movement of swine within a produc- tion system 345 IAC 1-3-16.5	25 IR 4174 <b>26 IR 1527</b>
<b>Clubs</b> Requirement to publicly post operating dates 905 IAC 1-13-6	26 IR 2689	Manufactured grade milk products plants; construction; operation; sanitation 345 IAC 8-2-2	25 IR 2762 <b>26 IR 333</b>	Rabies vaccination required for dogs, cats, and ferrets 345 IAC 1-3-22	26 IR 3108 <b>27 IR 490</b>
Service to nonmembers 905 IAC 1-13-3	26 IR 2689	“Milk products” defined 345 IAC 8-2-1.5	25 IR 2760 <b>26 IR 331</b>	Slaughter swine; consignment 345 IAC 1-3-15	25 IR 4173 <b>26 IR 1527</b>
<b>Minors</b> Loitering 905 IAC 1-15.2-3	26 IR 3745	Milk transportation 345 IAC 8-2-3.5	25 IR 2766 <b>26 IR 337</b>	Swine identification, certificate of veterinary inspection, and permit 345 IAC 1-3-11	25 IR 4171 <b>26 IR 1524</b>
<b>Procedure after local board investigation and recommendation</b> Review of local alcoholic beverage board’s ap- proval or denial of an application for an alco- holic beverage permit 905 IAC 1-36-2	26 IR 3747	“Pasteurization”; “ultra pasteurization”; “asep- tic processing” defined 345 IAC 8-2-1.7	25 IR 2760 <b>26 IR 331</b>	Swine herd infected with Pseudorabies; trans- portation into Indiana prohibited 345 IAC 1-3-12	25 IR 4172 <b>26 IR 1525</b>
<b>Temporary beer/wine permit fees</b> Permits 905 IAC 1-11.1-1	26 IR 2688	Standards for milk and milk products and Grade A standards Grade A milk plant standards 345 IAC 8-3-9	25 IR 2770 <b>26 IR 341</b>	Rabies immunization Vaccination 345 IAC 1-5-1	26 IR 3108 <b>27 IR 491</b>
Qualification requirements 905 IAC 1-11.1-2	26 IR 2688	Grade A milk production and storage 345 IAC 8-3-2	25 IR 2770 <b>26 IR 341</b>	Reportable diseases Individual and veterinarian responsibility 345 IAC 1-6-2	26 IR 3105 <b>27 IR 90</b>
<b>Trade practices; permissible activity between primary sources of supply, wholesalers, and retailers</b> Samples Consumer product sampling 905 IAC 1-5.2-9.2	26 IR 2687	Incorporation by reference; standards 345 IAC 8-3-1	25 IR 2769 <b>26 IR 340</b>	Laboratory responsibility 345 IAC 1-6-3	26 IR 3105 <b>27 IR 90</b>
Wholesale to retail 905 IAC 1-5.2-9.1	26 IR 2687				
<b>AMBULANCES; AMBULANCE SERVICE PROVIDERS</b> (See <b>EMERGENCY MEDICAL SERVICES COMMISSION, INDIANA</b> )					
<b>ANIMAL HEALTH, INDIANA STATE BOARD OF</b> LSA Document #03-209(E)	<b>26 IR 3900</b>				
<b>Cattle, goats, and other tuberculosis of brucellosis carrying animals</b> Chronic wasting disease Certified herd status 345 IAC 2-7-4	25 IR 2000 25 IR 2777 <b>26 IR 348</b>				

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<b>Livestock dealers</b>		Suspect animals prohibited		<b>ATTORNEY GENERAL FOR THE STATE,</b>
Disposal of dead animals		345 IAC 7-5-6	25 IR 4184	<b>OFFICE OF</b>
Composting			<b>26 IR 1537</b>	<b>Tort claims</b>
345 IAC 7-7-3.5	25 IR 1993	Vaccinations and tests for dogs and cats		Claim forms available
	25 IR 4168	345 IAC 7-5-22	25 IR 4186	10 IAC 3-1-2 26 IR 3911
	<b>26 IR 695</b>		<b>26 IR 1539</b>	Tort claims against the state; form
<b>Definitions</b>		<b>Meat and meat products inspection</b>		10 IAC 3-1-1 26 IR 3909
345 IAC 7-7-1.5	25 IR 1991	Incorporation by reference		<b>Unclaimed property</b>
	25 IR 4166	345 IAC 9-2.1-1	25 IR 4187	Filing dates for reports required to be filed
	<b>26 IR 693</b>		<b>26 IR 1540</b>	10 IAC 1.5-6 26 IR 3374
<b>Disposal methods</b>		<b>Poultry and poultry products inspection</b>		<b>27 IR 450</b>
345 IAC 7-7-3	25 IR 1992	Incorporation by reference		
	25 IR 4167	345 IAC 10-2.1-1	25 IR 4188	<b>ATTORNEY GENERAL'S OPINIONS</b>
	<b>26 IR 694</b>		<b>26 IR 1541</b>	(See Cumulative Table of Executive Orders and Attorney General's Opinions at 27 IR 377)
<b>Exemptions or license required</b>		<b>Swine</b>		
345 IAC 7-7-2	25 IR 1991	Swine Pseudorabies testing, control, and eradication; Pseudorabies—qualified herds		<b>BARBER EXAMINERS, BOARD OF</b>
	25 IR 4166	Additions to qualified or qualified negative gene-altered vaccinated herd; monitoring		<b>Barber schools and shops</b>
	<b>26 IR 693</b>	345 IAC 3-5.1-4	25 IR 4177	Fees and examinations
<b>Inspections of carnivore feeding licensees</b>			<b>26 IR 1530</b>	816 IAC 1-3-1 26 IR 1725
345 IAC 7-7-9	25 IR 1994	<b>Definitions</b>		<b>26 IR 3648</b>
<b>License; denial, suspension, or revocation</b>		345 IAC 3-5.1-1.2	25 IR 4175	
345 IAC 7-7-10	25 IR 1994		<b>26 IR 1528</b>	<b>BOXING COMMISSION, STATE</b>
	25 IR 4169	High risk herds		Boxing and other ring exhibitions
	<b>26 IR 696</b>	345 IAC 3-5.1-6	25 IR 4177	License fees
<b>Transportation for carnivore feeding</b>			<b>26 IR 1531</b>	Two year license validation
345 IAC 7-7-5	25 IR 1993	Interstate movement of swine		808 IAC 2-6-1 25 IR 4210
	25 IR 4168	345 IAC 3-5.1-3.5	25 IR 4177	<b>26 IR 1104</b>
	<b>26 IR 696</b>		<b>26 IR 1530</b>	<b>BUILDING AND CONSTRUCTION</b>
<b>Unloading trucks</b>		Intrastate movement of swine		(See <b>FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b> )
345 IAC 7-7-4	25 IR 1993	345 IAC 3-5.1-3	25 IR 4176	
	25 IR 4168		<b>26 IR 1529</b>	<b>BUILDING CODE</b>
	<b>26 IR 695</b>	Pseudorabies program standards; adoption by reference		(See <b>FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b> )
<b>Vehicle requirements</b>		345 IAC 3-5.1-1.5	25 IR 4176	
345 IAC 7-7-7	25 IR 1994		<b>26 IR 1529</b>	<b>CEMETERIES AND BURIAL GROUNDS</b>
	25 IR 4169	Pseudorabies vaccine; sale and use; reports		(See <b>NATURAL RESOURCES COMMISSION</b> )
	<b>26 IR 696</b>	345 IAC 3-5.1-10	25 IR 4181	
<b>Exhibition of domestic animals and poultry</b>			<b>26 IR 1534</b>	<b>CHARITY GAMING</b>
Cervidae exhibition		Quarantined herd cleanup		(See <b>REVENUE, DEPARTMENT OF STATE</b> )
345 IAC 7-5-28	25 IR 4186	345 IAC 3-5.1-8.7	25 IR 4180	
	<b>26 IR 1540</b>		<b>26 IR 1533</b>	<b>CHILD CARE CENTERS</b>
<b>Definitions</b>		Release of quarantine; testing		(See <b>FAMILY AND CHILDREN, DIVISION OF—Child welfare services</b> )
345 IAC 7-5-1	25 IR 4182	345 IAC 3-5.1-7	25 IR 4178	
	<b>26 IR 1535</b>		<b>26 IR 1531</b>	<b>COAL MINING</b>
<b>Determination of eligibility of animal</b>		Report by veterinarian; determination of status; special permits		(See <b>NATURAL RESOURCES COMMISSION—Coal mining and reclamation operations</b> )
345 IAC 7-5-7	25 IR 4184	345 IAC 3-5.1-2	25 IR 4176	
	<b>26 IR 1537</b>		<b>26 IR 1529</b>	<b>COLLEGE WORK-STUDY PROGRAMS</b>
<b>Exhibition limitations</b>		Swine herd monitoring		(See <b>STATE STUDENT ASSISTANCE COMMISSION</b> )
345 IAC 7-5-2.1	25 IR 4183	345 IAC 3-5.1-8.5	25 IR 4179	
	<b>26 IR 1536</b>		<b>26 IR 1533</b>	<b>COMMUNITY RESIDENTIAL FACILITIES COUNCIL</b>
<b>Health certificate required</b>		<b>ARCHITECTS AND LANDSCAPE ARCHITECTS, BOARD OF REGISTRATION FOR</b>		<b>Supported living services and supports</b>
345 IAC 7-5-2.5	25 IR 4183	<b>Code of conduct</b>		431 IAC 7 26 IR 2107
	<b>26 IR 1536</b>	Fees		<b>26 IR 3640</b>
<b>Identification and description</b>		Fees charged by board		
345 IAC 7-5-9	25 IR 4184	804 IAC 1.1-3-1	25 IR 3446	
	<b>26 IR 1538</b>		<b>26 IR 370</b>	<b>CONFINED FEEDING PROGRAM</b>
<b>Isolation of domestic animals from</b>		General provisions		(See <b>WATER POLLUTION CONTROL BOARD</b> )
Pseudorabies premises		Definitions and abbreviations		
345 IAC 7-5-11	25 IR 4185	804 IAC 1.1-1-1	26 IR 3136	
	<b>26 IR 1538</b>		<b>27 IR 180</b>	
<b>Poultry exhibition rules</b>				
345 IAC 7-5-24	25 IR 4186			
	<b>26 IR 1539</b>			
<b>Pseudorabies tests for swine</b>				
345 IAC 7-5-15.1	25 IR 4185			
	<b>26 IR 1538</b>			

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

**CONSUMER PROTECTION DIVISION OF  
THE OFFICE OF THE ATTORNEY GENERAL**

**Professional fundraiser consultants and professional solicitors**

11 IAC 3 26 IR 3911

**Telephone numbers not to be solicited; list**

Access to the telephone privacy list

Fee for obtaining telephone privacy list

11 IAC 2-6-1 25 IR 3213

**26 IR 6**

Information contained in published telephone privacy list

11 IAC 2-6-5 25 IR 3213

**26 IR 6**

Unauthorized duplication or dissemination of telephone privacy list prohibited

11 IAC 2-6-6 25 IR 3213

**26 IR 6**

Removal of telephone numbers from the telephone privacy list

Obtaining changed, transferred, and disconnected telephone numbers

11 IAC 2-5-5 26 IR 1598

**Telephone solicitations**

Definitions

Existing debt or contract

11 IAC 1-1-3.5 26 IR 420

**26 IR 2300**

**CONTROLLED SUBSTANCES**

(See **PHARMACY, INDIANA BOARD OF**)

