



Indiana Register

Volume 28, Number 6
Pages 1675-2008

March 1,
2005

Retain this issue
as a
supplement to the
Indiana Administrative
Code (See p. 1676)

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

Published By
Legislative Services Agency
317/232-9557



This issue contains documents
officially filed through 4:45 p.m.,
February 10, 2005

IN THIS ISSUE

State Agencies	1678
Final Rules	
Natural Resources Commission	1680
Indiana Pesticide Review Board	1685
Medical Licensing Board of Indiana	1693
Errata	
Indiana State Department of Health	1695
Fire Prevention and Building Safety Commission	1695
Notice of Withdrawal	
Division of Disability, Aging, and Rehabilitative Services	1697
Emergency Rules	
State Lottery Commission	1698
Change in Notice of Public Hearing	
Indiana Utility Regulatory Commission	1710
Air Pollution Control Board	1710
Notice of Intent to Adopt a Rule	
Indiana Department of Administration	1713
Natural Resources Commission	1713
Indiana State Department of Health	1713
Department of Insurance	1713
Proposed Rules	
Air Pollution Control Board	1714
Indiana State Board of Animal Health	1818
State Chemist of the State of Indiana	1834
Office of the Secretary of Family and Social Services	1846
Indiana State Board of Education	1849
Fire Prevention and Building Safety Commission	1849
Indiana Board of Veterinary Medical Examiners	1859
Readopted Rules	1861
IC 13-14-9 Notices	
Air Pollution Control Board	1863
Water Pollution Control Board	1865
Executive Orders/Proclamations	1882
Attorney General's Opinions	1913
Nonrule Policy Documents	1926
Rules Affected by Volume 28	1971
Index	1989



INDIANA REGISTER

is published monthly by the Indiana Legislative Council, Room 302 State House, Indianapolis, Indiana 46204-2789. An order form is on the back of this issue. Subscription price is \$60 for Volume 28, in advance.

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

Indiana Legislative Council

Senator Robert D. Garton, Chairman
Representative Brian Bosma, Vice Chairman

Senator James W. Merritt
Senator Richard Young, Jr.
Senator James Lewis
Vacant
Vacant
Vacant
Vacant

Representative William Friend
Representative Kathy Richardson
Representative P. Eric Turner
Representative Timothy Brown
Representative B. Patrick Bauer
Representative F. Dale Grubb
Vacant

Philip J. Sachtleben, Executive Director

Indiana Code Revision Commission

Senator Luke Kenley, Chairman

Senator Rose Ann Antich-Carr
Senator Anita Bowser
Senator Sue Landske
Representative Robert Behning
Representative Ralph Foley
Representative Robert Kuzman
Vacant

Chief Judge James S. Kirsch
Jon Laramore
Dave Remondini
Heather Willis
Jennifer Thuma
Prof. Thomas B. Allington
Joe Champion

Stephen G. Barnes, Managing Editor

Kimbra K. Salt, Editorial Assistant

Becky Walker, Data Processing Manager

RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

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

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

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

RETENTION SCHEDULE

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

- (1) 2005 Indiana Administrative Code (CD-ROM version).
- (2) Volume 28 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/.

The 2004 Edition of the Indiana Administrative Code and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

JUDICIAL NOTICE AND CITATION FORM

IC 4-22-9 provides for the judicial notice of rules published in the Indiana Register or the Indiana Administrative Code. Subject to any errata notice that may affect a rule, the latest published version of a final rule is prima facie evidence of that rule's validity and content.

Cite to a current general and permanent rule by Indiana Administrative Code citation, regardless of whether it has been published in a supplement to the Indiana Administrative Code. For example, cite the entire current contents of title 312 as "Title 312 of the Indiana Administrative Code," cite the entire current contents of the third article in title 312 as "312 IAC 3," cite the entire current contents of the fourth rule in article three as "312 IAC 3-4," and cite part or all of the current contents of the second section in rule four as "312 IAC 3-4-2." IC 4-22-9-6 provides that a citation in this form contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as "25 Ind. Reg. 120 (2002)." A shorter Indiana Register citation form is "25 IR 120."

PRINTING CODE

This style type is used to indicate that substantive text is being inserted by amendment into a rule, and **this style type** is used to indicate that substantive text is being eliminated by amendment from a rule. **This style type** is replaced by a single large "X" to show the elimination of a form or other piece of artwork. **This style type** is used to indicate a rule is being added. *This style type* and **this style type** also are used to highlight nonsubstantive annotations to a rule and to indicate that an entry in a reference table or the index concerns a final rule.

REFERENCE TABLES AND INDEX

The page location of rules and other documents printed in the Indiana Register may be found by using the tables and index published in the Indiana Register. A citation listing of the general and permanent rules affected in a volume and a cumulative index are published in each issue. Cumulative tables that cite executive orders, attorney general's opinions, and other nonrule policy documents printed in a calendar year are published quarterly.

FILING AND PUBLISHING SCHEDULE

NOTICE AND PUBLICATION SCHEDULE. The Legislative Services Agency publishes documents filed by 4:45 p.m. on the tenth day of a month (no later than the twelfth day of a month, excluding holidays or weekends) in the following month's Indiana Register according to the schedule below:

PUBLICATION SCHEDULE

Closing Dates:	Publication Dates:	Closing Dates:	Publication Dates:
February 10, 2005	March 1, 2005	September 9, 2005	October 1, 2005
March 10, 2005	April 1, 2005	October 10, 2005	November 1, 2005
April 11, 2005	May 1, 2005	November 10, 2005	December 1, 2005
May 10, 2005	June 1, 2005	December 9, 2005	January 1, 2006
June 10, 2005	July 1, 2005	January 10, 2006	February 1, 2006
July 11, 2005	August 1, 2005	February 10, 2006	March 1, 2006
August 10, 2005	September 1, 2005	March 10, 2006	April 1, 2006

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		TITLE NUMBER	
AGENCY	TITLE NUMBER	AGENCY	TITLE NUMBER
Accountancy, Indiana Board of	872	†Industrial Board of Indiana	630
Accounts, State Board of	20	Information Technology Oversight Commission, State	28
Adjutant General	270	Insurance, Department of	760
Administration, Indiana Department of	25	Labor, Department of	610
†Administrative Building Council of Indiana	660	Land Surveyors, State Board of Registration for	865
†Aeronautics Commission of Indiana	110	Law Enforcement Training Board	250
†Aging and Community Services, Department on	450	Library and Historical Board, Indiana	590
Agricultural Development Corporation, Indiana	770	Library Certification Board	595
Agricultural Experiment Station	350	Local Government Finance, Department of	50
†Agriculture, Commissioner of	340	Lottery Commission, State	65
Agriculture, Commissioner of	375	Manufactured Home Installer Licensing Board	879
†Air Pollution Control Board	325.1	Medical and Nursing Distribution Loan Fund Board of Trustees, Indiana	580
Air Pollution Control Board	326	Medical Licensing Board of Indiana	844
†Air Pollution Control Board of the State of Indiana	325	Mental Health and Addiction, Division of	440
Alcohol and Tobacco Commission	905	Meridian Street Preservation Commission	925
Amusement Device Safety Board, Regulated	685	Motor Vehicles, Bureau of	140
Animal Health, Indiana State Board of	345	†Natural Resources, Department of	310
Architects and Landscape Architects, Board of Registration for	804	Natural Resources Commission	312
Athletic Trainers Board, Indiana	898	Nursing, Indiana State Board of	848
Attorney General for the State, Office of	10	Occupational Safety Standards Commission	620
Auctioneer Commission, Indiana	812	Optometric Legend Drug Prescription Advisory Committee, Indiana	857
Barber Examiners, Board of	816	Optometry Board, Indiana	852
Boiler and Pressure Vessel Rules Board	680	Parole Board	220
Boxing Commission, State	808	†Personnel Board, State	30
Budget Agency	85	Personnel Department, State	31
Chemist of the State of Indiana, State	355	Pesticide Review Board, Indiana	357
Children's Health Insurance Program, Office of the	407	Pharmacy, Indiana Board of	856
Chiropractic Examiners, Board of	846	Plumbing Commission, Indiana	860
Civil Rights Commission	910	Podiatric Medicine, Board of	845
†Clemency Commission, Indiana	230	Police Department, State	240
Commerce, Department of	55	Political Subdivision Risk Management Commission, Indiana	762
Community Residential Facilities Council	431	Port Commission, Indiana	130
Consumer Protection Division of the Office of the Attorney General	11	Private Detectives Licensing Board	862
Controlled Substances Advisory Committee	858	Professional Standards Board	515
Coroners Training Board	207	Proprietary Education, Indiana Commission on	570
Correction, Department of	210	Psychology Board, State	868
Cosmetology Examiners, State Board of	820	Public Access Counselor, Office of the	62
Creamery Examining Board	365	Public Employees' Retirement Fund, Board of Trustees of the	35
Criminal Justice Institute, Indiana	205	Public Records, Oversight Committee on	60
Deaf Board, Indiana School for the	514	Public Safety Training Board	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 Counselor Board	839
†Election Board, State	15	†Soil and Water Conservation Committee, State	311
Election Commission, Indiana	18	Soil Scientists, Indiana Board of Registration for	307
†Elevator Safety Board	670	†Solid Waste Management Board	320.1
Emergency Management Agency, State	290	Solid Waste Management Board	329
Emergency Medical Services Commission, Indiana	836	Speech-Language Pathology and Audiology Board	880
Employees' Appeals Commission, State	33	Standardbred Board of Regulations, Indiana	341
†Employment and Training Services, Department of	645	†Stream Pollution Control Board of the State of Indiana	330
Engineers, State Board of Registration for Professional	864	Student Assistance Commission, State	585
Enterprise Zone Board	58	Tax Review, Indiana Board of	52
Environmental Adjudication, Office of	315	†Teacher Training and Licensing, Commission on	530
Environmental Health Specialists, Board of	896	Teachers' Retirement Fund, Board of Trustees of the Indiana State	550
†Environmental Management Board, Indiana	320	Television and Radio Service Examiners, Board of	884
Ethics Commission, State	40	†Textbook Adoptions, Commission on	520
Fair Commission, State	80	Toxicology, State Department of	260
Family and Children, Division of	470	†Traffic Safety, Office of	150
Family and Social Services, Office of the Secretary of	405	†Transportation, Department of	100
Financial Institutions, Department of	750	Transportation, Indiana Department of	105
Fire Marshal, State	650	Transportation Finance Authority, Indiana	135
Fire Prevention and Building Safety Commission	675	Underground Storage Tank Financial Assurance Board	328
Firefighting Personnel Standards and Education, Board of	655	†Unemployment Insurance Board, Indiana	640
Forensic Sciences, Commission on	415	Utility Regulatory Commission, Indiana	170
Funeral and Cemetery Service, State Board of	832	†Vehicle Inspection, Department of	160
Gaming Commission, Indiana	68	Veterans' Affairs Commission	915
Geologists, Indiana Board of Licensure for Professional	305	Veterinary Medical Examiners, Indiana Board of	888
Grain Buyers and Warehouse Licensing Agency, Indiana	824	Victim Services Division	203
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
Home Inspectors Licensing Board	878	†Water Pollution Control Board	330.1
†Horse Racing Commission, Indiana	70	Worker's Compensation Board of Indiana	631
Horse Racing Commission, Indiana	71	Workforce Development, Department of	646
Hospital Council	414		
Housing Finance Authority, Indiana	930		
Human Service Programs, Interdepartmental Board for the Coordination of	490		