**CORRECTION, DEPARTMENT OF**

**General provisions**

Collection, maintenance, and release of offender and juvenile records

Access to information

210 IAC 1-6-6 26 IR 820

**26 IR 3541**

Challenge of information by offender; investigation; change of record

210 IAC 1-6-5 26 IR 819

**26 IR 3540**

Classification of information

210 IAC 1-6-2 26 IR 818

**26 IR 3539**

Definitions

210 IAC 1-6-1 26 IR 817

**26 IR 3538**

Inspection rights of offenders and juveniles

210 IAC 1-6-4 26 IR 818

**26 IR 3539**

Research purposes; request for access to information

210 IAC 1-6-7 26 IR 821

**26 IR 3542**

Offender tort claim process

210 IAC 1-10 26 IR 821

**26 IR 3542**

**Juvenile detention facilities**

Administration and management

Compliance

210 IAC 6-3-11 25 IR 4155

**26 IR 1068**

Compliance with mandatory and physical plant

standards

210 IAC 6-3-10 25 IR 4155

**26 IR 1068**

Construction of juvenile detention facilities

210 IAC 6-3-9 25 IR 4155

**26 IR 1067**

Facility services

210 IAC 6-3-4 25 IR 4154

**26 IR 1066**

General provisions

210 IAC 6-3-1 25 IR 4152

**26 IR 1064**

Institutional operations

210 IAC 6-3-3 25 IR 4153

**26 IR 1065**

Juvenile services

210 IAC 6-3-5 25 IR 4155

**26 IR 1067**

Physical plant

210 IAC 6-3-2 25 IR 4153

**26 IR 1065**

Applicability

210 IAC 6-1-1 25 IR 4152

**26 IR 1064**

Definitions

Department

210 IAC 6-2-3 25 IR 4152

**26 IR 1064**

Dispositional program

210 IAC 6-2-4 25 IR 4152

**26 IR 1064**

Existing facility

210 IAC 6-2-5 25 IR 4152

**26 IR 1064**

Standard

210 IAC 6-2-13 25 IR 4152

**26 IR 1064**

**Release authority for juveniles**

Release procedure

Community supervision or discharge; consideration, reviews, denials, conditions statement

210 IAC 5-1-3 26 IR 824

**26 IR 3545**

Community supervision revocation

210 IAC 5-1-4 26 IR 827

**26 IR 3548**

Definitions; administrative procedures

210 IAC 5-1-1 26 IR 823

**26 IR 3544**

Release recommendation by the facility; committee criterion for granting release

210 IAC 5-1-2 26 IR 824

**26 IR 3545**

**COSMETOLOGY EXAMINERS, STATE BOARD OF**

**Continuing Education**

Approved cosmetology educators

Certificate of course completion

820 IAC 6-1-3 26 IR 3137

**27 IR 516**

**Cosmetology schools**

General Requirements

"Graduation" defined

820 IAC 4-1-11 26 IR 3137

**27 IR 515**

**Distance learning continuing education**

820 IAC 6-3 26 IR 3137

**27 IR 516**

**DAIRY PRODUCTS**

(See **ANIMAL HEALTH, INDIANA STATE BOARD OF**)

**DEAF AND HARD OF HEARING**

**Interpreter standards**

Certification requirements

460 IAC 2-3-3 25 IR 2287

**26 IR 748**

Definitions and acronyms

460 IAC 2-3-2 25 IR 2286

**26 IR 747**

Purpose; exclusion

460 IAC 2-3-1 25 IR 2286

**26 IR 747**

**DENTISTRY, STATE BOARD OF**

**General provisions**

Fees

Continuing education; sponsor approval fees

828 IAC 0.5-2-6 25 IR 3447

**26 IR 371**

Dental fees

828 IAC 0.5-2-3 25 IR 3452

**26 IR 376**

Dental hygiene fees

828 IAC 0.5-2-4 25 IR 3453

**26 IR 376**

**Certification of dentists and dental hygienists**

Continuing education for renewal of license

Civil penalties

Individual or organization sponsor approval; expiration

828 IAC 1-5-2.5 25 IR 3449

**26 IR 372**

Organizations or individuals for approval; application for approval

828 IAC 1-5-2 25 IR 3448

**26 IR 372**

Study clubs

Application for approval

828 IAC 1-5-1 25 IR 3448

**26 IR 371**

Expiration

828 IAC 1-5-1.5 25 IR 3448

**26 IR 371**

Dental hygienists; licensure by examination

Clinical examination; two sections; required score

828 IAC 1-2-7 26 IR 3410

Examinations

828 IAC 1-2-3 26 IR 3409

Failure; reexamination

828 IAC 1-2-12 26 IR 3410

National board examination; dental and dental hygiene law examination

828 IAC 1-2-6 26 IR 3410

Dental hygienists; license renewal

Renewal requirements; basic life support

828 IAC 1-6-1 25 IR 3449

**26 IR 373**



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Dentists and dental hygienists; licensure by endorsement		Miscellaneous provisions		<b>Aging</b>	
Definitions		50 IAC 15-3-5	25 IR 411	Personal services attendant for individuals in need of self-directed in-home care	
Practice of dentistry			<b>26 IR 1517</b>	460 IAC 1-8	25 IR 2557
828 IAC 1-3-2	25 IR 3452	Revocation of certification criteria and procedures			<b>26 IR 350</b>
	<b>26 IR 375</b>	50 IAC 15-3-6	25 IR 411	<b>Deaf and hard of hearing; interpreter standards</b>	
Satisfactory practice of dental hygiene			<b>26 IR 1518</b>	Certification requirements	
828 IAC 1-3-3	25 IR 3452	Definitions		460 IAC 2-3-3	25 IR 2287
	<b>26 IR 375</b>	"Clarification of the authority of Indiana board of tax review" defined		Definitions and acronyms	
Dental licensure by endorsement; credentials		50 IAC 15-1-1.5	<b>26 IR 1516</b>	460 IAC 2-3-2	25 IR 2286
828 IAC 1-3-1.1	25 IR 3450	Commissioner		Purpose; exclusion	
	<b>26 IR 373</b>	50 IAC 15-1-2.5	<b>26 IR 1516</b>	460 IAC 2-3-1	25 IR 2286
Licensure to practice dental hygiene by endorsement; credentials		Department		<b>Individualized support plan</b>	
828 IAC 1-3-1.5	25 IR 3451	50 IAC 15-1-2.6	25 IR 410	Applicability	
	<b>26 IR 374</b>		<b>26 IR 1516</b>	460 IAC 7-2	26 IR 525
Inactive dental license		Professional appraisers			26 IR 1248
Inactive status		Certification requirements			<b>26 IR 2870</b>
Dental hygienists		50 IAC 15-4-1	25 IR 412	Definitions	
828 IAC 1-7-2	25 IR 3453		<b>26 IR 1518</b>	460 IAC 7-3	26 IR 526
	<b>26 IR 377</b>	Tax representatives			26 IR 1248
Dentists		Communication with client or prospective client		Development of an ISP	
828 IAC 1-7-1	25 IR 3453	50 IAC 15-5-5	25 IR 414	460 IAC 7-4	26 IR 527
	<b>26 IR 376</b>		<b>26 IR 1520</b>		26 IR 1249
Dentists; licensure by examination		Contingent fees			<b>26 IR 2872</b>
Clinical examination; scope; passing score		50 IAC 15-5-7	25 IR 415	Purpose	
828 IAC 1-1-7	26 IR 3409		<b>26 IR 1521</b>	460 IAC 7-1	26 IR 525
Examinations required		Course work			26 IR 1248
828 IAC 1-1-3	26 IR 3408	50 IAC 15-5-4	25 IR 414		<b>26 IR 2870</b>
Failure; reexamination			<b>26 IR 1520</b>	Sections of an ISP	
828 IAC 1-1-3	26 IR 3408	Definitions		460 IAC 7-5	26 IR 528
National board examination; dental and dental hygiene law examinations		50 IAC 15-5-1	25 IR 413		26 IR 1250
828 IAC 1-1-6	26 IR 3409		<b>26 IR 1519</b>		<b>26 IR 2873</b>
		Practice requirements		<b>Public assistance</b>	
		50 IAC 15-5-2	25 IR 414	Room and board assistance program	
			<b>26 IR 1519</b>	Income eligibility	
<b>DEPARTMENT OF LOCAL GOVERNMENT</b>		Prohibitions; obligations		460 IAC 5-1-13	26 IR 524
<b>FINANCE</b>		50 IAC 15-5-6	25 IR 415	<b>Rates for adult day services provided by community mental retardation and other developmental disabilities centers</b>	
LSA Document #03-178(E)	<b>26 IR 3658</b>		<b>26 IR 1521</b>	Definitions, purpose, and applicability	
<b>Assessment of mobile homes</b>		Revocation of certification criteria and procedure		Definitions	
Definitions		50 IAC 15-5-8	25 IR 415	460 IAC 3.5-1-1	27 IR 269
50 IAC 3.2-2	25 IR 2548		<b>26 IR 1521</b>	Unit of service reimbursement rates	
	<b>26 IR 326</b>	<b>Industrial facility; real property assessment</b>		460 IAC 3.5-2-1	27 IR 269
Method		50 IAC 18	26 IR 1117	<b>Residential care assistance program</b>	
50 IAC 3.2-3	25 IR 2549	<b>Lake County industrial facility; real property assessment</b>		460 IAC 1-3.3	26 IR 2111
	<b>26 IR 327</b>	50 IAC 19	26 IR 2397		<b>26 IR 3643</b>
Purpose			<b>27 IR 450</b>	<b>Supported living services and supports</b>	
50 IAC 3.2-1	25 IR 2548	<b>Property assessment</b>		Applicability	
	<b>26 IR 326</b>	2001 real property assessment manual		460 IAC 6-2	25 IR 3832
Valuation guide		Applicability, provisions, and procedures			<b>26 IR 749</b>
50 IAC 3.2-4	25 IR 2549	50 IAC 2.3-1-1	25 IR 835	Rules applicable to all providers	
	<b>26 IR 327</b>		<b>26 IR 6</b>	460 IAC 6-2-2	26 IR 3935
<b>Assessor-appraisers, professional appraisers, and tax representatives</b>			26 IR 86	Rules applicable to specific providers	
Certification			<b>26 IR 2314</b>	460 IAC 6-2-3	26 IR 3935
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50 IAC 15-3-2	25 IR 410		<b>26 IR 2315</b>	460 IAC 6-6	25 IR 3843
	<b>26 IR 1516</b>	Incorporation by reference			<b>26 IR 761</b>
Level One requirements		50 IAC 2.3-1-2	25 IR 1200	Action on application	
50 IAC 15-3-1	25 IR 410		26 IR 87	460 IAC 6-6-3	26 IR 2670
	<b>26 IR 1516</b>		<b>26 IR 2314</b>		<b>27 IR 107</b>
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50 IAC 15-3-4	25 IR 411	<b>Assisted living Medicaid waiver services</b>		460 IAC 6-6-2	26 IR 2670
	<b>26 IR 1517</b>	460 IAC 8	26 IR 3392		<b>27 IR 106</b>
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50 IAC 15-3-3	25 IR 411				
	<b>26 IR 1517</b>				

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Behavioral support services 460 IAC 6-18	25 IR 3857 <b>26 IR 775</b>	Service planner 460 IAC 6-3-52.1	26 IR 2667 <b>27 IR 103</b>	Personnel policies and manuals 460 IAC 6-16	25 IR 3854 <b>26 IR 772</b>
Case management 460 IAC 6-19	25 IR 3858 <b>26 IR 776</b>	Therapy services 460 IAC 6-3-56	26 IR 2667 <b>27 IR 103</b>	Personnel records 460 IAC 6-15	25 IR 3854 <b>26 IR 772</b>
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370 IAC 1-9-1	26 IR 156	General certification provisions		Certification standards	
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<b>ELECTRICAL CODE</b>		Insurance		864 IAC 1.1-12-1	25 IR 2850
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410 IAC 16.2-5-12	25 IR 3276	412 IAC 2-1-2.1	25 IR 4198	Facilities for patrons and licensees	
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610 IAC 4-6 25 IR 874  
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610 IAC 4-6-11 26 IR 2464

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610 IAC 4-6-23 27 IR 564

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610 IAC 4-2-1 26 IR 2464

### LAND QUALITY, OFFICE OF

#### **Hazardous waste management permit program and related hazardous waste management**

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329 IAC 3.1-4-1 26 IR 1240

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329 IAC 3.1-9-2 26 IR 1241

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329 IAC 3.1-10-2 26 IR 1242

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329 IAC 3.1-1-7 26 IR 1240

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329 IAC 3.1-7-2 26 IR 1240

#### **Solid waste land disposal facilities**

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Public process for new solid waste landfill disposal facility permits major permit modifications; and minor permit modifications

329 IAC 10-12-1 26 IR 443

Application procedure for all solid waste land disposal facilities

Minor modification applications  
329 IAC 10-11-6 26 IR 443

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329 IAC 10-11-2.5 26 IR 441

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329 IAC 10-11-2.1 26 IR 440

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329 IAC 10-11-5.1 26 IR 443

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329 IAC 10-2-11 26 IR 433

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329 IAC 10-2-29.5 26 IR 1653

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329 IAC 10-2-32 26 IR 1653

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329 IAC 10-2-41 26 IR 433

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329 IAC 10-2-41.1 26 IR 434

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329 IAC 10-2-63.5 26 IR 434

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329 IAC 10-2-64 26 IR 434

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329 IAC 10-2-66.1 26 IR 434

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329 IAC 10-2-66.2 26 IR 434

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329 IAC 10-2-66.3 26 IR 434

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329 IAC 10-2-69 26 IR 434

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329 IAC 10-2-72.1 26 IR 1654

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329 IAC 10-2-74 26 IR 435

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329 IAC 10-2-75 26 IR 435

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329 IAC 10-2-75.1 26 IR 435

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329 IAC 10-2-96 26 IR 435

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329 IAC 10-2-97.1 26 IR 435

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329 IAC 10-2-99 26 IR 436

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329 IAC 10-2-100 26 IR 436

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329 IAC 10-2-105.3 26 IR 436

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329 IAC 10-2-106 26 IR 436

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329 IAC 10-2-109 26 IR 436

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329 IAC 10-2-111.5 26 IR 436

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329 IAC 10-2-112 26 IR 436

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329 IAC 10-2-115 26 IR 1654

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329 IAC 10-2-116 26 IR 1654

Municipal solid waste landfill or MSWLF unit

329 IAC 10-2-117 26 IR 1654

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329 IAC 10-2-121.1 26 IR 437

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329 IAC 10-2-130 26 IR 1655

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329 IAC 10-2-132.3 26 IR 437

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329 IAC 10-2-135.5 26 IR 1655

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329 IAC 10-2-142.5 26 IR 437

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329 IAC 10-2-147.2 26 IR 437

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329 IAC 10-2-158 26 IR 437

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329 IAC 10-2-165.5 26 IR 437

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329 IAC 10-2-172.5 26 IR 438

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329 IAC 10-2-174 26 IR 1655

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329 IAC 10-2-181.2 26 IR 438

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329 IAC 10-2-181.5 26 IR 438

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329 IAC 10-2-181.6 26 IR 438

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329 IAC 10-2-187.5 26 IR 438

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SW-846 or SW-846

329 IAC 10-2-197.1 26 IR 1656

Definitions for nonmunicipal solid waste landfills, construction/demolition sites, and restricted waste sites Types I, II, III, and IV

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329 IAC 10-3-1 26 IR 438

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329 IAC 10-3-2 26 IR 439

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329 IAC 10-1-4.5 26 IR 433

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329 IAC 10-1-4 26 IR 432

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329 IAC 10-7-2 26 IR 1656

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329 IAC 10-5-1 26 IR 1656

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329 IAC 10-8-2 26 IR 1657

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329 IAC 10-17-18 26 IR 457

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329 IAC 10-17-9 26 IR 456

Geomembrane component of the liner; construction and quality assurance/quality control requirements

329 IAC 10-17-7 26 IR 454

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329 IAC 10-17-2 26 IR 453

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329 IAC 10-17-12 26 IR 457

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329 IAC 10-22-2 26 IR 493

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329 IAC 10-22-5 26 IR 494

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Final cover requirements for existing MSWLF units constructed without a composite bottom liner	329 IAC 10-22-7	26 IR 495	Surface water requirements	329 IAC 10-20-26	26 IR 464	Closure; financial responsibility	329 IAC 10-39-2	26 IR 502																																
Final cover requirements for new MSWLF units or existing MSWLF units that have a composite bottom liner and a leachate collection system	329 IAC 10-22-6	26 IR 494	Survey requirements	329 IAC 10-20-24	26 IR 464	Definitions	329 IAC 10-36-19	26 IR 1665																																
Final closure certification	329 IAC 10-22-8	26 IR 496	Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498	Financial assurance for corrective action for municipal solid waste landfills	329 IAC 10-39-10	26 IR 510																															
Partial closure certification	329 IAC 10-22-3	26 IR 494	Duties	329 IAC 10-23-2	26 IR 496	Incapacity of permittee, guarantors, or financial institutions	329 IAC 10-39-7	26 IR 509																																
Ground water monitoring programs and corrective action program requirements	Assessment ground water monitoring program	329 IAC 10-21-10	Plan	329 IAC 10-23-3	26 IR 497	Post-closure; financial responsibility	329 IAC 10-39-3	26 IR 508																																
Constituents for detection monitoring	329 IAC 10-21-15	26 IR 488	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Release of funds	329 IAC 10-39-9	26 IR 509																																
Constituents for assessment monitoring	329 IAC 10-21-16	26 IR 488	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Quarterly reports and weighing scales	Quarterly reports	329 IAC 10-14-1	26 IR 446																														
Corrective action program	329 IAC 10-21-13	26 IR 484	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Weighing scales	329 IAC 10-14-2	26 IR 1661	Solid waste land disposal facility classification	Municipal solid waste landfill criteria	329 IAC 10-9-2	26 IR 1659																												
Demonstration that a statistically significant increase or contamination is not attributable to a municipal solid waste land disposal facility unit	329 IAC 10-21-9	26 IR 481	Transferability of permits	329 IAC 10-13-5	26 IR 445	Solid waste land disposal facility classification	Municipal solid waste landfill criteria	329 IAC 10-9-2	26 IR 1659	Restricted waste sites waste criteria	329 IAC 10-9-4	26 IR 1659																												
Detection ground water monitoring program	329 IAC 10-21-7	26 IR 479	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Transition requirements of municipal solid waste landfill siting, design, and closure	Applicability	329 IAC 10-10-1	26 IR 440	Pending applications	329 IAC 10-10-2	26 IR 440																											
General ground water monitoring requirements	329 IAC 10-21-1	26 IR 465	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	<b>Solid waste management activity registration</b>	Solid waste facility operator testing requirements	Examination requirements for Category II certification	329 IAC 12-8-4	26 IR 1672																											
Ground water monitoring well and piezometer construction and design	329 IAC 10-21-4	26 IR 474	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	<b>Solid waste processing facilities</b>	Application procedure for all solid waste processing facilities	Insignificant facility modifications	329 IAC 11-9-6	26 IR 1667																											
Sampling and analysis plan and program	329 IAC 10-21-2	26 IR 468	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Definitions	Insignificant facility modification	329 IAC 11-2-19.5	26 IR 1665																											
Statistical evaluation requirements and procedures	329 IAC 10-21-6	26 IR 477	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Solid waste	329 IAC 11-2-39	26 IR 1666																											
Verification of a statistically significant increase in constituent concentration	329 IAC 10-21-8	26 IR 480	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Exclusions	Hazardous waste	329 IAC 11-3-2	26 IR 1666																									
Location restrictions	Karst terrain siting restrictions	329 IAC 10-16-8	26 IR 453	Operational requirements	Alternative daily cover	329 IAC 10-20-14.1	26 IR 1662	Cover; general provisions	329 IAC 10-20-13	26 IR 463	Diversion of surface water and run-on and run-off control systems	329 IAC 10-20-11	26 IR 461	Erosion and sedimentation control measures; general requirements	329 IAC 10-20-3	26 IR 459																								
Operational requirements	Alternative daily cover	329 IAC 10-20-14.1	26 IR 1662	Cover; general provisions	329 IAC 10-20-13	26 IR 463	Diversion of surface water and run-on and run-off control systems	329 IAC 10-20-11	26 IR 461	Erosion and sedimentation control measures; general requirements	329 IAC 10-20-3	26 IR 459	Leachate collection, removal, and disposal	329 IAC 10-20-20	26 IR 463	Records and reports	329 IAC 10-20-8	26 IR 460																						
Leachate collection, removal, and disposal	329 IAC 10-20-20	26 IR 463	Records and reports	329 IAC 10-20-8	26 IR 460	Self-inspections	329 IAC 10-20-28	26 IR 464	Signs	329 IAC 10-20-3	26 IR 459	Surface water requirements	329 IAC 10-20-26	26 IR 464	Closure; financial responsibility	329 IAC 10-39-2	26 IR 502																							
Records and reports	329 IAC 10-20-8	26 IR 460	Self-inspections	329 IAC 10-20-28	26 IR 464	Signs	329 IAC 10-20-3	26 IR 459	Surface water requirements	329 IAC 10-20-26	26 IR 464	Survey requirements	329 IAC 10-20-24	26 IR 464	Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498																						
Self-inspections	329 IAC 10-20-28	26 IR 464	Signs	329 IAC 10-20-3	26 IR 459	Surface water requirements	329 IAC 10-20-26	26 IR 464	Survey requirements	329 IAC 10-20-24	26 IR 464	Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498	Duties	329 IAC 10-23-2	26 IR 496																						
Signs	329 IAC 10-20-3	26 IR 459	Surface water requirements	329 IAC 10-20-26	26 IR 464	Survey requirements	329 IAC 10-20-24	26 IR 464	Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498	Duties	329 IAC 10-23-2	26 IR 496	Plan	329 IAC 10-23-3	26 IR 497																						
Surface water requirements	329 IAC 10-20-26	26 IR 464	Survey requirements	329 IAC 10-20-24	26 IR 464	Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498	Duties	329 IAC 10-23-2	26 IR 496	Plan	329 IAC 10-23-3	26 IR 497	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458																						
Survey requirements	329 IAC 10-20-24	26 IR 464	Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498	Duties	329 IAC 10-23-2	26 IR 496	Plan	329 IAC 10-23-3	26 IR 497	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445																					
Post-closure requirements	Certification	329 IAC 10-23-4	26 IR 498	Duties	329 IAC 10-23-2	26 IR 496	Plan	329 IAC 10-23-3	26 IR 497	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446																					
Certification	329 IAC 10-23-4	26 IR 498	Duties	329 IAC 10-23-2	26 IR 496	Plan	329 IAC 10-23-3	26 IR 497	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445																			
Duties	329 IAC 10-23-2	26 IR 496	Plan	329 IAC 10-23-3	26 IR 497	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450																		
Plan	329 IAC 10-23-3	26 IR 497	Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449																		
Preoperational requirements and operational approval	329 IAC 10-19-1	26 IR 458	Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447																		
Permit issuance and miscellaneous provisions	Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448																		
Issuance procedures; original permits	329 IAC 10-13-1	26 IR 445	Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451																
Permit revocation and modification	329 IAC 10-13-6	26 IR 446	Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496															
Transferability of permits	329 IAC 10-13-5	26 IR 445	Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440														
Plans and documentation to be submitted with permit application	Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501													
Calculations and analyses pertaining to landfill design	329 IAC 10-15-8	26 IR 450	Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499									
Description of proposed ground water monitoring well system	329 IAC 10-15-5	26 IR 449	General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500								
General requirements	329 IAC 10-15-1	26 IR 447	Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499							
Plot plan requirements	329 IAC 10-15-2	26 IR 448	Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions	329 IAC 10-28-24	26 IR 1664						
Storm water pollution prevention plan	329 IAC 10-15-12	26 IR 451	Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions	329 IAC 10-28-24	26 IR 1664	Solid waste land disposal facilities	Financial responsibility	Applicability	329 IAC 10-39-1	26 IR 501				
Post-closure requirements	Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions	329 IAC 10-28-24	26 IR 1664	Solid waste land disposal facilities	Financial responsibility	Applicability	329 IAC 10-39-1	26 IR 501	Closure; financial responsibility	329 IAC 10-39-2	26 IR 502				
Duties	329 IAC 10-23-2	26 IR 496	Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions	329 IAC 10-28-24	26 IR 1664	Solid waste land disposal facilities	Financial responsibility	Applicability	329 IAC 10-39-1	26 IR 501	Closure; financial responsibility	329 IAC 10-39-2	26 IR 502	Definitions	329 IAC 10-36-19	26 IR 1665		
Previously permitted solid waste land disposal facilities and sanitary landfills closed prior to April 14, 1996; responsibilities	Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions	329 IAC 10-28-24	26 IR 1664	Solid waste land disposal facilities	Financial responsibility	Applicability	329 IAC 10-39-1	26 IR 501	Closure; financial responsibility	329 IAC 10-39-2	26 IR 502	Definitions	329 IAC 10-36-19	26 IR 1665	Financial assurance for corrective action for municipal solid waste landfills	329 IAC 10-39-10	26 IR 510		
Remedial action	329 IAC 10-6-4	26 IR 440	Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions	329 IAC 10-28-24	26 IR 1664	Solid waste land disposal facilities	Financial responsibility	Applicability	329 IAC 10-39-1	26 IR 501	Closure; financial responsibility	329 IAC 10-39-2	26 IR 502	Definitions	329 IAC 10-36-19	26 IR 1665	Financial assurance for corrective action for municipal solid waste landfills	329 IAC 10-39-10	26 IR 510	Incapacity of permittee, guarantors, or financial institutions	329 IAC 10-39-7	26 IR 509
Restricted waste site Type III and construction/demolition sites; closure requirements	Closure plan	329 IAC 10-37-4	26 IR 501	Restricted waste sites Types I and II and nonmunicipal solid waste landfills	Additional application requirements to 329 IAC 10-11	Hydrogeologic study	329 IAC 10-24-4	26 IR 499	Closure requirements	Plan	329 IAC 10-30-4	26 IR 500	Ground water monitoring and corrective action	Monitoring devices	329 IAC 10-29-1	26 IR 499	Operational requirements	Definitions</																						

## CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Solid waste processing facilities; operational requirements		Closure records		Length of instruction hour; length of course	
Records and reports		329 IAC 9-6-4	26 IR 1234	865 IAC 1-13-4	26 IR 3739
329 IAC 11-13-6	26 IR 1668	Temporary closure		Continuing education providers	
Sanitation		329 IAC 9-6-5	26 IR 1235	Certifications of completion	
329 IAC 11-13-4	26 IR 1667	General operating requirements		865 IAC 1-14-13	26 IR 3740
Solid waste processing facility classifications and waste criteria		Compatibility		Courses not completed	
Incinerators waste criteria		329 IAC 9-3.1-3	26 IR 1219	865 IAC 1-14-14	26 IR 3740
329 IAC 11-8-3	26 IR 1667	Operation and maintenance of corrosion protection		Reporting attendance to the board	
Processing facilities waste criteria		329 IAC 9-3.1-2	26 IR 1219	865 IAC 1-14-15	26 IR 3740
329 IAC 11-8-2	26 IR 1666	Repairs and maintenance allowed		Examinations	
Transfer station waste criteria		329 IAC 9-3.1-4	26 IR 1219	Certification as land surveyor-in-training; attempt	
329 IAC 11-8-2.5	26 IR 1666	Spill and overfill control		865 IAC 1-4-8	25 IR 3456
Transfer stations		329 IAC 9-3.1-1	26 IR 1218	<b>26 IR 1105</b>	
General operating requirements		Initial response, site investigation, and corrective action		Fees	
329 IAC 11-21-8	26 IR 1672	Applicability for release response and corrective action		Land surveying; competent practice	
Monitoring of incoming municipal waste		329 IAC 9-5-1	26 IR 1221	865 IAC 1-12-28	25 IR 3456
329 IAC 11-21-4	26 IR 1671	Corrective action plan		<b>26 IR 1105</b>	
Record keeping		329 IAC 9-5-7	26 IR 1227	Land surveying; competent practice	
329 IAC 11-21-5	26 IR 1671	Free product removal		Definitions; abbreviations	
Reporting		329 IAC 9-5-4.2	26 IR 1224	865 IAC 1-12-2	26 IR 3951
329 IAC 11-21-6	26 IR 1671	Further site investigations for soil and ground water cleanup		Field investigation for retracement surveys	
Training		329 IAC 9-5-6	26 IR 1226	865 IAC 1-12-10	26 IR 3954
329 IAC 11-21-7	26 IR 1671	Initial abatement measures and site check		Field notes	
<b>Underground storage tanks</b>		329 IAC 9-5-3.2	26 IR 1223	865 IAC 1-12-6	26 IR 3953
Applicability; definitions		Initial response		Measurements for retracement surveys and original surveys	
Applicability		329 IAC 9-5-2	26 IR 1223	865 IAC 1-12-7	26 IR 3953
329 IAC 9-1-1	26 IR 1209	Initial site characterization		Original and retracement survey monumentation	
Definitions		329 IAC 9-5-5.1	26 IR 1224	865 IAC 1-12-18	26 IR 3956
Agency		Performance standards		Original survey preliminary research	
329 IAC 9-1-4	26 IR 1209	New UST systems		865 IAC 1-12-14	26 IR 3956
Change-in-service		329 IAC 9-2-1	26 IR 1211	Preliminary research and investigation on retracement surveys	
329 IAC 9-1-10.4	26 IR 1209	Notification requirements		865 IAC 1-12-9	26 IR 3954
Chemical of concern		329 IAC 9-2-2	26 IR 1214	Property surveys affected	
329 IAC 9-1-10.6	26 IR 1209	Release detection		865 IAC 1-12-5	26 IR 3952
Closure		General requirements for all UST systems		Publication of retracement survey results	
329 IAC 9-1-10.8	26 IR 1210	329 IAC 9-7-1	26 IR 1235	865 IAC 1-12-12	26 IR 3954
Consumptive use		Methods of release detection for tanks		Retracement survey plats	
329 IAC 9-1-14	26 IR 1210	329 IAC 9-7-4	26 IR 1237	865 IAC 1-12-13	26 IR 3955
Contaminant		Requirements for petroleum UST systems		Surveyor conclusions in retracement survey	
329 IAC 9-1-14.3	26 IR 1210	329 IAC 9-7-2	26 IR 1236	865 IAC 1-12-11	26 IR 3954
Corrective action		Releases		Surveyor responsibility	
329 IAC 9-1-14.5	26 IR 1210	Release investigations and confirmation steps		865 IAC 1-12-3	26 IR 3952
Corrective action plan		329 IAC 9-4-3	26 IR 1220	Registrant's seal	
329 IAC 9-1-14.7	26 IR 1210	Reporting and cleanup of spills and overfills		Use of seal and signature; acceptance of full responsibility	
Hazardous substance UST system		329 IAC 9-4-4	26 IR 1221	865 IAC 1-7-3	26 IR 3950
329 IAC 9-1-25	26 IR 1210	Reporting and record keeping		<b>LAW ENFORCEMENT TRAINING BOARD</b>	
Hydraulic lift tank		Electronic reporting and submittal		<b>Basic training mandated for law enforcement officers appointed on or after July 6, 1972</b>	
329 IAC 9-1-27	26 IR 1210	329 IAC 9-3-2	26 IR 1218	250 IAC 2-2	26 IR 3680
Petroleum UST system		General		<b>Definitions</b>	
329 IAC 9-1-36	26 IR 1210	329 IAC 9-3-1	26 IR 1216	250 IAC 2-1	26 IR 3679
Removal closure		Upgrading of existing UST systems		<b>Indiana law enforcement academy police officers</b>	
329 IAC 9-1-39.5	26 IR 1211	Upgrading		250 IAC 2-11	26 IR 3689
SARA		329 IAC 9-2.1-1	26 IR 1215	<b>Inservice training</b>	
329 IAC 9-1-41.5	26 IR 1211	<b>Used oil management</b>		250 IAC 2-7	26 IR 3684
underground release		Applicability		<b>Minimum curriculum, attendance, equipment, and facility requirements</b>	
329 IAC 9-1-47	26 IR 1211	329 IAC 13-3-1	26 IR 1673	250 IAC 2-4	26 IR 3682
Underground storage tank		<b>LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR</b>		<b>Minimum qualifications for instructors</b>	
329 IAC 9-1-47.1	26 IR 1211	<b>General provisions</b>		250 IAC 2-10	26 IR 3687
Closure		Continuing education			
Applicability		Elective topics			
329 IAC 9-6-1	26 IR 1229	865 IAC 1-13-7	26 IR 3739		
Applicability to previously closed UST systems					
329 IAC 9-6-3	26 IR 1234				
Closure procedure					
329 IAC 9-6-2.5	26 IR 1230				

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

<b>Minimum standards regarding acceptance of persons for training</b>		Domino Dollars		Nifty 50	
250 IAC 2-3	26 IR 3681	Instant Game 657		Instant game 653	
<b>Police chief executive training</b>		LSA Document #03-199(E)	<b>26 IR 3888</b>	LSA Document #03-111(E)	<b>26 IR 3056</b>
250 IAC 2-5	26 IR 3683	Double Diamonds		Pyramid Cash	
<b>Prebasic training course</b>		Instant game 619		Instant game 645	
250 IAC 2-6	26 IR 3684	LSA Document #02-288(E)	<b>26 IR 392</b>	65 IAC 4-319	<b>26 IR 3360</b>
<b>Reserve police officers</b>		Fabulous 4s		Red Hot Doubler	
250 IAC 2-9	26 IR 3686	Instant game 628		Instant game 648	
<b>Training status report</b>		LSA Document #02-357(E)	<b>26 IR 1589</b>	LSA Document #03-49(E)	<b>26 IR 2378</b>
250 IAC 2-8	26 IR 3686	Fast Cash		ROYAL RICHES	
		Instant game 644		Instant game 638	
		LSA Document #03-144(E)	<b>26 IR 3355</b>	LSA Document #03-115(E)	<b>26 IR 3058</b>
<b>LOTTERY COMMISSION, STATE</b>		Five Grand		Sapphire Blue 7s	
<b>Instant games</b>		Instant game 642		Instant game 651	
4 of a Kind		LSA Document #03-143(E)	<b>26 IR 3354</b>	LSA Document #03-145(E)	<b>26 IR 3357</b>
Instant game 633		General provisions		SCRATCH, PIN, WIN	
LSA Document #03-80(E)	<b>26 IR 2630</b>	Game regulations		Instant game 685	
5 Card Poker		65 IAC 4-2-8	<b>26 IR 43</b>	65 IAC 4-329	<b>27 IR 192</b>
Instant Game 709		Use of winner information and photographs		Sizzling Red 7s	
LSA Document #03-200(E)	<b>26 IR 3889</b>	65 IAC 4-2-4	<b>26 IR 42</b>	Instant game 643	
7-11-21		Gold Rush		LSA Document #02-352(E)	<b>26 IR 1583</b>
Instant game 620		Instant game 626		SOLID GOLD	
LSA Document #02-346(E)	<b>26 IR 1574</b>	LSA Document #03-15(E)	<b>26 IR 1946</b>	Instant game 661	
Instant game 672		Great 8s		LSA Document #03-240(E)	<b>27 IR 196</b>
LSA Document #03-241(E)	<b>27 IR 198</b>	Instant game 632		Stairway to Riches	
24K		LSA Document #03-79(E)	<b>26 IR 2629</b>	Instant game 649	
Instant game 629		High 5s		LSA Document #03-119(E)	<b>26 IR 3065</b>
LSA Document #02-358(E)	<b>26 IR 1590</b>	Instant game 634		Super 6	
\$250 Christmas Club		LSA Document #03-81(E)	<b>26 IR 2632</b>	Instant game 665	
Instant game 614		High Stakes		LSA Document #03-249(E)	<b>27 IR 204</b>
LSA Document #02-308(E)	<b>26 IR 800</b>	Instant game 624		Super Blackjack	
\$50,000 Hand		LSA Document #02-349(E)	<b>26 IR 1578</b>	Instant game 640	
Instant game 622		Holiday Package		LSA Document #03-117(E)	<b>26 IR 3061</b>
LSA Document #02-347(E)	<b>26 IR 1575</b>	Instant game 618		Super Size Cash	
\$200,000 Cash Bonanza		LSA Document #02-312(E)	<b>26 IR 805</b>	Instant game 652	
Instant game 665		Hoosier Bingo		LSA Document #03-110(E)	<b>26 IR 3054</b>
65 IAC 4-331	<b>27 IR 200</b>	Instant game 647		Tic Tac Toe	
Ace in the Hole		65 IAC 4-452	<b>26 IR 1585</b>	Instant Game 656	
Instant game 612		Hoosier Millionaire		LSA Document #03-198(E)	<b>26 IR 3887</b>
LSA Document #02-290(E)	<b>26 IR 390</b>	Instant game 887		Triple Payout	
Instant game 639		65 IAC 4-206	<b>26 IR 3348</b>	Instant game 655	
LSA Document #03-116(E)	<b>26 IR 3060</b>	Hot Streak		LSA Document #03-197(E)	<b>26 IR 3886</b>
Ace of Spades		Instant game 650		Vegas Action	
Instant game 631		LSA Document #02-257(E)	<b>26 IR 54</b>	Instant game 625	
LSA Document #03-78(E)	<b>26 IR 2628</b>	In-Between		65 IAC 4-453	<b>26 IR 1580</b>
Aces High		Instant game 635		WINFALL	
Instant game 637		LSA Document #03-108(E)	<b>26 IR 3051</b>	Instant game 659	
LSA Document #03-109(E)	<b>26 IR 3052</b>	Luck of the Irish		LSA Document #03-239(E)	<b>27 IR 194</b>
Black Jack		Instant game 627		Winner Wonderland	
Instant game 621		LSA Document #02-351(E)	<b>26 IR 1582</b>	Instant game 616	
LSA Document #02-313(E)	<b>26 IR 807</b>	Lucky 7's		LSA Document #02-310(E)	<b>26 IR 803</b>
Bonus Crossword		Instant game 636		Winning Numbers	
Instant game 664		LSA Document #03-82(E)	<b>26 IR 2634</b>	Instant game 610	
65 IAC 4-330	<b>27 IR 199</b>	Mega Bucks		LSA Document #02-288(E)	<b>26 IR 388</b>
CASH BOUNTY		Instant game 641		Winter Spectacular	
Instant game 658		LSA Document #03-118(E)	<b>26 IR 3063</b>	Instant game 615	
LSA Document #03-238(E)	<b>27 IR 193</b>	Mistle Dough Doubler		LSA Document #02-309(E)	<b>26 IR 801</b>
Corvette® Cash		Instant game 617		<b>On-line games</b>	
Instant game 654		LSA Document #02-311(E)	<b>26 IR 804</b>	Daily3	
LSA Document #03-147(E)	<b>26 IR 3358</b>	Monopoly		Determination of winners	
Deal Me In		Instant game 663		65 IAC 5-5-5	<b>26 IR 3057</b>
Instant game 623		LSA Document #03-248(E)	<b>27 IR 203</b>	General provisions	
LSA Document #02-348(E)	<b>26 IR 1577</b>	NBA Pacers		Game regulations	
Deuces are Wild		Instant game 630		65 IAC 5-2-8	<b>26 IR 43</b>
Instant game 611		LSA Document #03-16(E)	<b>26 IR 1948</b>	Use of winner information and photographs	
LSA Document #02-289(E)	<b>26 IR 389</b>			65 IAC 5-2-4	<b>26 IR 43</b>