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

State Agencies

NUMERICAL LIST

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
28	State Information Technology Oversight Commission
†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

203	Victim Services Division
205	Indiana Criminal Justice Institute
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 Board
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

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

TITLE NUMBER

EDUCATION AND LIBRARIES

†510	Commission on General Education
511	Indiana State Board of Education
514	Indiana School for the Deaf Board
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
830	Indiana Dietitians Certification Board
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
845	Board of Podiatric Medicine
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
878	Home Inspectors Licensing Board
879	Manufactured Home Installer Licensing Board
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

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #04-84(F)

DIGEST

Amends 312 IAC 5-6-5, governing special watercraft restrictions on Lake James, to apply to other lakes in the Lake James Chain of Lakes and to add new restricted watercraft zones for the channel between Lake James and Snow Lake and for Follett Creek between Big Otter Lake and Snow Lake. Effective 30 days after filing with the secretary of state.

312 IAC 5-6-5

SECTION 1. 312 IAC 5-6-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-6-5 Lake James Chain of Lakes; special watercraft zones

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14; IC 32-19-1-1

Sec. 5. (a) This section establishes special watercraft zones on the Lake James Chain of Lakes in Steuben County. For the purposes of this section, the Lake James Chain of Lakes includes the following:

- (1) Big Otter Lake.
- (2) Jimmerson Lake.
- (3) Lake James.
- (4) Little Otter Lake.
- (5) Marsh Lake.
- (6) Snow Lake.
- (7) The streams connecting the lakes.

(b) A person must not operate a watercraft at either of the following sites located within Lake James: ~~in Steuben County:~~

- (1) Adjacent to the Pokagon Beach in Pokagon State Park with:
 - (A) the southern boundary beginning at a point on the shoreline at the southern edge of the Pokagon Beach, the point being located north fifty (50) degrees west, a distance of one hundred twenty-four (124) feet from the northwest corner of the concession building;
 - (B) the northern boundary beginning at a point on the shoreline five hundred (500) feet north of the point on the shoreline described in clause (A) and running perpendicular to the shoreline for one hundred fifty (150) feet; and
 - (C) the western boundary formed by a line running parallel to the shoreline and terminating at the lakeward-most points of the southern boundary and the northern boundary.
- (2) Adjacent to the Potawatomi Inn Beach in Pokagon State Park with:

- (A) the western boundary beginning at a point on the shoreline at the western edge of the Potawatomi Inn Beach and running perpendicular to the shoreline for one hundred fifty (150) feet;

- (B) the eastern boundary beginning at a point on the west end of a concrete seawall in front of the boat rental and

running perpendicular to the shoreline for one hundred fifty (150) feet; and

- (C) the southern boundary formed by a line running parallel to the shoreline, approximately three hundred (300) feet long, and terminating at the lakeward-most points of the western boundary and the northern boundary.

(c) A person must not operate a watercraft in excess of idle speed at any of the following locations:

(1) In the area separating Lake James from Snow Lake and more particularly described as follows:

(A) Northerly of buoys placed along a line formed by these points:

(i) 2358640.00 (UTM 4620748.34) north and 498640.00 (UTM 662873.32) east; and

(ii) SPC 2358014.99 (UTM 4620568.46) north and 500882.81 (UTM 663559.75) east.

(B) Southerly of buoys placed along a line formed by these points:

(i) SPC 2357538.77 (UTM 4620415.28) north and SPC 499176.13 (UTM 663041.90) east; and

(ii) SPC 2357538.77 (UTM 4620422.16) north and SPC 500632.12 (UTM 663485.61) east.

(2) Along Follett Creek between Big Otter Lake and Snow Lake and more particularly described as follows:

(A) Westerly of buoys placed along a line formed by these points:

(i) SPC 2360938.47 (UTM 4621470.13) north and 503160.06 (UTM 664239.92) east; and

(ii) SPC 2360451.35 (UTM 4621322.18) north and 503265.57 (UTM 664274.38) east.

(B) Easterly of buoys placed along a line formed by these points:

(i) SPC 2359972.56 (UTM 4621187.97) north and 505744.48 (UTM 665032.07) east; and

(ii) SPC 2359897.33 (UTM 4621165.50) north and 505840.23 (UTM 665061.60) east.

(d) The coordinates used in subsection (c) have the meaning set forth in IC 32-19-1-1, 312 IAC 1-1-27.5, and 312 IAC 1-1-29.3 and referenced as "SPC" and "UTM". (*Natural Resources Commission; 312 IAC 5-6-5; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2374, eff Jan 1, 2002; filed Jan 7, 2005, 2:05 p.m.: 28 IR 1680*)

LSA Document #04-84(F)

Notice of Intent Published: May 1, 2004; 27 IR 2522

Proposed Rule Published: October 1, 2004; 28 IR 240

Hearing Held: October 26, 2004

Approved by Attorney General: December 30, 2004

Approved by Governor: January 5, 2005

Filed with Secretary of State: January 7, 2005, 2:05 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #04-94(F)

DIGEST

Adds 312 IAC 11-2-11.5 concerning a new definition for a “group pier” on a public freshwater lake. Amends 312 IAC 11-3-1 to disqualify a group pier from treatment as a general license and to require a person seeking to place a group pier to complete the license application procedures of IC 14-26-2 (sometimes referred to as the “Lakes Preservation Act”). Effective 30 days after filing with the secretary of state.

312 IAC 11-2-11.5

312 IAC 11-3-1

SECTION 1. 312 IAC 11-2-11.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 11-2-11.5 “Group pier” defined

Authority: IC 14-10-2-4; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 11.5. “Group pier” means a pier that provides docking space for any of the following:

- (1) At least five (5) separate property owners.
- (2) At least five (5) rental units.
- (3) An association.
- (4) A condominium, cooperative, or other form of horizontal property.
- (5) A subdivision or an addition.
- (6) A conservancy district.
- (7) A campground.
- (8) A mobile home park.
- (9) A yacht club.

(Natural Resources Commission; 312 IAC 11-2-11.5; filed Jan 7, 2005, 2:10 p.m.: 28 IR 1681)

SECTION 2. 312 IAC 11-3-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-3-1 General licenses for qualified temporary structures; dry hydrants; glacial stone refaces

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23

Affected: IC 14-26-2

Sec. 1. (a) The placement and maintenance of a:

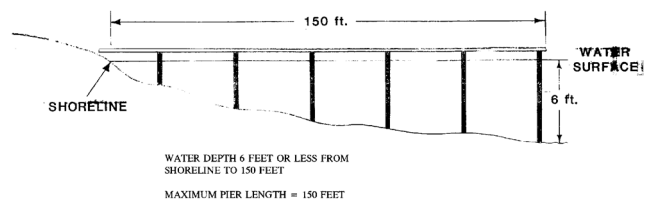
- (1) temporary structure; or
- (2) dry hydrant; or
- (3) glacial stone reface;

is authorized without a written license issued by the department under IC 14-26-2 and this rule if the temporary structure, dry hydrant, or glacial stone reface qualifies under this section.

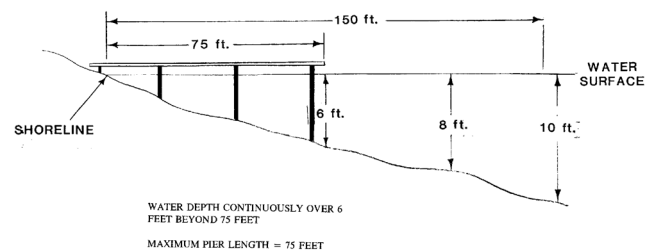
(b) In order for a temporary structure to qualify, the structure must satisfy each of the following:

- (1) Be easily removable.
- (2) Not infringe on the access of an adjacent landowner to the public freshwater lake.
- (3) Not unduly restrict navigation.
- (4) Not be unusually wide or long relative to similar structures within the vicinity on the same public freshwater lake.
- (5) Not extend more than one hundred fifty (150) feet from the legally established or average normal waterline or shoreline.
- (6) If a pier, not extend over water that is continuously more than six (6) feet deep to a distance of one hundred fifty (150) feet from the legally established or average normal waterline or shoreline.
- (7) Not be a marina.
- (8) **Not be a group pier.**
- (8) (9) Be placed by or with the acquiescence of a riparian owner.

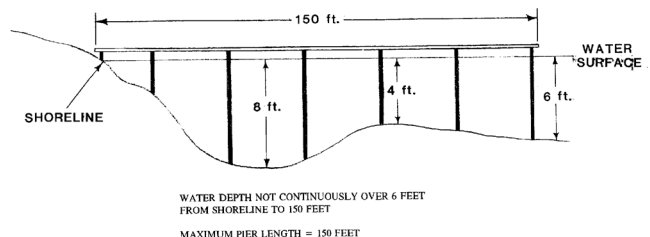
(c) Illustrations of maximum lengths for a pier or similar structure that may qualify under subsection (b) are as follows:



Where the water depth is six (6) feet or less from the shoreline to one hundred fifty (150) feet from the shoreline, the maximum pier length is one hundred fifty (150) feet.