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Hoosier Lottery Powerball		Diamond 7's		Retailer operations	
Allocation of prize pool		Pull-tab game 047		Compensation	
65 IAC 5-12-9	<b>26 IR 47</b>	LSA Document #02-284(E)	<b>26 IR 385</b>	65 IAC 3-4-5	<b>26 IR 42</b>
Amount of prize pools		Electric 7s		Procedure for awarding prizes	
65 IAC 5-12-6	<b>26 IR 46</b>	Pull-tab game 053		65 IAC 3-4-4	<b>26 IR 41</b>
Definitions		LSA Document #03-83(E)	<b>26 IR 2635</b>		
65 IAC 5-12-2	<b>26 IR 44</b>	EZ Money		<b>MECHANICAL CODE</b>	
Ineligible players		Pull-tab game 006		(See <b>FIRE PREVENTION AND BUILDING</b>	
65 IAC 5-12-14	<b>26 IR 51</b>	LSA Document #03-140(E)	<b>26 IR 3352</b>	<b>SAFETY COMMISSION</b> )	
Odds of winning		General provisions		<b>MEDICAID SERVICES</b>	
65 IAC 5-12-12	<b>26 IR 49</b>	Game rules		(See <b>FAMILY AND SOCIAL SERVICES, OF-</b>	
Payment of prizes		65 IAC 6-2-8	<b>26 IR 53</b>	<b>FICE THE SECRETARY OF</b> )	
65 IAC 5-12-11	<b>26 IR 48</b>	Termination of a pull-tab game		<b>MEDICAL LICENSING BOARD OF INDIANA</b>	
Payment options		65 IAC 6-2-3	<b>26 IR 52</b>	<b>Medical doctors</b>	
65 IAC 5-12-5	<b>26 IR 45</b>	Ticket price		License to practice	
Power Play promotion		65 IAC 6-2-9	<b>26 IR 53</b>	844 IAC 4-4.5	25 IR 2302
65 IAC 5-12-12.5	<b>26 IR 49</b>	Use of names and photographs of winners			<b>26 IR 28</b>
Prize amounts		65 IAC 6-2-4	<b>26 IR 52</b>	Renewal of physicians' licenses	
65 IAC 5-12-10	<b>26 IR 47</b>	Validation of tickets		Mandatory renewal; notice	
Procedure for playing		65 IAC 6-2-5	<b>26 IR 52</b>	844 IAC 4-6-2.1	25 IR 2308
65 IAC 5-12-4	<b>26 IR 45</b>	Hot 13s			<b>26 IR 34</b>
Reserve accounts		Pull-tab game 051		<b>Physical therapists and physical therapists'</b>	
65 IAC 5-12-7	<b>26 IR 47</b>	LSA Document #02-355(E)	<b>26 IR 1587</b>	<b>assistants</b>	
Ticket price		Hot Hand		Admission to practice	
65 IAC 5-12-3	<b>26 IR 45</b>	Pull-tab game 044		Temporary permits	
Max 5		LSA Document #02-224(E)	<b>25 IR 4119</b>	844 IAC 6-3-5	25 IR 3455
Modification of Max 5 prize structure		Lucky Lemons			<b>26 IR 378</b>
65 IAC 5-15-10	<b>26 IR 1946</b>	Pull-tab game 041		General provisions	
Termination of Max 5		LSA Document #02-220(E)	<b>25 IR 4117</b>	Accreditation of educational programs	
65 IAC 5-15-11	<b>26 IR 1946</b>	Magic 8 Ball		844 IAC 6-1-4	25 IR 3454
<b>Pull-tab games</b>		Pull-tab game 003			<b>26 IR 377</b>
3 of a Kind		LSA Document #03-139(E)	<b>26 IR 3351</b>	Registration	
Pull-tab game 055		Money Bags		Mandatory registration; renewal	
LSA Document #03-105(E)	<b>26 IR 3049</b>	Pull-tab game 046		844 IAC 6-4-1	26 IR 541
AmeriCash		LSA Document #02-283(E)	<b>26 IR 385</b>		<b>26 IR 2373</b>
Pull-tab game 048		Mountain of Money		<b>Physician assistants</b>	
LSA Document #02-285(E)	<b>26 IR 386</b>	Pull-tab game 058		General provisions	
Bingo Nut		LSA Document #03-106(E)	<b>26 IR 3049</b>	Applications	
Pull-tab game 007		Payment of prizes		844 IAC 2.2-2-1	26 IR 177
LSA Document #03-141(E)	<b>26 IR 3353</b>	Claiming prizes		Certification of physician assistants; fees	
Casino Wizard		65 IAC 6-3-2	<b>26 IR 53</b>	844 IAC 2.2-2-8	26 IR 179
Pull-tab game 090		<b>POLE POSITION</b>		Privileges and duties	
LSA Document #03-142(E)	<b>26 IR 3354</b>	Pull-tab game 062		844 IAC 2.2-2-5	26 IR 179
Cherry Bar Fortune		LSA Document #03-107(E)	<b>26 IR 3050</b>	Supervising physician; registration of	
Pull-tab game 052		Roulette		844 IAC 2.2-2-2	26 IR 178
LSA Document #02-356(E)	<b>26 IR 1588</b>	Pull-tab game 049		<b>Standards of professional conduct and competent</b>	
Cherry Hearts		LSA Document #02-286(E)	<b>26 IR 387</b>	<b>practice of medicine</b>	
Pull-tab game 002		Royal Sevens		General provisions	
LSA Document #03-138(E)	<b>26 IR 3351</b>	Pull-tab game 001		Definitions	
Club Sandwich		LSA Document #03-137(E)	<b>26 IR 3348</b>	844 IAC 5-1-1	26 IR 2116
Pull-tab game 054		Shake Rattle and Dough			<b>27 IR 521</b>
LSA Document #03-84(E)	<b>26 IR 2636</b>	Pull-tab game 061		Disciplinary action	
Definitions		LSA Document #03-114(E)	<b>26 IR 3057</b>	844 IAC 5-1-3	26 IR 2118
Agent verification code		Sports Mania			<b>27 IR 522</b>
65 IAC 6-1-1.1	<b>26 IR 51</b>	Pull-tab game 043		Internet use in medical practice	
Bar code		LSA Document #02-223(E)	<b>25 IR 4119</b>	844 IAC 5-3	26 IR 2118
65 IAC 6-1-1.2	<b>26 IR 51</b>	Stardust			<b>27 IR 522</b>
Game identification number		Pull-tab game 050		Prescribing to persons not seen by the physician	
65 IAC 6-1-2.1	<b>26 IR 51</b>	LSA Document #02-354(E)	<b>26 IR 1587</b>	844 IAC 5-4	26 IR 2120
Game/pack number		<b>Retailers</b>			<b>27 IR 524</b>
65 IAC 6-1-2.2	<b>26 IR 51</b>	Retailer contracts		<b>MENTAL HEALTH AND ADDICTION, DIVI-</b>	
Pack number		Award of contracts		<b>SION OF</b>	
65 IAC 6-1-4.1	<b>26 IR 51</b>	65 IAC 3-3-3	<b>26 IR 40</b>	<b>Assertive community treatment teams certifica-</b>	
Validation number		Retailer contracts for pull-tab games		<b>tion</b>	
65 IAC 6-1-10	<b>26 IR 52</b>	65 IAC 3-3-10	<b>26 IR 40</b>	440 IAC 5.2	26 IR 3386
					<b>27 IR 492</b>



CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

<b>Community care</b>		Designation of a new community mental health center	Ultimate authority
Transferred or discharged individuals		440 IAC 4.1-3-6	312 IAC 3-1-2
Applicability		26 IR 523	25 IR 2553
440 IAC 5-1-1	25 IR 3289	<b>26 IR 2621</b>	<b>26 IR 8</b>
Definitions		Obligations of each community mental health center regarding the exclusive geographic primary service area	<b>Coal mining and reclamation operations</b>
440 IAC 5-1-2	25 IR 3290	440 IAC 4.1-3-2	Bonding liability insurance
<b>26 IR 746</b>		26 IR 522	Performance bond release; requirements
Gatekeeper's role during the time the individual is in the state-operated facility		<b>26 IR 2619</b>	312 IAC 25-5-16
440 IAC 5-1-3.5	25 IR 3290	Redesignation of the exclusive geographic primary service areas	27 IR 232
<b>26 IR 747</b>		440 IAC 4.1-3-5	Period of liability
		26 IR 523	312 IAC 25-5-7
		<b>26 IR 2620</b>	27 IR 231
<b>Community mental health centers</b>			Definitions
Services		<b>Private mental health institutions; licensure</b>	Affected area
Mandatory services		Definitions	312 IAC 25-1-8
440 IAC 4-3-1	26 IR 519	440 IAC 1.5-1	27 IR 221
<b>26 IR 2616</b>		25 IR 3277	Drinking water well
		<b>26 IR 733</b>	312 IAC 25-1-45.5
<b>Community mental health centers and managed care providers; minimum standards of service</b>		General provisions	25 IR 4160
Continuum of care; standards of practice		440 IAC 1.5-2	<b>26 IR 3860</b>
Case management		25 IR 3278	Ground water management zone
440 IAC 9-2-10	25 IR 4201	<b>26 IR 734</b>	312 IAC 25-1-60.5
<b>26 IR 1940</b>		Organizational standards and requirement	25 IR 4160
		440 IAC 1.5-3	<b>26 IR 3860</b>
		25 IR 3281	Land eligible for remining
		<b>26 IR 737</b>	312 IAC 25-1-75.5
			27 IR 222
Family support		<b>MICROFILMING STANDARDS</b>	Property boundary
440 IAC 9-2-13	26 IR 867	(See <b>PUBLIC RECORDS, OVERSIGHT COMMISSION ON-Coal mining and reclamation operations</b> )	312 IAC 25-1-109.5
<b>26 IR 3337</b>			<b>26 IR 3860</b>
Medication evaluation and monitoring		<b>MINING</b>	Unanticipated event or condition
440 IAC 9-2-12	25 IR 4203	(See <b>NATURAL RESOURCES COMMISSION-Coal mining and reclamation operations</b> )	312 IAC 25-1-155.5
<b>26 IR 1942</b>			27 IR 222
			Inspection and enforcement procedures
Outpatient services			Civil penalties; hearing request
440 IAC 9-2-11	25 IR 4202		312 IAC 25-7-20
<b>26 IR 1941</b>			27 IR 246
			Inspections of sites
<b>Community mental health centers</b>			312 IAC 25-7-1
Certification			27 IR 244
Certification by the division			Performance standards
440 IAC 4.1-2-1	26 IR 519		Hydrologic balance
<b>26 IR 2616</b>			Application of ground water quality standards
Maintenance of certification			312 IAC 25-6-12.5
440 IAC 4.1-2-5	26 IR 521		25 IR 4163
<b>26 IR 2618</b>			<b>26 IR 3864</b>
Regular certification by			Water rights and replacement
440 IAC 4.1-2-4	26 IR 520		312 IAC 25-6-25
<b>26 IR 2617</b>			27 IR 238
Termination of certification			Surface mining
440 IAC 4.1-2-9	26 IR 521		Explosives; publication of blasting schedule
<b>26 IR 2618</b>			312 IAC 25-6-31
			27 IR 248
Exclusive geographic primary service areas			Hydrologic balance
Appeal rights			Permanent and temporary impoundments
440 IAC 4.1-3-8	26 IR 524		312 IAC 25-6-20
<b>26 IR 2621</b>			27 IR 234
Community mental health center; exclusive geographic primary service areas			Siltation structures
440 IAC 4.1-3-1	26 IR 522		312 IAC 25-6-17
<b>26 IR 2619</b>			27 IR 233
County complaints regarding a community mental health center			Surface and ground water monitoring
440 IAC 4.1-3-3	26 IR 522		312 IAC 25-6-23
<b>26 IR 2620</b>			27 IR 237
County request that it be assigned to a new community mental health center			Primary roads
440 IAC 4.1-3-7	26 IR 524		312 IAC 25-6-66
<b>26 IR 2621</b>			27 IR 238
Changes of the exclusive geographic primary service areas			Underground mining
440 IAC 4.1-3-4	26 IR 523		Hydrologic balance
<b>26 IR 2620</b>			Application of ground water quality standards
			312 IAC 25-6-76.5
			25 IR 4164
			<b>26 IR 3865</b>
			Permanent and temporary impoundments
			312 IAC 25-6-84
			27 IR 241
			Siltation structures
			312 IAC 25-6-81
			27 IR 239
			Primary roads
			312 IAC 25-6-130
			27 IR 243
			Permitting procedures
			Review, public participation, and approval or disapproval of permit applications; permit terms and conditions
			Permit approval or denial
			312 IAC 25-4-115
			27 IR 229

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Permit conditions 312 IAC 25-4-118	27 IR 230	<b>Fish and wildlife</b> LSA Document #03-177(E)	<b>26 IR 3660</b>	Register of Indiana historic sites and historic structures 312 IAC 20-5	26 IR 2658 <b>27 IR 452</b>
Public availability 312 IAC 25-4-113	27 IR 228	Birds Geese	LSA Document #02-293(E)	<b>26 IR 395</b>	<b>Lake construction activities</b>
Review of permit applications 312 IAC 25-4-114	27 IR 228	Restrictions and standards applicable to wild animals	Administration of chemical to nondomestic animals, to animals held on a game breeder license, to animals held on a wild animal possession permit, or to animals held under a rehabilitation permit	Innovative practices and nonconforming uses LSA Document #03-27(E)	<b>26 IR 1954</b>
Special categories of mining Lands eligible for remining 312 IAC 25-4-105.5	27 IR 227		312 IAC 9-2-13	Alternative licenses 312 IAC 11-5-1	26 IR 2661 <b>27 IR 61</b>
Prime farmland 312 IAC 25-4-102	27 IR 226		25 IR 2751 <b>26 IR 1068</b>	<b>Natural And Recreational Areas; Public Use</b>	
Surface mining permit applications Identification of interests 312 IAC 25-4-17	27 IR 222	State parks and state historic sites 312 IAC 9-2-11	26 IR 3089 <b>27 IR 459</b>	Administration and definitions Administration 312 IAC 8-1-2	26 IR 3085 <b>27 IR 455</b>
Reclamation and operations plan Maps 312 IAC 25-4-43	25 IR 4160 <b>26 IR 3860</b>	Special licenses; permits and standards Aquatic vegetation control permits 312 IAC 9-10-3	26 IR 3374	Definitions 312 IAC 8-1-4	26 IR 3085 <b>27 IR 455</b>
Reclamation plan General requirements 312 IAC 25-4-45	27 IR 223	Game breeder licenses LSA Document #03-51(E)	<b>26 IR 2389</b>	General restrictions on the use of DNR properties Animals brought by people to DNR properties 312 IAC 8-2-6	26 IR 3088 <b>27 IR 457</b>
Protection of hydrologic balance 312 IAC 25-4-47	25 IR 4161 <b>26 IR 3861</b>	LSA Document #03-85(E) 312 IAC 9-10-4	26 IR 1602 27 IR 246	Campsites and camping 312 IAC 8-2-11	26 IR 3088 <b>27 IR 458</b>
		Nuisance wild animal control permit 312 IAC 9-10-11	25 IR 2551 <b>26 IR 692</b>	Firearms, hunting, and trapping 312 IAC 8-2-3	26 IR 3086 <b>27 IR 456</b>
		Scientific purposes licenses 312 IAC 9-10-6	25 IR 2752 <b>26 IR 1069</b>	Swimming, snorkeling, scuba diving, and tow kite flying 312 IAC 8-2-9	26 IR 3088 <b>27 IR 458</b>
Reclamation plan for siltation structures, impoundments, dams, and embankments, and refuse piles 312 IAC 25-4-49	27 IR 224	Sport fishing LSA Document #03-88(E)	<b>26 IR 2638</b>	<b>Oil and gas</b>	
Underground mining permit applications Reclamation plan Map 312 IAC 25-4-93	25 IR 4163 <b>26 IR 3863</b>	Sport fishing, commercial fishing; definitions, restrictions, and standards Definitions pertaining to fish and fishing activities LSA Document #02-330(E)	26 IR 1966 <b>26 IR 3866</b>	Annual well fee 312 IAC 16-3.5	25 IR 4158 <b>26 IR 1897</b>
Protection of hydrologic balance 312 IAC 25-4-85	25 IR 4162 <b>26 IR 3862</b>	312 IAC 9-6-1	26 IR 1966 <b>26 IR 3866</b>	Bonding Bonding in addition to annual well fee 312 IAC 16-4-1	25 IR 4158 <b>26 IR 1898</b>
Reclamation plan for siltation structures, impoundments, dams, embankments, and refuse piles 312 IAC 25-4-87	27 IR 225	Exotic fish LSA Document #02-330(E)	<b>26 IR 1111</b>	Bond release 312 IAC 16-4-5	25 IR 4159 <b>26 IR 1899</b>
Training, examination, and certification of blasters Examinations 312 IAC 25-9-5	27 IR 249	312 IAC 9-6-7	26 IR 1967 <b>26 IR 3868</b>	Bond types 312 IAC 16-4-2	25 IR 4159 <b>26 IR 1898</b>
Renewal 312 IAC 25-9-8	27 IR 249	Wild animal possession permits Maintaining a wild animal possessed under this rule 312 IAC 9-11-14	26 IR 1603 <b>26 IR 3324</b>	Permits Permit applications 312 IAC 16-3-2	25 IR 4156 <b>26 IR 1896</b>
<b>Entomology and plant pathology</b>		<b>Historic preservation review board</b>		<b>Procedures and delegations</b>	
Control of pests or pathogens Control of black stem rust 312 IAC 18-3-8	26 IR 1123 <b>26 IR 3315</b>	Definitions Certificate 312 IAC 20-2-1.7	26 IR 3084 <b>27 IR 454</b>	Organized activities and tournaments on designated public waters Advance date approval 312 IAC 2-4-7	26 IR 1127 <b>26 IR 3319</b>
Control of kudzu (Pueraria lobata) 312 IAC 18-3-16	27 IR 560	Indiana register 312 IAC 20-2-4.3	26 IR 3084 <b>27 IR 454</b>	Applicability 312 IAC 2-4-1	26 IR 1126 <b>26 IR 3318</b>
Control of larger pine shoot beetles LSA Document #03-217(E)	<b>27 IR 206</b>	National Register 312 IAC 20-2-4.7	26 IR 3085 <b>27 IR 454</b>	Definitions 312 IAC 2-4-2	26 IR 1126 <b>26 IR 3318</b>
312 IAC 18-3-12	26 IR 1121 <b>26 IR 3313</b>	Membership and meetings Submission of application before review board meeting 312 IAC 20-3-3	26 IR 3085 <b>27 IR 454</b>	License application 312 IAC 2-4-6	26 IR 1127 <b>26 IR 3319</b>
Release of a beneficial organism or a pest or pathogen 312 IAC 18-3-15	27 IR 559				
Technical committees 312 IAC 18-3-17	27 IR 560				
Special service fees Florist or greenhouse stock; voluntary certification 312 IAC 18-5-2	27 IR 561				