Where the maximum water depth is continuously more than six (6) feet beyond seventy-five (75) feet from the shoreline, the maximum pier length is seventy-five (75) feet.



Where the maximum water depth is not continuously over six

(6) feet from the shoreline, the maximum pier length is one hundred fifty (150) feet.

(d) In order for the placement, maintenance, and operation of a dry hydrant to qualify, the hydrant must satisfy each of the following:

- (1) Be sponsored or owned by a volunteer or full-time fire department recognized by the public safety training institute.
- (2) Be readily accessible from an all-weather road, public access site, or similar area.
- (3) Have a diameter of at least six (6) inches.
- (4) Be constructed of PVC pipe or a similar nontoxic material.
- (5) Extend no more than one hundred fifty (150) feet from the waterline or shoreline.
- (6) Have all portions of the hydrant and its in-lake accessories be at least five (5) feet below the legally established or average normal water level.
- (7) Be marked with a danger buoy, which conforms to 312 IAC 5-4-6(a)(1), at the lakeward end of the hydrant.
- (8) Be equipped with a screen or straining device on the lakeward end.
- (9) Glacial stone or riprap only may be placed in or on the lakebed for either of the following:
 - (A) Bedding the intake pipe.
 - (B) Straining the intake water.
- (10) Be approved by the riparian landowner.

(e) In order for the placement of glacial stone on the lakeward side of a seawall that is located within or along the waterline or shoreline of a public freshwater lake to qualify, the glacial stone reface must satisfy each of the following:

- (1) The seawall reface must be comprised exclusively of glacial stone.
- (2) The reface must not extend more than four (4) feet lakeward of the waterline or shoreline at the base of a lawful seawall.
- (3) A walk or structural tie must not be constructed on the existing seawall in combination with the glacial stone reface.
- (4) An impermeable material must not be placed behind or beneath the glacial stone reface.
- (5) Filter cloth placed behind or beneath the glacial stone reface must be properly anchored to prevent displacement or flotation.
- (6) Erosion from disturbed areas landward of the waterline or shoreline must be controlled to prevent its transport into the lake.

(Natural Resources Commission; 312 IAC 11-3-1; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2223; filed Jan 23, 2001, 10:05 a.m.: 24 IR 1614; filed May 25, 2004, 8:45 a.m.: 27 IR 3062; filed Jan 7, 2005, 2:10 p.m.: 28 IR 1681)

LSA Document #04-94(F)

Notice of Intent Published: May 1, 2004; 27 IR 2523

Proposed Rule Published: September 1, 2004; 27 IR 4095

Hearing Held: October 4, 2004

Approved by Attorney General: December 30, 2004

Approved by Governor: January 5, 2005

Filed with Secretary of State: January 7, 2005, 2:10 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #04-121(F)

DIGEST

Amends 312 IAC 16-3-2 and 312 IAC 16-3-8 to bring rules into compliance with IC 14-37-4-6 regarding the fees associated with the permitting of wells and transfer of permits and to include a requirement that the UTM coordinate location of a proposed well be provided in the application for a well permit. Effective 30 days after filing with the secretary of state.

312 IAC 16-3-2

312 IAC 16-3-8

SECTION 1. 312 IAC 16-3-2, AS READOPTED AT 28 IR 1315, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

312 IAC 16-3-2 Permit applications

Authority: IC 14-37-3

Affected: IC 4-21.5; IC 14-34; IC 14-37; IC 25-39-1.5

Sec. 2. (a) This section establishes general application requirements for a permit to:

- (1) drill;
- (2) deepen;
- (3) operate; or
- (4) convert;

a well for oil and gas purposes **or conduct a geophysical survey.**

(b) An application for a permit to:

- (1) drill;
- (2) deepen;
- (3) operate; or
- (4) convert;

a well for oil and gas purposes **or conduct a geophysical survey** shall be made on a division form.

(c) A permit application must be signed by:

- (1) the person designated as the owner or operator on the application; or
- (2) an authorized agent.

Upon a request by the division, a person who signs as an agent for an owner or operator must furnish satisfactory evidence of authority.

(d) An applicant shall remit with the application a permit fee of ~~one two~~ **fifty** dollars (~~\$100~~) (**\$250**) in cash, by

check, or by draft, payable to the department of natural resources. **However, a person may apply for an expedited review of the application for a permit except for a Class II or noncommercial gas well by submitting a permit fee of seven hundred fifty dollars (\$750).**

(e) This subsection describes the surveying requirements for a permit application as follows:

(1) Except as otherwise provided in this subsection, an application must be accompanied by a survey showing the location of the proposed well for oil and gas purposes, giving the:

- (A) quarter, quarter, quarter section, township, range, county, lot number;
- (B) block of the recorded plat if the land is platted;
- (C) three (3) nearest boundary lines of the tract; ~~and~~
- (D) distance in two (2) directions from a corner of the tract of land upon which the well is to be drilled and from the nearest quarter post or lot corner; **and**
- (E) UTM coordinates accurate to within four (4) meters of the actual location on the ground.**

A registered Indiana land surveyor must certify the survey with respect to the information required under this subdivision.

(2) With respect to a Class II well, or a noncommercial gas well, in addition to the requirements set forth in subdivision (1), the survey must include the permit number, location, and state the depth of the following:

(A) Each well for oil and gas purposes located within one-fourth (1/4) mile of the proposed well (including abandoned and nonoperational wells) that intersect the injection or production zone.

(B) Each water well recorded with the department under IC 25-39-1.5 located within one-fourth (1/4) mile of the proposed Class II well location.

(3) Information of public record and information that should have been known to the applicant must be included under this subsection. This subsection does not apply to an existing injection well unless otherwise ordered by the department.

(f) In addition to the general requirements for a permit application provided in this section, an application for a permit for a Class II well must be accompanied by the following:

- (1) A schematic diagram of the well showing the following:
 - (A) The total depth of the plugback of the well.
 - (B) The depth of the injection or disposal interval.
 - (C) The geological name of the injection or disposal zone.
 - (D) The geological name, thickness, and description of the confining zone.
 - (E) The vertical distance separating the uppermost extremity of the injection zone from the base of the lowest underground source of drinking water.
 - (F) The depths of the tops and the bottoms of the casing and the cement to be used in a well.
 - (G) The size of the casing and tubing and the depth of the packer.

(H) The depth to the base of the lowermost underground source of drinking water.

(2) If the well has been drilled, a copy of the completion report and any available geophysical log of the well.

(3) Proposed operating data as follows:

(A) The geological name, depth, and location of the injection fluid source.

(B) A standard laboratory analysis of a representative sample of water to be injected under the proposed Class II permit.

(C) The location and description of each underground source of drinking water through which the well would pass.

(D) A description of the current or proposed casing program, including the following:

- (i) Casing size, weight, and type.
- (ii) Cement volume and type.
- (iii) Packer type.
- (iv) Type of completion for the well and the proposed method for testing casing.

(E) The proposed maximum injection rate and pressure. The owner or operator shall limit injection pressure to either **a value:**

(i) ~~a value~~ that does not exceed a maximum injection pressure at the wellhead calculated to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to an underground source of drinking water and will not cause the movement or injection of fluids into an underground source of drinking water; or

(ii) ~~a value~~ for wellhead pressure calculated by using the following formula:

$$P_{\max} = (0.8 \text{ psi/ft} - (.433 \text{ psi/ft (Sg)}))d$$

Where: P_{\max} = Maximum injection pressure (psia).

Sg = Specific gravity of the injected fluid.

d = Depth to the top of the injection zone in feet.

(g) A bond ~~as set forth required in 312 IAC 16-4-2~~ **312 IAC 16-4-1** must accompany a permit application.

(h) If a drilling unit, lease, or tract of land is communitized for exploration or development, the original or a certified copy of the communitization agreement or declaration of pooling must accompany the initial permit application made under that agreement or declaration. An application for a subsequent permit must identify the:

- (1) agreement or declaration; and ~~the~~
- (2) permit number of the initial permit.

(i) With respect to an application for a Class II well, or a noncommercial gas well, an applicant must serve a written notification describing the proposed well personally or by certified mail on each of the following persons, if the described property is located within one-fourth (1/4) mile of the proposed well:

- (1) The owner or operator of each well for oil and gas purposes, including a well having temporary abandonment status under 312 IAC 16-5-20 or not yet in production.
- (2) The permittee of an underground mine permitted under IC 14-34.
- (3) The person who files a mine plan under 312 IAC 16-5-4(b) through 312 IAC 16-5-4(g) showing the workable limits for a proposed underground mine.
- (4) Each owner of rights to surface or subsurface property that the well penetrates.

(j) The notification required under subsection (i) shall specify that a person who wishes to object to issuance of the permit may, within fifteen (15) days of receipt of the notification, submit written comments or request an informal hearing before the commission under 312 IAC 16-2-3. The notification shall include the address to which written comments or the hearing request must be forwarded and where additional information may be obtained.

(k) In addition to the notification required under subsection (i), the division shall cause a notice of a permit application to be placed in a newspaper of general circulation in the county where the proposed well is located. The notice must include the following:

- (1) The name and address of the applicant.
- (2) The location of the proposed well.
- (3) The geological name and depth of the injection zone.
- (4) The maximum injection pressure.
- (5) The maximum rate of barrels each day.

The notice shall specify that a person who wishes to object to issuance of the permit may, within fifteen (15) days of publication of the notification, submit written comments or request an informal hearing before the department. The notification shall include the address to which the written comments or hearing requests must be forwarded, how a person may receive written notice of the proceedings, and where additional information concerning the proposed permit can be obtained.

(l) Proof of service of the notification required in subsection (i) must be delivered to the division before a permit for a Class II well can be issued.

(m) A person may file a written request for an informal hearing under 312 IAC 16-2-3 within fifteen (15) days after the notification required under subsections (i) through (k) to consider an objection to a permit.

(n) No permit shall be issued for a Class II well or a noncommercial gas well:

- (1) until eighteen (18) days after service of any notification required under subsections (i) through (k); or
- (2) if a hearing is requested under subsection (m), until the division director makes a determination with respect to the objection.

Upon issuance of the permit, IC 4-21.5 and 312 IAC 3-1 apply.

(o) Upon notification by the division that the requirements of this section are satisfied, an owner or operator may act upon a permit. (*Natural Resources Commission; 312 IAC 16-3-2; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2332; filed Jan 16, 2003, 10:52 a.m.: 26 IR 1896; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Jan 7, 2005, 2:00 p.m.: 28 IR 1682*)

SECTION 2. 312 IAC 16-3-8, AS READOPTED AT 28 IR 1315, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

312 IAC 16-3-8 Permit transfer

Authority: IC 14-37-3-1

Affected: IC 4-21.5; IC 14-37

Sec. 8. (a) This section establishes the requirements for the transfer of a permit issued by the department for a well for oil and gas purposes.

(b) An owner or operator must provide notice, in advance, to the division of the intention to transfer a permit to another person. The notification shall be completed on a division form.

(c) A person must submit the following with an application for a permit transfer:

(1) A bond required in 312 IAC 16-4-1.

(2) A fee of fifteen dollars (\$15) payable to the department for each well. However, if an applicant submits more than fifty (50) applications simultaneously, the transfer for each application in excess of fifty (50) is ten dollars (\$10).

~~(c)~~ (d) The department shall grant approval of a permit transfer except upon a written finding that sets forth at least one (1) of the following factors with respect to the person who seeks to receive transfer of the permit (or an officer, partner, or director of the person, if other than an individual):

(1) The fee required by this section was not submitted.

~~(+)~~ (2) A bond has not been submitted by the person as required in 312 IAC 16-4-1.

~~(2)~~ (3) The person is the owner or operator of a well for oil and gas purposes at which the person has demonstrated a pattern of willful violations of IC 14-37 or this article that has resulted in substantial damage to the environment indicating an intention not to comply with IC 14-37 or this article.

~~(3)~~ (4) The person is the owner or operator of a well for oil and gas purposes against which there is a pending notice of violation under 312 IAC 16-5-21. If this finding is made, however, the person is not disqualified from receiving the transfer if the person establishes either of the following:

(A) The violation has been or is in the process of being corrected to the satisfaction of the deputy director.

(B) The person has filed and is presently pursuing, in good faith, a direct administrative review or judicial review to contest the validity of the violation. A request for review under this clause must conform with IC 4-21.5 and 312 IAC 3-1.

(d) (e) If an application is filed to transfer a well on which there is a pending notice of violation, the owner or operator against which the violation was issued, and its surety, continue to be liable for performing the abatement and for satisfying any resulting penalty. A person who receives transfer of a permit is also liable for abatement and for any penalty attributable to the period following transfer. However, the division director may, in writing, waive any penalty that would otherwise apply during a period of not more than ninety (90) days following the transfer if the division director determines that the new permit holder is acting in good faith to correct the violation.

(e) (f) No transfer of a permit issued for oil and gas purposes is effective until the transfer is approved in writing by the division director. (*Natural Resources Commission; 312 IAC 16-3-8; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2335; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Jan 7, 2005, 2:00 p.m.: 28 IR 1684*)

LSA Document #04-121(F)

Notice of Intent Published: June 1, 2004; 27 IR 2761

Proposed Rule Published: September 1, 2004; 27 IR 4097

Hearing Held: September 29, 2004

Approved by Attorney General: December 30, 2004

Approved by Governor: January 5, 2005

Filed with Secretary of State: January 7, 2005, 2:00 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

LSA Document #04-159(F)

DIGEST

Amends 357 IAC 1-7 to address civil penalties for violations of IC 15-3-3.6, the Indiana Pesticide Use and Application Law, and the rules adopted under that law, to add definitions of new terms introduced as the result of listing each violation individually on the civil penalty schedule rather than grouping the violations by type, to clarify which penalties are to be assessed on a per product, per incident, per day, or per year basis, to add a penalty assessment cap of 180 incidents or 180 days for repetitive violations, to clarify the factors to be considered when mitigating penalties, to clarify that civil penalties are not required nor the sole enforcement action for every violation, and to clarify that the civil penalty money collected is to be used by the Purdue University Cooperative Extension Service solely for providing education about pesticides. Effective 30 days after filing with the secretary of state.

357 IAC 1-7-1
357 IAC 1-7-2
357 IAC 1-7-3
357 IAC 1-7-4

357 IAC 1-7-5
357 IAC 1-7-6
357 IAC 1-7-7
357 IAC 1-7-8

SECTION 1. 357 IAC 1-7-1 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-7-1 Definitions

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5

Affected: IC 15-3-3.5-2; IC 15-3-3.5-12; IC 15-3-3.6

Sec. 1. (a) As used in The following definitions apply throughout this rule: “improper use” means a violative act of pesticide use:

(b) As used in this rule, “penalty range” means the civil penalty dollar amount range for each violation type listed in the schedule as specified in section 2 of this rule:

(1) “Board” means the Indiana pesticide review board created by IC 15-3-3.5-12.

(2) “Legal citation” means the Indiana Code (IC) or Indiana Administrative Code (IAC) section or subsection cited on the schedule to describe the relevant portion of a pesticide law or rule that has been violated.

(3) “Per day” means the method to be utilized for determining the civil penalty to be assessed for a violation that is of a continuing nature but may be the result of one (1) distinguishable act or failure to act. The violation number shall remain the same when assessing civil penalties for multiple counts of violation on a per day basis.

(4) “Per incident” means the method to be utilized for determining the violation number for a violation that is usually not of a continuing nature and is the result of a separate and distinguishable act. Violations involving separate and distinguishable acts may be assigned accumulating violation numbers.

(5) “Per person” means the method to be utilized for determining the civil penalty to be assessed for a violation that may involve more than one (1) different person. The violation number shall remain the same when assessing civil penalties on a per person basis.

(6) “Per product” means the method to be utilized for determining the violation number for a violation that may involve more than one (1) different product. Violations involving multiple products will be assigned accumulating violation numbers.

(7) “Person” has the meaning set forth in IC 15-3-3.5-2(22).

(8) “Per year” means the method to be utilized for determining the violation number for a violation that may be documented on several dates or at several locations but is the result of one (1) distinguishable act or failure to act.

(9) “Product” means pesticide product as defined in IC 15-3-3.5-2(38).

(c) As used in this rule, (10) “Schedule” means the civil penalty schedule required by IC 15-3-3.6-14.5(a) and as

Final Rules

specified in section 2 of this rule.

(d) As used in this rule, "use" has the meaning set forth in IC 15-3-3.6-2(37):

(11) "State chemist" means the Indiana state chemist or his or her appointed agent.

(12) "Violation assessment" means the scheme to be utilized for determining the violation number and the count of violations eligible to be assessed civil penalties under the schedule. This scheme includes the concept of assessing civil penalties on a per incident, per day, per product, per person, and per year basis as indicated on the schedule.

(Indiana Pesticide Review Board; 357 IAC 1-7-1; filed Jan 9, 1992, 3:00 p.m.: 15 IR 707; readopted filed Oct 29, 2001, 4:41

p.m.: 25 IR 936; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1685)

SECTION 2. 357 IAC 1-7-2 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-7-2 Schedule

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5

Affected: IC 15-3-3.6-14

Sec. 2. (a) The civil penalty schedule to be observed of civil penalties for a violation violations of IC 15-3-3.6, the Indiana Pesticide Use and Application Law, and the rules adopted under this law, committed by a person not described in subsection (b) shall be (d), is as follows:

Violation number	Credentials	Fraudulent acts	Improper use	Records
1	\$0-\$250	\$0-\$250	\$0-\$250	\$0-\$50
2	\$250-\$500	\$250-\$500	\$0-\$500	\$0-\$100
3	\$500-\$1,000	\$500-\$1,000	\$0-\$1,000	\$0-\$200
Subsequent	\$500-\$1,000	\$500-\$1,000	\$0-\$1,000	\$0-\$200

Legal Citation	General Description of Violation	Violation Number			Violation Assessment
		1	2	3 and subsequent	
IC 15-3-3.6-14(1)	Make false claims about pesticide or method effectiveness.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.6-14(2)	Use a pesticide inconsistent with its label.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.6-14(3)	Use an ineffective or improper pesticide.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.6-14(4)	Use unsafe equipment.	\$100	\$200	\$300	Per incident
IC 15-3-3.6-14(5)	Operate in a careless manner.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.6-14(6)	Fail to comply with an order of state chemist.	\$250	\$500	\$1,000	Per incident, per product, and per day
IC 15-3-3.6-14(7)	Fail to keep records, make reports, or supply information.	\$100	\$100	\$100	Per incident
IC 15-3-3.6-14(8)	Make false records, invoices, or reports.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.6-14(9)	Engage in business for hire without a business license.	\$250	\$500	\$1,000	Per day
IC 15-3-3.6-14(10)	Use a restricted use pesticide without applicator certification.	\$250*	\$500*	\$1,000*	Per incident
IC 15-3-3.6-14(11)	Use fraud in applying for a license, permit, or registration.	\$250*	\$500*	\$1,000*	Per incident
IC 15-3-3.6-14(12)	Operate beyond the scope of an issued license, permit, or registration.	\$125	\$125	\$125	Per day
IC 15-3-3.6-14(13)	Aid or abet a person to evade the law.	\$250*	\$250*	\$250*	Per incident
IC 15-3-3.6-14(14)	Make false statements about a pest infestation.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.6-14(15)	Impersonate a government official.	\$250*	\$500*	\$1,000*	Per incident
IC 15-3-3.6-14(16)	Knowingly purchase or use a nonregistered pesticide.	\$100	\$200	\$300	Per incident and per product
IC 15-3-3.6-14(17)	Fail to maintain insurance.	\$25	\$50	\$100	Per day
355 IAC 4-2-3	Fail to provide on-site supervision.	\$125	\$250	\$500	Per day