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License holder; general duties 312 IAC 2-4-9 <b>26 IR 3319</b>	<b>Prescriptive authority for advanced practice nursing</b> Prescriptive authority Initial authority to prescribe legend drugs 848 IAC 5-1-1 26 IR 3947 Renewal of authority to prescribe legend drugs 848 IAC 5-1-3 26 IR 3948	<b>PERSONNEL DEPARTMENT, STATE</b> <b>Conversion of accrued leave into deferred compensation</b> Applicability 31 IAC 5-2 25 IR 3218 Conversion and vesting 31 IAC 5-3 25 IR 3218 Definitions 31 IAC 5-1 25 IR 3218 Election of prior benefit formula 31 IAC 5-5 25 IR 3219 Leave valuation and conversion 31 IAC 5-4 25 IR 3218 Limitations 31 IAC 5-6 25 IR 3219
Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs 312 IAC 2-4-12 <b>26 IR 3320</b>	<b>Registered and practical nurses</b> Definitions; administration Definitions 848 IAC 1-1-2.1 26 IR 2124 <b>26 IR 3652</b>	<b>Merit employees</b> Hours and leaves Personal leave 31 IAC 2-11-4.5 25 IR 3217 Sick leave 31 IAC 2-11-4 25 IR 3217 Vacation leave 31 IAC 2-11-3 25 IR 3216
Limitations on organized boating activities at Lake Wawasee and Syracuse Lake, Kosciusko County 312 IAC 2-4-13 <b>26 IR 3321</b>	Fees 848 IAC 1-1-14 26 IR 2123 <b>26 IR 3651</b>	<b>Non-merit employees</b> Hours and leaves Sick leave; definition; accrual 31 IAC 1-9-4 25 IR 3215 Personal leave 31 IAC 1-9-4.5 25 IR 3215 Vacation leave 31 IAC 1-9-3 25 IR 3213
Notice of and response to petition 312 IAC 2-4-4 <b>26 IR 3318</b>	Licensure by endorsement 848 IAC 1-1-7 26 IR 2125 <b>26 IR 3654</b>	<b>PESTICIDE REVIEW BOARD, INDIANA</b> <b>Community-wide mosquito abatement pesticide applicators and technicians</b> 357 IAC 1-11 26 IR 3109 <b>Pesticides near community public water supply system wells</b> 357 IAC 1-10 26 IR 1243 <b>26 IR 2859</b>
Reporting 312 IAC 2-4-9.5 <b>26 IR 3320</b>	Licensure by examination 848 IAC 1-1-6 26 IR 2124 <b>26 IR 3653</b>	<b>PHARMACY, INDIANA BOARD OF</b> <b>Controlled substances</b> Limited permits 856 IAC 2-7 25 IR 3871 26 IR 1725 <b>27 IR 181</b>
<b>Watercraft operations on public waters in Indiana</b> LSA Document #03-28(E) <b>26 IR 2388</b>	<b>NURSING HOME REGULATION</b> (See <b>HEALTH, INDIANA STATE DEPARTMENT OF— Health facilities; licensing and operational standards</b> )	<b>Pharmacies and pharmacists</b> Counseling Definitions 856 IAC 1-33-1 26 IR 3949 27 IR 274 Institutional patient exception 856 IAC 1-33-4 26 IR 3950 27 IR 275 Offer requirements 856 IAC 1-33-1.5 27 IR 274 Patient counseling requirements 856 IAC 1-33-2 26 IR 3949 27 IR 275 Patient counseling violations 856 IAC 1-33-5 27 IR 275 Fee structure Fees 856 IAC 1-27-1 27 IR 276
Boat races, water ski events, and major organized boating activities Applicability 312 IAC 5-3-1 26 IR 1130 <b>26 IR 3321</b>	<b>OCCUPATIONAL THERAPY</b> (See <b>MEDICAL LICENSING BOARD OF INDIANA</b> )	
Public notice before the issuance of a license for a boat race, water ski event, or major organized boating activity 312 IAC 5-3-3 26 IR 1130 <b>26 IR 3322</b>	<b>OFFENDER AND JUVENILE RECORDS</b> (See <b>CORRECTION, DEPARTMENT OF</b> )	
Site inspection by a conservation officer before issuance of a license for a boat race, water ski event, or major organized boating activity 312 IAC 5-3-2 26 IR 1130 <b>26 IR 3322</b>	<b>ONE AND TWO FAMILY DWELLING CODE</b> (See <b>FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b> )	
Definitions Waters of concurrent jurisdiction 312 IAC 5-2-47 26 IR 2401 <b>26 IR 3868</b>	<b>OPINIONS OF THE ATTORNEY GENERAL</b> (See Cumulative Table of Executive Orders and Attorney General's Opinions at 27 IR 377)	
Equipment and operational standards Children wearing personal flotation devices 312 IAC 5-13-2 26 IR 2401 <b>26 IR 3868</b>	<b>OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE, INDIANA</b> <b>Formulary of legend drugs</b> Formulary Listed by category 857 IAC 2-3-16 25 IR 3873 26 IR 1104	
Specified navigable waterways other than Lake Michigan; restrictions Tippecanoe River in White County and Carroll County; watercraft speed restrictions LSA Document #03-176(E) 26 IR 3660	<b>OPTOMETRY BOARD, INDIANA</b> <b>General provisions</b> Limited licenses 852 IAC 1-17 25 IR 3870 26 IR 1561	
Specified public freshwater lakes; restrictions Lake James Chain of Lakes; special watercraft zones 312 IAC 5-6-5 27 IR 220	Revocation or suspension of license License revocation; duties of licensees 852 IAC 1-13-1 25 IR 3869 26 IR 2373	
Lake Wawasee and Syracuse Lake; special watercraft zones LSA Document #03-26(E) 26 IR 1952 312 IAC 5-6-6 25 IR 4165 26 IR 1900 26 IR 2660 27 IR 59	License suspension; duties of licensees 852 IAC 1-13-2 25 IR 3870 26 IR 2374	
<b>NURSING, INDIANA STATE BOARD OF</b> <b>Interstate nurse licensing compact and multistate licensure privileges</b> General provisions 848 IAC 6 26 IR 2121 26 IR 3649	Qualifications of applicants Applicant fees, transcripts, examination scores, and photographs 852 IAC 1-1.1-4 25 IR 3869 26 IR 1944	

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Pharmacy technicians		Time		Teacher proficiency examination	
Qualifications		845 IAC 1-4.1-1	26 IR 2684	Minimum acceptable scores	
856 IAC 1-35-4	25 IR 4211		<b>27 IR 527</b>	515 IAC 1-4-2	25 IR 4208
	<b>26 IR 1562</b>	Standards of professional conduct			<b>26 IR 2323</b>
Purpose and scope		Licensure fees		Test requirements and exemptions	
856 IAC 1-35-1	25 IR 4211	845 IAC 1-6-9	26 IR 2686	515 IAC 1-4-1	25 IR 4207
	<b>26 IR 1561</b>		<b>27 IR 529</b>		<b>26 IR 2322</b>
<b>PHYSICAL THERAPISTS AND PHYSICAL THERAPISTS' ASSISTANTS</b>		<b>POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION; INDIANA</b>		<b>PROPERTY ASSESSMENT</b>	
(See <b>MEDICAL LICENSING BOARD OF INDIANA</b> )		<b>Member in political subdivision risk management fund and catastrophic liability fund</b>		<b>2001 real property assessment manual</b>	
<b>PHYSICIAN ASSISTANTS</b>		Responsibilities		Applicability, provisions, and procedures	
<b>Physician assistants</b>		762 IAC 2	25 IR 2301	50 IAC 2.3-1-1	25 IR 835
General provisions			<b>26 IR 27</b>		<b>26 IR 6</b>
Applications		<b>POLLUTION</b>			26 IR 86
844 IAC 2.2-2-1	26 IR 177	(See <b>AIR POLLUTION CONTROL BOARD</b> )		Incorporation by reference	
	<b>26 IR 1558</b>	(See also <b>WATER POLLUTION CONTROL BOARD</b> )		50 IAC 2.3-1-2	26 IR 87
Certification of physician assistants; fees					<b>26 IR 2314</b>
844 IAC 2.2-2-8	26 IR 179	<b>POULTRY AND POULTRY PRODUCTS INSPECTION</b>		<b>PROPRIETARY EDUCATION, INDIANA COMMISSION ON</b>	
	<b>26 IR 1560</b>	(See <b>ANIMAL HEALTH, INDIANA STATE BOARD OF</b> )		<b>General provisions</b>	
Privileges and duties				Career college student assurance fund	
844 IAC 2.2-2-5	26 IR 179	<b>PRIVATE DETECTIVES LICENSING BOARD</b>		570 IAC 1-14	26 IR 867
	<b>26 IR 1560</b>	<b>General provisions</b>			<b>26 IR 3338</b>
Supervising physician; registration of		Advertising		<b>PSYCHOLOGY BOARD, STATE</b>	
844 IAC 2.2-2-2	26 IR 178	862 IAC 1-1-6	26 IR 1728	<b>Restricted psychology tests and instruments</b>	
	<b>26 IR 1559</b>		<b>26 IR 3341</b>	868 IAC 2	26 IR 3741
<b>PLUMBING COMMISSION, INDIANA</b>		<b>PRIVATE MENTAL HEALTH INSTITUTIONS</b>		<b>PUBLIC ASSISTANCE PROGRAMS</b>	
<b>General provisions</b>		(See <b>MENTAL HEALTH AND ADDICTION, DIVISION OF</b> )		(See also <b>DISABILITY, AGING, AND REHABILITATIVE SERVICES, DIVISION OF</b> )	
Licenses; applications for renewal				(See also <b>FAMILY AND CHILDREN, DIVISION OF</b> )	
Fee schedule		<b>PROFESSIONAL STANDARDS BOARD</b>		(See also <b>FAMILY AND SOCIAL SERVICES, OFFICE OF THE SECRETARY OF</b> )	
860 IAC 1-1-2.1	25 IR 2585	<b>Accomplished practitioner license</b>		<b>PUBLIC EMPLOYEES' RETIREMENT FUND, BOARD OF TRUSTEES OF THE</b>	
<b>PODIATRIC MEDICINE, BOARD OF</b>		515 IAC 12	26 IR 3943	<b>Additional contributions</b>	
<b>Podiatrists</b>		<b>Initial practitioner and other licenses</b>		Elective payroll deductions for additional contributions	
Admission to practice		General provisions		35 IAC 11-1	26 IR 3678
Licensure by endorsement		515 IAC 8	26 IR 2437	<b>Annual compensation limits; implementation of annual compensation limitations pursuant to Section 401(a)(17) of the IRS</b>	
845 IAC 1-3-1	26 IR 2683		<b>27 IR 166</b>	Definitions	
	<b>27 IR 526</b>	<b>Issuance and revocation of various licenses and permits</b>		35 IAC 9-1-1	25 IR 4135
Licensure by examination		General provisions		Introduction	
845 IAC 1-3-2	26 IR 2683	515 IAC 9	26 IR 2451	35 IAC 9-1-2	25 IR 4136
	<b>27 IR 526</b>	<b>Professional educator license teachers</b>		Purpose	
Progressive graduate podiatric medical training defined		General provisions; definitions		35 IAC 9-1-3	25 IR 4136
845 IAC 1-3-3	26 IR 2684	515 IAC 4-1	25 IR 2292	Text	
	<b>27 IR 527</b>	Accomplished practitioner		35 IAC 9-1-4	25 IR 4136
Continuing education		515 IAC 4-4	25 IR 2299	<b>Model plan amendments</b>	
Approval of continuing education programs		Initial practitioner		Adoption of IRS model amendment to comply with the unemployment compensation amendments of 1992	
845 IAC 1-5-3	26 IR 2685	515 IAC 4-2	25 IR 2294	Definitions	
	<b>27 IR 528</b>	Proficient practitioner		35 IAC 8-1-1	25 IR 4134
Credit hours required		515 IAC 4-3	25 IR 2295	Introduction	
845 IAC 1-5-1	26 IR 2685	Substitute permits		35 IAC 8-1-2	25 IR 4134
	<b>27 IR 527</b>	515 IAC 4-5	25 IR 2300		
Reporting continuing education credit; audit		<b>Substitute teacher's permit</b>			
845 IAC 1-5-2.1	25 IR 3455	Substitute permits			
	26 IR 2682	515 IAC 5	25 IR 2808		
	<b>27 IR 525</b>		<b>26 IR 2325</b>		
License renewal		<b>Teacher training and licensing; requirements for education begun after academic year 1977-78</b>			
Inactive status		Renewal of licenses			
845 IAC 1-4.1-7	26 IR 2685	515 IAC 1-7	26 IR 1254		
	<b>27 IR 527</b>		<b>27 IR 501</b>		
Mandatory renewal					
Notice					
845 IAC 1-4.1-2	26 IR 2684				
	<b>27 IR 527</b>				