355 IAC 4-2-6	Fail to provide technician with label, fact sheet, safety equipment, or voice communication.	\$25	\$50	\$100	Per day
355 IAC 4-2-7	Supervise more than 10 technicians.	\$100	\$100	\$100	Per day and per person
355 IAC 4-2-8	Fail to have technician credential at the work site.	\$25	\$50	\$100	Per incident
355 IAC 4-4-1 or 355 IAC 4-4-1.5	Fail to keep restricted use pesticide application records.	\$100	\$200	\$300	Per day
355 IAC 4-4-1 or 355 IAC 4-4-1.5	Fail to keep all record elements.	\$25	\$50	\$100	Per day
355 IAC 4-5-2(1)	Fail to keep termiticide application records.	\$100	\$200	\$300	Per day
355 IAC 4-5-2(2)	Fail to keep complete termiticide records.	\$25	\$50	\$100	Per day
355 IAC 4-5-2(4)	Fail to provide label and application specifications to termite control technicians.	\$25	\$50	\$100	Per incident
355 IAC 4-6-2(a)	Fail to provide label, application address, safety equipment, supervisor identity, or communication to lawn technician.	\$25	\$50	\$100	Per incident
357 IAC 1-5-2(a)	Fail to place a lawn marker.	\$100	\$200	\$300	Per incident
357 IAC 1-5-2(b)	Place an incorrect lawn marker.	\$50	\$100	\$200	Per incident
357 IAC 1-5-3(a)	Fail to provide lawn customer notification.	\$100	\$200	\$300	Per incident
357 IAC 1-5-3(b)	Provide incorrect lawn customer notification.	\$50	\$100	\$200	Per incident
357 IAC 1-9-4(1)	Provide pesticide selection and use advice without consultant registration.	\$250	\$500	\$1,000	Per incident
357 IAC 1-9-4(2)	Fail to train consultant employees.	\$100	\$200	\$300	Per incident
357 IAC 1-9-4(3)	Fail to post consultant employee notice.	\$50	\$100	\$150	Per incident
357 IAC 1-9-4(4)	Fail to post consultant public notice.	\$50	\$100	\$150	Per incident
357 IAC 1-10-2	Mix, load, or store pesticides in wellhead isolation area.	\$100	\$200	\$300	Per day
357 IAC 1-10-3	Fail to provide proper storage or containment in wellhead area.	\$100	\$200	\$300	Per day
357 IAC 1-10-4	Fail to properly and immediately clean up spill in wellhead area.	\$250	\$500	\$1,000	Per incident
357 IAC 1-11-2	Use any pesticide for community-wide mosquito abatement without a category 8 license.	\$250	\$500	\$1,000	Per day

*This penalty shall not be subject to the potential for mitigation listed in section 5 of this rule.

(b) Each penalty for each violation, if the violation is of a continuing nature, shall not be imposed for more than one hundred eighty (180) days when assessed on a per day basis.

(c) Each penalty for each violation, if the violation is of an identical repetitive nature, shall not be imposed for more than one hundred and eighty (180) incidents when assessed on a per incident basis.

(b) (d) The civil penalty schedule to be observed of civil penalties for a violation violations of IC 15-3-3.6, the Indiana Pesticide Use and Application Law, and the rules adopted under this law, committed by a person who is required to be certified as a private applicator, shall be from zero-dollars (\$0) to the same as that listed in subsection (a) except that all listed amounts shall be one hundred dollars (\$100). for any

type of violation committed: (Indiana Pesticide Review Board; 357 IAC 1-7-2; filed Jan 9, 1992, 3:00 p.m.:15 IR 707; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1686)

SECTION 3. 357 IAC 1-7-4 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-7-4 Determining the violation number and count of violations to be assessed

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5
Affected: IC 15-3-3.6

Sec. 4. For purposes of imposing civil penalties, the state chemist shall comply with the following when determining the violation number and the count of violations:

~~(1) Only violations committed after the effective date of this rule shall be considered.~~

~~(2) (1) Only violations committed within the immediate past five (5) years of the date of the violation being addressed shall be considered.~~

~~(3) (2) A person's violation number shall accumulate as first, second, third, etc., and be considered cumulatively for each violation committed by a separate and distinguishable act of the following violation types: independently for each violation listed on the schedule.~~

~~(A) Credentials.~~

~~(B) Fraudulent acts.~~

~~(C) Improper use.~~

~~(4) A person's violation number for each violation per incident of the records violation type shall accumulate and be considered independently of the violation types listed in subdivision (3)(A) through (3)(C).~~

~~(5) When multiple violations of different violation types are committed by a single act, the violation number considered on the schedule for each violation of each violation type shall accumulate and be considered independently.~~

~~(6) (3) When multiple different but similar or related violations of the same violation type are committed by a single distinguishable act or failure to act, only one (1) of those violations within that violation type may be subject to a civil penalty for that act. This subdivision is intended to avoid duplicating civil penalty assessment for violation of multiple provisions of the statute or rule that may be essentially the same or closely related. This subdivision is not intended to limit in any way civil penalty assessment for violations that are the result of more than one (1) distinguishable unrelated act or failure to act or a violation of a continuing or repetitive nature.~~

~~(4) When civil penalty assessment procedures outlined in subdivision (3) are being followed, the state chemist will utilize the appropriate violation with the highest penalty listed on the schedule.~~

(Indiana Pesticide Review Board; 357 IAC 1-7-4; filed Jan 9, 1992, 3:00 p.m.: 15 IR 708; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1687)

SECTION 4. 357 IAC 1-7-5 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-7-5 Potential penalty mitigation

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5

Affected: IC 15-3-3.6

Sec. 5. (a) The amount of a civil penalty may be adjusted within the range listed on the schedule under section 2 of this rule downward to reflect particular factors which that may be aggravating or mitigating. Some factors that may be considered are the following:

(1) Good faith efforts of the violator to comply.

(2) Intent of Cooperation by the violator with the state chemist during the investigation process.

(3) The violator's history of compliance.

(4) Whether the violation involved a restricted use pesticide or a nonclassified pesticide.

~~(5) Extent of deviation from the statutory or rule requirement.~~

~~(6) (5) The potential for damage.~~

~~(7) Economic benefit to the violator for noncompliance.~~

~~(8) (6) Remedial or corrective action taken by the violator.~~

~~(9) (7) Unusual climatic events.~~

(b) Failure to pay the full amount of any previously mitigated civil penalty by the date prescribed by the state chemist may subject the violator to the full amount of the nonmitigated civil penalty. *(Indiana Pesticide Review Board; 357 IAC 1-7-5; filed Jan 9, 1992, 3:00 p.m.: 15 IR 708; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1688)*

SECTION 5. 357 IAC 1-7-6 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-7-6 Notification of legal recourse

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5

Affected: IC 15-3-3.6-15

Sec. 6. The state chemist shall notify in writing each person on whom a civil penalty is imposed of the following:

~~(1) The provision under IC 15-3-3.6-14.5(c) that requires the board to approve the imposition of the civil penalty for a person's first violation.~~

~~(2) The provisions under IC 15-3-3.6-15 for a person's legal recourse and review by the board of any action by the state chemist that may aggrieve that person. (Indiana Pesticide Review Board; 357 IAC 1-7-6; filed Jan 9, 1992, 3:00 p.m.: 15 IR 708; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1688)~~

SECTION 6. 357 IAC 1-7-7 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-7-7 Imposition of civil penalties

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5

Affected: IC 15-3-3.6

Sec. 7. (a) Nothing in this rule shall require the state chemist to impose a civil penalty for a violation.

(b) The state chemist may initiate any of the following enforcement actions for a violation instead of or in addition to a civil penalty:

(1) A warning.

(2) A citation.

(3) A license, permit, registration, or certification:

(A) denial;

(B) modification;

(C) suspension; or

(D) revocation.

(4) Referral for criminal prosecution.

(5) Referral to the U.S. Environmental Protection Agency or other appropriate agency.

(Indiana Pesticide Review Board; 357 IAC 1-7-7; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1688)

SECTION 7. 357 IAC 1-7-8 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-7-8 Penalty money collected

Authority: IC 15-3-3.6-4; IC 15-3-3.6-14.5

Affected: IC 15-3-3.6

Sec. 8. (a) The state chemist shall credit all money collected for civil penalties to the Purdue University Cooperative Extension Service.

(b) The Purdue University Cooperative Extension Service shall use the money solely for the purpose of providing education about pesticides. *(Indiana Pesticide Review Board; 357 IAC 1-7-8; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1689)*

SECTION 8. 357 IAC 1-7-3 IS REPEALED.

LSA Document #04-159(F)

Notice of Intent Published: July 1, 2004; 27 IR 3098

Proposed Rule Published: October 1, 2004; 28 IR 249

Hearing Held: November 1, 2004

Approved by Attorney General: December 30, 2004

Approved by Governor: January 5, 2005

Filed with Secretary of State: January 7, 2005, 1:50 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

LSA Document #04-160(F)

DIGEST

Amends 357 IAC 1-6 to address civil penalties for violations of IC 15-3-3.5, the Indiana Pesticide Registration Law, and the rules adopted under that law, to add definitions of new terms introduced as the result of listing each violation individually on the civil penalty schedule rather than grouping the violations by type, to clarify which penalties are to be assessed on a per product, per incident, per day, or per year basis, to add a penalty assessment cap of 180 incidents or 180 days for repetitive violations, to clarify the factors to be considered when mitigating penalties, to clarify that civil penalties are not required nor the sole enforcement action for every violation, and to clarify that the civil penalty money collected is to be used by the Purdue University Cooperative Extension Service solely for providing education about pesticides. Effective 30 days after

filing with the secretary of state.

357 IAC 1-6-1

357 IAC 1-6-2

357 IAC 1-6-3

357 IAC 1-6-4

357 IAC 1-6-5

357 IAC 1-6-6

357 IAC 1-6-7

357 IAC 1-6-8

SECTION 1. 357 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-6-1 Definitions

Authority: IC 15-3-3.5-10; IC 15-3-3.5-18.3

Affected: IC 15-3-3.5-2; IC 15-3-3.5-12

Sec. 1. (a) ~~As used in~~ The following definitions apply throughout this rule: “penalty range” means the civil penalty dollar amount range for each violation type listed in the schedule as specified in section 2 of this rule:

(1) “Adulterated” means a product as described in IC 15-3-3.5-2(2).

(2) “Board” means the Indiana pesticide review board created by IC 15-3-3.5-12.

(3) “Bulk pesticide” means a pesticide as described in IC 15-3-3.5-2(32).

(4) “Distribute” means to distribute a product, as described in IC 15-3-3.5-2(8).

(5) “Labeling” means all products labels and written, printed, or graphic material as described in IC 15-3-3.5-2(18).

(6) “Legal citation” means the Indiana Code (IC) or the Indiana Administrative Code (IAC) section or subsection cited on the schedule to describe the relevant portion of a pesticide law or rule that has been violated.

(7) “Misbranded” means a product as described in IC 15-3-3.5-2(19).

(8) “Per day” means the method to be utilized for determining the civil penalty to be assessed for a violation that is of a continuing nature but may be the result of one (1) distinguishable act or failure to act. The violation number shall remain the same when assessing civil penalties for multiple counts of violation on a per day basis.

(9) “Per incident” means the method to be utilized for determining the violation number for a violation that is usually not of a continuing nature and is the result of a separate and distinguishable act or failure to act. Violations involving separate and distinguishable acts may be assigned accumulating violation numbers.

(10) “Per product” means the method to be utilized for determining the violation number for a violation that may involve more than one (1) different product. Violations involving multiple products will be assigned accumulating violation numbers.

(11) “Person” has the meaning set forth in IC 15-3-3.5-2(22).

(12) “Per year” means the method to be utilized for determining the violation number for a violation that may be documented on several dates or at several locations but

Final Rules

is the result of one (1) distinguishable act or failure to act.
(b) As used in this rule, (13) "Product" means pesticide product as defined in IC 15-3-3.5-2(38).

(c) As used in this rule, (14) "Schedule" means the civil penalty schedule required by IC 15-3-3.5-18.3(b) and as specified in section 2 of this rule.

(15) "State chemist" means the Indiana state chemist or his or her appointed agent.

(16) "Violation assessment" means the scheme to be utilized for determining the violation number and the count of violations eligible to be assessed civil penalties on the schedule. This scheme includes the concept of assessing civil penalties on a per incident, per day, per product, and per year basis as indicated on the schedule.

(Indiana Pesticide Review Board; 357 IAC 1-6-1; filed Jan 9, 1992, 3:00 p.m.: 15 IR 706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1689)

SECTION 2. 357 IAC 1-6-2 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-6-2 Schedule

Authority: IC 15-3-3.5-10; IC 15-3-3.5-18.3

Affected: IC 15-3-3.5

Sec. 2. (a) The schedule of civil penalties for violations of IC 15-3-3.5, the Indiana Pesticide Registration Law, and the rules adopted under this law is as follows:

Violation number	Product registration	Product adulteration, misbranding, and packaging	Product handling, storage, and disposal	Stop sale, use, or removal order
1	\$250*	\$0-\$250	\$0-\$250	\$250
2	\$0-\$500	\$0-\$500	\$0-\$500	\$500
3	\$0-\$1,000	\$0-\$1,000	\$0-\$1,000	\$1,000
Subsequent	\$0-\$1,000	\$0-\$1,000	\$0-\$1,000	\$1,000

Legal Citation	General Description of Violation	Violation Number			Violation Assessment
		1	2	3 and subsequent	
IC 15-3-3.5-3(1) or IC 15-3-3.5-18.1(a)(1)	Distribute a nonregistered product.	\$250	\$500	\$1,000	Per product and per year
IC 15-3-3.5-3(2)	Distribute a product with labeling different from that registered.	\$100	\$200	\$300	Per product and per year
IC 15-3-3.5-3(3)	Distribute a product with composition different from that registered.	\$250	\$500	\$1,000	Per product and per year
IC 15-3-3.5-3(4)	Distribute a product with incomplete or illegible label or in a container other than manufacturer's immediate unbroken container.	\$250	\$500	\$1,000	Per product and per incident
IC 15-3-3.5-3(5)	Distribute an improperly colored product.	\$250	\$500	\$1,000	Per product and per year
IC 15-3-3.5-3(6), IC 15-3-3.5-18.1(2), or IC 15-3-3.5-18.1(3)	Distribute an adulterated or misbranded product.	\$250	\$500	\$1,000	Per product and per year
IC 15-3-3.5-3(7)	Distribute a product in a container not in compliance with container rules.	\$250	\$500	\$1,000	Per product and per year
IC 15-3-3.5-3(8)	Distribute a highly volatile herbicide.	\$250	\$500	\$1,000	Per product and per incident
IC 15-3-3.5-3(9)	Distribute or store a bulk pesticide without an affixed label.	\$100	\$200	\$300	Per product and per incident
IC 15-3-3.5-4(1)	Detach, alter, deface, or destroy a label or labeling or adulterate a product.	\$250	\$500	\$1,000	Per product and per incident
IC 15-3-3.5-4(2)	Reveal a product formula.	\$250*	\$500*	\$1,000*	Per product and per incident

Final Rules

IC 15-3-3.5-4(3)	Use a pesticide not in compliance with use, distribution, storage, transportation, disposal, or container rules.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.5-25	Sell, use, or remove without permission a product placed under a stop sale, use, or removal order.	\$250*	\$500*	\$1,000*	Per incident
IC 15-3-3.5-33	Store, display, handle, transport, or distribute a product in a hazardous manner.	\$250	\$500	\$1,000	Per incident
IC 15-3-3.5-34	Store, discard, or dispose a product or container in a hazardous manner.	\$250	\$500	\$1,000	Per incident
357 IAC 1-3-2	Distribute a restricted use pesticide to a noncertified user.	\$250*	\$500*	\$1,000*	Per incident
357 IAC 1-3-3	Distribute a restricted use pesticide without a dealer registration.	\$250	\$500	\$1,000	Per incident
357 IAC 1-3-5(a)	Fail to keep restricted use pesticide distribution records.	\$100	\$200	\$300	Per incident
357 IAC 1-3-5(c)	Fail to keep complete distribution records.	\$25	\$50	\$75	Per incident
355 IAC 5-2-1 or 355 IAC 5-2-4	Store a pesticide in a bulk container made of improper design or materials.	\$100	\$200	\$300	Per incident and per day
355 IAC 5-2-2	Store a pesticide in an underground bulk container.	\$250	\$500	\$1,000	Per incident and per day
355 IAC 5-2-3	Abandon a bulk storage container improperly.	\$250	\$500	\$1,000	Per incident
355 IAC 5-2-6	Fail to vent a bulk storage container.	\$100	\$100	\$100	Per incident
355 IAC 5-2-7	Fail to provide bulk container security.	\$100	\$100	\$100	Per day
355 IAC 5-2-8	Fill bulk container beyond intended capacity.	\$100	\$200	\$300	Per incident
355 IAC 5-2-9	Fail to have proper shut-off valve on bulk container.	\$50	\$50	\$50	Per day
355 IAC 5-2-10	Fail to support bulk container appurtenances.	\$50	\$50	\$50	Per day
355 IAC 5-2-11	Fail to have proper liquid level gauging device on bulk container.	\$50	\$50	\$50	Per incident
355 IAC 5-2-12	Fail to maintain bulk container.	\$100	\$100	\$100	Per day
355 IAC 5-3-1(a)	Fail to carry out operational area activities within contained area.	\$250*	\$500*	\$1,000*	Per incident
355 IAC 5-3-1(b) or 355 IAC 5-3-1(d)	Operate operational area containment with improper design, construction, capacity, or drainage.	\$100	\$200	\$300	Per incident and per day
355 IAC 5-3-1(e)	Fail to remove liquids promptly from operational area containment.	\$100	\$200	\$300	Per day
355 IAC 5-3-1(f)	Fail to protect storage containers and appurtenances from damage by vehicles.	\$250	\$500	\$1,000	Per incident
355 IAC 5-3-1(h)	Fail to maintain operational area containment.	\$100	\$200	\$300	Per day
355 IAC 5-4-1(a)	Store a bulk container outside of secondary containment.	\$250*	\$500*	\$1,000*	Per day
355 IAC 5-4-1(b)	Fail to separate pesticide secondary containment from other materials.	\$100	\$200	\$300	Per day
355 IAC 5-4-1(c)	Fail to maintain required capacity for secondary containment.	\$100	\$200	\$300	Per day

Final Rules

355 IAC 5-4-1(f)	Operate secondary containment with tile drainage within or under the containment.	\$100	\$200	\$300	Per day
355 IAC 5-4-2	Operate secondary containment with improperly constructed or sealed walls.	\$100	\$200	\$300	Per day
355 IAC 5-4-3	Operate secondary containment with improperly constructed or sealed base.	\$100	\$200	\$300	Per day
355 IAC 5-4-4	Operate secondary containment with a relief outlet, valve, or improper pump.	\$100	\$200	\$300	Per day
355 IAC 5-4-7	Operate an improperly designed, constructed, or maintained elephant ring.	\$100	\$200	\$300	Per day
355 IAC 5-4-8(a)	Fail to maintain secondary containment.	\$100	\$200	\$300	Per day
355 IAC 5-4-8(b)	Fail to maintain secondary containment free of debris and foreign matter.	\$25	\$50	\$100	Per day
355 IAC 5-5-1	Store dry bulk pesticide in improper, nonelevated, uncovered, or unsecured container or manner.	\$250	\$500	\$1,000	Per day
355 IAC 5-8-1	Fail to notify the state chemist annually of the bulk storage facility location and status.	\$50	\$100	\$150	Per year

* This penalty shall **not** be imposed if the responsible person does not register the product within seven (7) business days of the date of receipt of written notification from the state chemist. subject to the potential for mitigation listed in section 5 of this rule.

(b) Each penalty for each violation, if the violation is of a continuing nature, shall not be imposed for more than one hundred eighty (180) days when assessed on a per day basis.

(c) Each penalty for each violation, if the violation is of an identical repetitive nature, shall not be imposed for more than one hundred eighty (180) incidents when assessed on a per incident basis. (*Indiana Pesticide Review Board; 357 IAC 1-6-2; filed Jan 9, 1992, 3:00 p.m.: 15 IR 706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1690*)

SECTION 3. 357 IAC 1-6-4 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-6-4 Determining the violation number and count of violations to be assessed

Authority: IC 15-3-3.5-10; IC 15-3-3.5-18.3

Affected: IC 15-3-3.5

Sec. 4. For purposes of imposing civil penalties, the state chemist shall comply with the following when determining the violation number and the count of violations:

~~(1) Only violations committed after the effective date of this rule shall be considered:~~

~~(2) (1) Only violations committed within the immediate past five (5) years of the date of the violation being addressed shall be considered.~~

~~(3) (2) A person's violation numbers shall accumulate as first, second, third, etc., independently for each violation type listed on the schedule.~~

~~(3) When multiple different but similar or related violations are committed by a single distinguishable act or~~

failure to act, only one (1) of those violations may be subject to a civil penalty for that act. This subdivision is intended to avoid duplicating civil penalty assessment for violation of multiple provisions of the statute or rule that may be essentially the same or closely related. This subdivision is not intended to limit in any way civil penalty assessment for violations that are the result of more than one (1) distinguishable unrelated act or failure to act or a violation of a continuing or repetitive nature. (4) When civil penalty assessment procedures outlined in subdivision (3) are being followed, the state chemist will utilize the appropriate violation with the highest penalty listed on the schedule.