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Model amendment language		Required instructional materials		License activation	
Model language		876 IAC 3-5-6.1	26 IR 3418	876 IAC 4-2-9	26 IR 180
35 IAC 8-2-1	25 IR 4135		<b>27 IR 533</b>		<b>26 IR 788</b>
<b>Rollovers and trustee-to-trustee transfers</b>		General provisions		Sponsors; approval	
Acceptance of rollovers and trustee-to-trustee transfers		Expiration of licenses		Significant changes	
35 IAC 10-1	25 IR 4137	876 IAC 3-2-4	25 IR 4213	876 IAC 4-1-3	25 IR 3876
			<b>26 IR 1106</b>		<b>26 IR 791</b>
<b>PUBLIC RECORDS, OVERSIGHT COMMITTEE ON</b>		Fee schedule		<b>General provisions</b>	
<b>Microfilming standards for source documents with a retention period of more than 15 years</b>		876 IAC 3-2-7	25 IR 4213	Definitions; licensing; miscellaneous provisions	
General provisions			<b>26 IR 1107</b>	Residential address of licensees	
Purpose		Reinstatement of expired license		876 IAC 1-1-30.1	26 IR 2127
60 IAC 2-1-1	26 IR 1118	876 IAC 3-2-5	25 IR 4213		<b>26 IR 3342</b>
	<b>26 IR 2604</b>		<b>26 IR 1107</b>	Termination of association with principal broker; duties of parties	
Microfilming standards		Real estate appraiser course provider approval		876 IAC 1-1-19	26 IR 3744
Application		Instructors		Residential sales disclosure	
60 IAC 2-2-1	26 IR 1118	876 IAC 3-4-8	26 IR 3418	Form	
	<b>26 IR 2604</b>		<b>27 IR 533</b>	876 IAC 1-4-2	25 IR 3874
Definition		Real estate appraisers; licensure and certification			<b>26 IR 789</b>
60 IAC 2-2-2	26 IR 1118	Educational requirements for Indiana certified general appraiser			26 IR 3142
	<b>26 IR 2604</b>	876 IAC 3-3-5	26 IR 3417		<b>27 IR 186</b>
Destruction; notice and certification			<b>27 IR 532</b>	Residential real estate sales disclosure	
60 IAC 2-2-5.1	26 IR 1121	Educational requirements for Indiana certified residential appraiser		876 IAC 1-4-1	26 IR 3142
	<b>26 IR 2606</b>	876 IAC 3-3-4	26 IR 3416		<b>27 IR 186</b>
Documentation			<b>27 IR 530</b>	Written orders	
60 IAC 2-2-3	26 IR 1119	Educational requirements for Indiana licensed residential appraiser		876 IAC 1-1-23	25 IR 3874
	<b>26 IR 2605</b>	876 IAC 3-3-3	26 IR 3415		<b>26 IR 789</b>
Legibility			<b>27 IR 529</b>	<b>Real estate courses and licensing requirements for brokers and salespersons</b>	
60 IAC 2-2-4	26 IR 1120	Indiana licensed trainee appraiser; examination; licensure procedures		Broker license; experience requirement and waiver	
	<b>26 IR 2605</b>	876 IAC 3-3-22	25 IR 4214	876 IAC 2-16-1	26 IR 2127
Permanency			<b>26 IR 1107</b>		<b>26 IR 3342</b>
60 IAC 2-2-5	26 IR 1120	Standards of practice		<b>RESIDENTIAL CARE ASSISTANCE PROGRAM</b>	
	<b>26 IR 2606</b>	Deletions from the Uniform Standards of Professional Appraisal Practice		(See <b>DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES</b> )	
Preparation of documents for microfilming		876 IAC 3-6-3	26 IR 1729	<b>RESIDENTIAL CODE</b>	
60 IAC 2-2-3.1	26 IR 1120		<b>26 IR 3044</b>	(See <b>FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b> )—One and two family dwelling code)	
	<b>26 IR 2605</b>	Indiana licensed trainee appraisers; supervision		<b>RESTAURANTS</b>	
<b>PUBLIC WELFARE, STATE DEPARTMENT OF</b>		876 IAC 3-6-9	25 IR 4214	(See <b>HEALTH, INDIANA DEPARTMENT OF</b> )—Retail food establishment sanitation)	
(See <b>FAMILY AND CHILDREN, DIVISION OF</b> )			<b>26 IR 1108</b>	<b>REVENUE, DEPARTMENT OF STATE</b>	
(See also <b>FAMILY AND SOCIAL SERVICES, OFFICE OF THE SECRETARY OF—Medicaid services</b> )		Supervision of licensed residential, certified residential, and certified general appraisers	27 IR 282	<b>Adjusted gross income tax</b>	
<b>RABIES IMMUNIZATION</b>		876 IAC 3-6-4	26 IR 3141	State adjusted gross income tax	
(See <b>ANIMAL HEALTH, INDIANA STATE BOARD OF</b> )			<b>27 IR 186</b>	Advance earned income credit payments	
<b>RAILROADS</b>		Uniform Standards of Professional Appraisal Practice		45 IAC 3.1-1-99.1	26 IR 817
(See <b>TRANSPORTATION, INDIANA DEPARTMENT OF</b> )		876 IAC 3-6-2	26 IR 1728		
<b>REAL ESTATE COMMISSION, INDIANA</b>			<b>26 IR 3043</b>	<b>Charity gaming</b>	
<b>Appraiser licensure and certification</b>		<b>Continuing education</b>		Administrative procedures	
Continuing education		Course requirements		45 IAC 18-8	25 IR 3236
General requirements		Curricula for brokers under IC 25-34.1-9-11(a)(1)			<b>26 IR 2311</b>
876 IAC 3-5-1	26 IR 3139	876 IAC 4-2-2	26 IR 180	Application procedure for licensure	
	<b>27 IR 184</b>		<b>26 IR 788</b>	Application by manufacturer or distributor	
Instructors		Curricula for salespersons under IC 25-34.1-9-11(a)(1)		45 IAC 18-2-2	25 IR 3226
876 IAC 3-5-7	26 IR 3141	876 IAC 4-2-3	26 IR 180	Application by qualified organization	
	<b>27 IR 185</b>		<b>26 IR 788</b>	45 IAC 18-2-1	25 IR 3225
Mandatory continuing education courses; approved providers		Curricula for salespersons under IC 25-34.1-9-11(a)(1); outline			<b>26 IR 2306</b>
876 IAC 3-5-1.5	26 IR 3140	876 IAC 4-2-3.5	26 IR 1730	Charity gaming licenses	
	<b>27 IR 185</b>		<b>26 IR 3342</b>	45 IAC 18-2-4	25 IR 3228
				License fees	
				45 IAC 18-2-3	25 IR 3227

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Charity gaming		Festival		Record keeping	
Allowable events		45 IAC 18-1-23	<b>25 IR 2303</b>	Records of manufacturer or distributor	
45 IAC 18-3-1	25 IR 3228	Flare		45 IAC 18-4-2	25 IR 3234
Calendar raffle; sale of tickets, calendars, and drawings for prizes		45 IAC 18-1-24	25 IR 3222		<b>26 IR 2309</b>
45 IAC 18-3-4	25 IR 3231	In existence for at least twenty-five (25) years	<b>26 IR 2303</b>	Records of qualified organization	
	<b>26 IR 2307</b>	45 IAC 18-1-25	25 IR 3222	45 IAC 18-4-1	25 IR 3233
Conducting an allowable event			<b>26 IR 2303</b>		<b>26 IR 2309</b>
45 IAC 18-3-2	25 IR 3229	In good standing with the department		Taxation	
Replacement of tickets in the drawing container		45 IAC 18-1-26	25 IR 3222	Gaming card excise tax	
45 IAC 18-3-5	25 IR 3232		<b>26 IR 2303</b>	45 IAC 18-5-2	25 IR 3234
	<b>26 IR 2307</b>	Location			<b>26 IR 2310</b>
Refunds		45 IAC 18-1-27	25 IR 3222	Violations	
45 IAC 18-3-6	25 IR 3232		<b>26 IR 2303</b>	45 IAC 18-7	25 IR 3235
	<b>26 IR 2308</b>	Member		<b>Utility receipts tax</b>	
Specific uses of proceeds		45 IAC 18-1-28	25 IR 3223	LSA Document #02-316(E)	<b>26 IR 794</b>
45 IAC 18-3-8	25 IR 3233		<b>26 IR 2303</b>	<b>SCHOLARSHIP AND GRANT PROGRAMS</b>	
	<b>26 IR 2308</b>	Nationally recognized charitable organization		(See <b>STATE STUDENT ASSISTANCE COMMISSION</b> )	
Use of proceeds		45 IAC 18-1-29	25 IR 3223		
45 IAC 18-3-7	25 IR 3232		<b>26 IR 2304</b>	<b>SCHOOL BUS COMMITTEE, STATE</b>	
	<b>26 IR 2308</b>	Operator		<b>Minimum specifications for school buses</b>	
Definitions		45 IAC 18-1-30	25 IR 3223	General provisions	
Affiliate			<b>26 IR 2304</b>	Display of United States flag	
45 IAC 18-1-9	25 IR 3220	Pull-tab		575 IAC 1-1-4.6	26 IR 1723
	<b>26 IR 2300</b>	45 IAC 18-1-31	25 IR 3223		<b>26 IR 3341</b>
Bingo card or bingo paper		Punchboard			
45 IAC 18-1-10	25 IR 3220	45 IAC 18-1-32	25 IR 3223	<b>SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD</b>	
	<b>26 IR 2301</b>		<b>26 IR 2304</b>	<b>General provisions</b>	
Bingo equipment		Premises		Licensure and fees	
45 IAC 18-1-11	25 IR 3220	45 IAC 18-1-33	25 IR 3224	Fees	
	<b>26 IR 2301</b>		<b>26 IR 2305</b>	839 IAC 1-2-5	26 IR 875
Bingo supplies		Raffle			<b>26 IR 2623</b>
45 IAC 18-1-12	25 IR 3220	45 IAC 18-1-34	25 IR 3224	Licensure retirement	
	<b>26 IR 2301</b>		<b>26 IR 2305</b>	839 IAC 1-2-2.1	26 IR 874
Calendar		Revoke			<b>26 IR 2622</b>
45 IAC 18-1-13	25 IR 3220	45 IAC 18-1-35	25 IR 3224	Marriage and family therapists	
	<b>26 IR 2301</b>		<b>26 IR 2305</b>	Licensure applicants; supervision for marriage and family therapist	
Calendar raffle		Seal card		839 IAC 1-4-5	26 IR 871
45 IAC 18-1-14	25 IR 3221	45 IAC 18-1-36	25 IR 3224		26 IR 3411
	<b>26 IR 2301</b>		<b>26 IR 2305</b>		<b>27 IR 518</b>
Charity game night		Serves a majority of counties in Indiana		Mental health counselors	
45 IAC 18-1-15	25 IR 3221	45 IAC 18-1-37	25 IR 3224	Educational requirements	
	<b>26 IR 2301</b>		<b>26 IR 2305</b>	839 IAC 1-5-1	26 IR 872
Computer or other technologic aid		Suspend			26 IR 3412
45 IAC 18-1-16	25 IR 3221	45 IAC 18-1-38	25 IR 3224		<b>27 IR 518</b>
	<b>26 IR 2301</b>		<b>26 IR 2305</b>	Experience requirements for mental health counselors	
Concealed face bingo card		Tip board		839 IAC 1-5-1.5	26 IR 874
45 IAC 18-1-17	25 IR 3221	45 IAC 18-1-39	25 IR 3224		26 IR 3414
	<b>26 IR 2302</b>		<b>26 IR 2305</b>		<b>27 IR 520</b>
Conduct prejudicial to the public confidence in the department		Tip board ticket		Social workers; clinical social workers	
45 IAC 18-1-18	25 IR 3221	45 IAC 18-1-40	25 IR 3224	Licensure by examination for social workers and clinical social workers	
	<b>26 IR 2302</b>		<b>26 IR 2306</b>	839 IAC 1-3-2	26 IR 871
Deal		Value			26 IR 3411
45 IAC 18-1-19	25 IR 3221	45 IAC 18-1-41	25 IR 3225		<b>27 IR 517</b>
	<b>26 IR 2302</b>		<b>26 IR 2306</b>	<b>SOIL SCIENTISTS, INDIANA BOARD OF REGISTRATION FOR</b>	
Dispensing device		Wager		307 IAC	26 IR 2652
45 IAC 18-1-20	25 IR 3221	45 IAC 18-1-42	25 IR 3225		<b>27 IR 53</b>
	<b>26 IR 2302</b>		<b>26 IR 2306</b>		
Door prize		Worker			
45 IAC 18-1-21	25 IR 3222	45 IAC 18-1-43	25 IR 3225		
	<b>26 IR 2302</b>		<b>26 IR 2306</b>		
Existence		Penalties			
45 IAC 18-1-22	25 IR 3222	License revocation			
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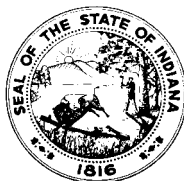
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