(*Indiana Pesticide Review Board; 357 IAC 1-6-4; filed Jan 9, 1992, 3:00 p.m.: 15 IR 706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1692*)

SECTION 4. 357 IAC 1-6-5 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-6-5 Potential penalty mitigation

Authority: IC 15-3-3.5-10; IC 15-3-3.5-18.3

Affected: IC 15-3-3.5

Sec. 5. (a) The amount of a civil penalty may be adjusted ~~within the range listed on the schedule downward~~ to reflect particular mitigating factors. ~~which may be aggravating or mitigating.~~ Some factors that may be considered are the following:

(1) Good faith efforts of the violator to comply.

(2) ~~Intent of Cooperation by~~ the violator ~~with the state chemist during the investigation process.~~

(3) ~~The~~ violator's history of compliance.

- (4) Whether ~~the~~ violation involved a restricted use pesticide or a nonclassified pesticide.
- (5) ~~Extent of deviation from the statutory or rule requirement.~~
- (6) ~~(5) The potential for damage.~~
- (7) ~~Economic benefit to the violator for noncompliance.~~
- (8) ~~(6) Remedial or corrective action taken by the violator.~~

(b) Failure to pay the full amount of any previously mitigated civil penalty by the date prescribed by the state chemist may subject the violator to the full amount of the nonmitigated civil penalty. (*Indiana Pesticide Review Board; 357 IAC 1-6-5; filed Jan 9, 1992, 3:00 p.m.: 15 IR 707; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1692*)

SECTION 5. 357 IAC 1-6-6 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-6-6 Notification of legal recourse

Authority: IC 15-3-3.5-10; IC 15-3-3.5-18.3
Affected: IC 15-3-3.5

Sec. 6. The state chemist shall notify in writing each person on whom a civil penalty may be imposed of the following: **opportunity to obtain a hearing on the proposed action by filing with the board within thirty (30) days notice of the action.**

- (1) ~~The provision under IC 15-3-3.5-18.3(c) that requires the board to approve the imposition of the civil penalty for a person's first violation.~~
 - (2) ~~The provisions under IC 15-3-3.5-19 for a person's opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings.~~
- (*Indiana Pesticide Review Board; 357 IAC 1-6-6; filed Jan 9, 1992, 3:00 p.m.: 15 IR 707; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693*)

SECTION 6. 357 IAC 1-6-7 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-6-7 Imposition of civil penalties

Authority: IC 15-3-3.5-10; IC 15-3-3.5-18.3
Affected: IC 15-3-3.5

Sec. 7. (a) Nothing in this rule shall require the state chemist to impose a civil penalty for a violation.

(b) The state chemist may initiate any of the following enforcement actions for a violation instead of or in addition to a civil penalty:

- (1) A warning.
- (2) A citation.
- (3) A license, permit, registration, or certification:
 - (A) denial;
 - (B) modification;
 - (C) suspension; or
 - (D) revocation.
- (4) Referral for criminal prosecution.

(5) Referral to the U.S. Environmental Protection Agency or other appropriate agency.

(*Indiana Pesticide Review Board; 357 IAC 1-6-7; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693*)

SECTION 7. 357 IAC 1-6-8 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-6-8 Penalty money collected

Authority: IC 15-3-3.5; IC 15-3-3.5-18.3
Affected: IC 15-3-3.5

Sec. 8. (a) The state chemist shall credit all money collected for civil penalties to the Purdue University Cooperative Extension Service.

(b) The Purdue University Cooperative Extension Service shall use the money solely for the purpose of providing education about pesticides. (*Indiana Pesticide Review Board; 357 IAC 1-6-8; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693*)

SECTION 8. 357 IAC 1-6-3 IS REPEALED.

LSA Document #04-160(F)

Notice of Intent Published: July 1, 2004; 27 IR 3099

Proposed Rule Published: October 1, 2004; 28 IR 253

Hearing Held: November 1, 2004

Approved by Attorney General: December 30, 2004

Approved by Governor: January 5, 2005

Filed with Secretary of State: January 7, 2005, 2:15 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

LSA Document #04-17(F)

DIGEST

Amends 844 IAC 12-5-4 to establish the requirements to perform hypnosis in a group setting. Effective 30 days after filing with the secretary of state.

844 IAC 12-5-4

SECTION 1. 844 IAC 12-5-4 IS AMENDED TO READ AS FOLLOWS:

844 IAC 12-5-4 Professional practice

Authority: IC 25-20.5-1-9
Affected: IC 25-20.5-1

Sec. 4. (a) A hypnotist or hypnotherapist shall:

- (1) accept responsibility for his or her work; ~~and~~
- (2) ensure his or her services are used appropriately; ~~A hypnotist or hypnotherapist shall~~

Final Rules

(3) make no unsubstantiated claims for his or her work; ~~and shall~~

(4) avoid relationships limiting impartiality; **and**

~~(b) A hypnotist or hypnotherapist shall only~~ (5) provide services and use techniques for which ~~her he~~ or she is qualified by training and experience.

~~(c) (b)~~ A hypnotist or hypnotherapist shall not:

(1) diagnose, treat, or advise on matters outside his or her recognized scope of practice; **or**

~~(d) A hypnotist or hypnotherapist shall not~~ (2) engage in sexual relationships with a current patient or with a former patient until at least five (5) years after a professional relationship has been terminated.

~~(c) (c)~~ Hypnotists or hypnotherapists shall fully disclose and not misuse the purpose and nature of an evaluation, treatment, assessment technique, or educational procedure. The patient shall, at any time, discontinue an evaluation, treatment, assessment technique, or educational procedure unless explicitly agreed upon in advance by the practitioner and patient.

~~(d) (d)~~ Hypnotists or hypnotherapists shall report any known violation of IC 25-20.5-1 or this article.

(e) A hypnotist or hypnotherapist shall not perform hypnosis in a group setting larger than three (3) people per session for the treatment of the following:

(1) Addictions.

(2) Pain and stress management.

(3) Phobias.

(4) Self-hypnosis.

(5) Sports enhancement.

(6) Test taking.

(7) Tobacco cessation.

(8) Weight loss.

This subsection does not apply to or include educational courses where hypnosis is not performed as it relates to tobacco cessation, weight loss, relaxation, test taking, medical conditions, sports enhancement, and self-hypnosis conducted by a hypnotist. (*Medical Licensing Board of Indiana; 844 IAC 12-5-4; filed Jan 13, 2000, 9:50 a.m.: 23 IR 1383; filed Feb 3, 2005, 2:30 p.m.: 28 IR 1693*)

LSA Document #04-17(F)

Notice of Intent Published: February 1, 2004; 27 IR 1616

Proposed Rule Published: October 1, 2004; 28 IR 316

Hearing Held: December 2, 2004

Approved by Attorney General: January 19, 2005

Approved by Governor: January 28, 2005

Filed with Secretary of State: February 3, 2005, 2:30 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in the Indiana Administrative Code, 2005 Edition:

- (1) In 410 IAC 6-7.2-28(a), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (2) In 410 IAC 6-9-3(j)(3), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (3) In 410 IAC 7-21-34(b)(5), delete "410 IAC 7-20-70" and insert "410 IAC 7-24-79."
- (4) In 410 IAC 15-2.6-1(a), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (5) In 410 IAC 16.2-3.1-21(i)(2), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (6) In 410 IAC 16.2-5-1.5(f), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (7) In 410 IAC 16.2-5-1.5(k), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (8) In 410 IAC 16.2-5-1.5(l), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (9) In 410 IAC 16.2-5-1.5(m), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (10) In 410 IAC 16.2-5-1.6(o), delete "410 IAC 7-20" and insert "410 IAC 7-24".
- (11) In 410 IAC 16.2-5-5.1(f), delete "410 IAC 7-20" and insert "410 IAC 7-24".

Filed with Secretary of State: January 21, 2005, 10:32 a.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #02-115(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-115(F), printed at 26 IR 2875:

- (1) In 675 IAC 13-2.4-3(18), on page 3 of the original document (26 IR 2877), delete "INDIANA FULES GAS CODE (675 IAC 25)" and insert "INDIANA FUEL GAS CODE (675 IAC 25)".
- (2) In 675 IAC 13-2.4-3(18), on page 4 of the original document (26 IR 2877), delete "INDIANA PLUMBING CODE (675 IAC 16)" and insert "INDIANA PLUMBING CODE (675 IAC 16)".
- (3) In 675 IAC 13-2.4-15, on page 5 of the original document (26 IR 2879), in the section heading change the heading after "Section 308.2" to "Group I-1". In the text change the reference after "Section 308.2" to "Group I-1".
- (4) In 675 IAC 13-2.4-68, on page 16 of the original document (26 IR 2886), add end quotation mark after "See the Indiana Mechanical Code (675 IAC 18)".

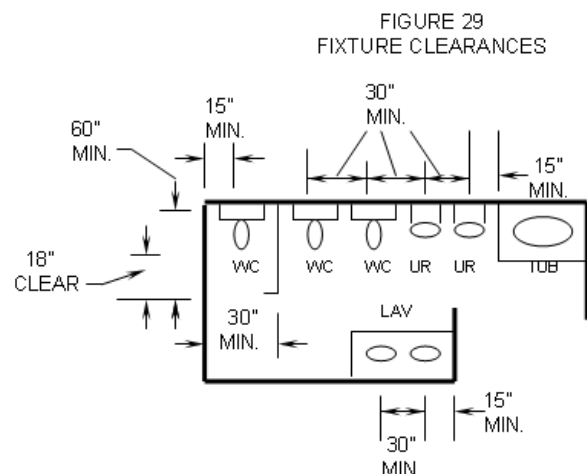
(5) In 675 IAC 13-2.4-131, on page 94 of the original document (26 IR 2938), after "and", delete "substitutue" and insert "substitute".

(6) In 675 IAC 13-2.4-174, on page 100 of the original document (26 IR 2942), after "for", delete "Industrialzed" and insert "Industrialized".

(7) In 675 IAC 13-2.4-222, SECTION 2902, item 2., on page 101 of the original document (26 IR 2947), delete "Table 10-A" and insert "TABLE 1003.2.2.2".

(8) In 675 IAC 13-2.4-222, SECTION 2908, item 1., on page 102 of the original document (26 IR 2948), delete "Water closets, lavatories, and bidets: A water closet, lavatory, or bidet shall not be set closer than fifteen (15) inches (three hundred eighty-one (381) millimeters) from its center to any side wall, partition, vanity, or other obstruction, nor closer than thirty (30) inches (four hundred sixty-two (462) millimeters) clearance in front of the water closet or bidet to any wall, fixture, or door. Water closet compartments shall not be less than thirty (30) inches (seven hundred sixty-two (762) millimeters) wide and sixty (60) inches (one thousand five hundred twenty-four (1,524) millimeters) deep. There shall be at least eighteen (18) inches (four hundred fifty-seven (457) millimeters) clearance in front of a lavatory to any wall, fixture, or door. See Figure 29." and insert "A water closet, lavatory, or bidet shall not be set closer than fifteen (15) inches (three hundred eighty-two (382) millimeters) from its center to any side wall, partition, vanity, or other obstruction, nor closer than thirty (30) inches (seven hundred sixty-two (762) millimeters) center-to-center between toilets or adjacent fixtures. There shall be at least eighteen (18) inches (four hundred fifty-seven (457) millimeters) clearance in front of the water closet or bidet to any wall, fixture, or door. Water closet compartments shall not be less than thirty (30) inches (seven hundred sixty-two (762) millimeters) wide and sixty (60) inches (one thousand five hundred twenty-four (1,524) millimeters) deep. There shall be at least eighteen (18) inches (four hundred fifty-seven (457) millimeters) clearance in front of a lavatory to any wall, fixture or door. See Figure 29."

(9) In 675 IAC 13-2.4-222, SECTION 2908, on page 102 of the original document (26 IR 2948), before SECTION 2909, insert the following figure:



Errata

Filed with Secretary of State: September 17, 2004, 2:30 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #02-116(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-116(F), printed at 26 IR 2951:

- (1) In 675 IAC 18-1.4-3(n)(5), on page 3 of the original document (26 IR 2953), delete “INDIANA FULES GAS CODE (675 IAC 25)” and insert “INDIANA FUEL GAS CODE (675 IAC 25)”.
- (2) In 675 IAC 18-1.4-3(n)(7), on page 4 of the original document (26 IR 2954), delete “INDIANA PLUMBING CODE (675 16)” and insert “INDIANA PLUMBING CODE (675 IAC 16)”.
- (3) In 675 IAC 18-1.4-12, on page 5 of the original document (26 IR 2954), in the section heading delete “exists” and insert “exits”.
- (4) In 675 IAC 18-1.4-27, on page 18 of the original document (26 IR 2965), add gridlines and borders to Table 603.3.

Filed with Secretary of State: September 17, 2004, 2:29 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #02-118(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-118(F), printed at 26 IR 3032:

- (1) In 675 IAC 25-1-3(a), on page 3 of the original document (26 IR 3034), change the first sentence to read “Change the following definitions in Chapter 2 to read as follows:”.
- (2) In 675 IAC 25-1-3(b), on page 3 of the original document (26 IR 3034), change the first sentence to read “Add the following definitions in Chapter 2 to read as follows:”.
- (3) In 675 IAC 25-1-3(b), on page 3 of the original document (26 IR 3034), delete “INDIANA FULES GAS CODE (675 IAC 25)” and insert “INDIANA FUEL GAS CODE (675 IAC 25)”.
- (4) In 675 IAC 25-1-3(b), on page 4 of the original document (26 IR 3034), delete “INDIANA PLUMBING CODE (675 16)” and

insert “INDIANA PLUMBING CODE (675 IAC 16)”.

Filed with Secretary of State: September 17, 2004, 2:28 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

**TITLE 460 DIVISION OF DISABILITY, AGING, AND
REHABILITATIVE SERVICES**

LSA Document #04-269

Under IC 4-22-2-41, LSA Document #04-269, printed at 28
IR 1303, is withdrawn.

Emergency Rules

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-6(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 747. *NOTE: This document was repealed by LSA Document #05-10(E), printed at 28 IR 1704 and effective January 24, 2005. Effective January 20, 2005.*

SECTION 1. The name of this scratch-off game is “Scratch-Off Game Number 747, Hold ’Em Poker”.

SECTION 2. Scratch-off tickets in scratch-off game number 747 shall sell for five dollars (\$5) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 747 shall contain fifty (50) play symbols in the game play data area all concealed under a large spot of latex material. There shall be five (5) separate and independent games labeled “DEAL 1”, “DEAL 2”, “DEAL 3”, “DEAL 4”, and “DEAL 5”, respectively. Nine (9) of the play symbols and play symbol captions in each game shall represent standard playing cards with two (2) appearing in the area labeled “YOUR 2 CARDS”, with two (2) appearing in the area labeled “THEIR 2 CARDS”, and with five (5) appearing in the area labeled “COMMUNITY CARDS”. Each game shall also contain one (1) play symbol and play symbol representing a prize amount appearing in the area labeled “PRIZE”.

(b) The play symbols, reflecting suits and faces associated with standard playing cards, and play symbol captions, reflecting abbreviations for the foregoing, that appear in scratch-off game number 747 shall consist of the following possible play symbols and play symbol captions:

- (1) A playing card with ♠ and the number 2
TWS**
- (2) A playing card with ♠ and the number 3
THS**
- (3) A playing card with ♠ and the number 4
FRS**
- (4) A playing card with ♠ and the number 5
FVS**
- (5) A playing card with ♠ and the number 6
SXS**
- (6) A playing card with ♠ and the number 7
SNS**
- (7) A playing card with ♠ and the number 8
ETS**
- (8) A playing card with ♠ and the number 9
NIS**
- (9) A playing card with ♠ with a number 10
TNS**
- (10) A playing card with ♠ with a letter “J”
JKS**

- (11) A playing card with ♠ with the letter “Q”
QNS**
- (12) A playing card with ♠ with the letter “K”
KGS**
- (13) A playing card with ♠ with the letter “A”
ACS**
- (14) A playing card with ♣ and the number 2
TWC**
- (15) A playing card with ♣ and the number 3
THC**
- (16) A playing card with ♣ and the number 4
FRC**
- (17) A playing card with ♣ and the number 5
FVC**
- (18) A playing card with ♣ and the number 6
SXC**
- (19) A playing card with ♣ and the number 7
SNC**
- (20) A playing card with ♣ and the number 8
ETC**
- (21) A playing card with ♣ and the number 9
NIC**
- (22) A playing card with ♣ with a number 10
TNC**
- (23) A playing card with ♣ with a letter “J”
JKC**
- (24) A playing card with ♣ with the letter “Q”
QNC**
- (25) A playing card with ♣ with the letter “K”
KGC**
- (26) A playing card with ♣ with the letter “A”
ACC**
- (27) A playing card with ♦ and the number 2
TWD**
- (28) A playing card with ♦ and the number 3
THD**
- (29) A playing card with ♦ and the number 4
FRD**
- (30) A playing card with ♦ and the number 5
FVD**
- (31) A playing card with ♦ and the number 6
SXD**
- (32) A playing card with ♦ and the number 7
SND**
- (33) A playing card with ♦ and the number 8
ETD**
- (34) A playing card with ♦ and the number 9
NID**
- (35) A playing card with ♦ with a number 10
TND**
- (36) A playing card with ♦ with a letter “J”
JKD**
- (37) A playing card with ♦ with the letter “Q”
QND**
- (38) A playing card with ♦ with the letter “K”
KGD**

- (39) A playing card with ♦ with the letter “A”
ACD
- (40) A playing card with ♥ and the number 2
TWH
- (41) A playing card with ♥ and the number 3
THH
- (42) A playing card with ♥ and the number 4
FRH
- (43) A playing card with ♥ and the number 5
FVH
- (44) A playing card with ♥ and the number 6
SXH
- (45) A playing card with ♥ and the number 7
SNH
- (46) A playing card with ♥ and the number 8
ETH
- (47) A playing card with ♥ and the number 9
NIH
- (48) A playing card with ♥ with a number 10
TNH
- (49) A playing card with ♥ with a letter “J”
JKH
- (50) A playing card with ♥ with the letter “Q”
QNH
- (51) A playing card with ♥ with the letter “K”
KGH
- (52) A playing card with ♥ with the letter “A”
ACH

(c) The play symbols and play symbol captions representing prize amounts in scratch-off game number 747 shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$4.00
FOUR
- (4) \$5.00
FIVE
- (5) \$10.00
TEN
- (6) \$15.00
FIFTEEN
- (7) \$20.00
TWENTY
- (8) \$25.00
TWY FIVE
- (9) \$40.00
FORTY
- (10) \$50.00
FIFTY
- (11) \$100
ONE HUN
- (12) \$200

- TWO HUN
- (13) \$500
FIVE HUN
- (14) \$1,000
ONE THOU
- (15) \$2,000
TWO THOU
- (16) \$5,000
FIVE THOU
- (17) \$10,000
TEN THOU
- (18) \$100,000
HUN THOU

SECTION 4. (a) The holder of a valid scratch-off ticket in scratch-off game number 747 shall remove the latex material covering the fifty (50) play symbols.

(b) In each game, the holder shall combine the “YOUR 2 CARDS” play symbols with the “COMMUNITY CARDS” play symbols and determine the best five-card poker hand. The holder shall also combine the “THEIR 2 CARDS” play symbols with the “COMMUNITY CARDS” play symbols and determine the best five-card poker hand. If the best five-card poker hand with “YOUR 2 CARDS” beats the best five-card poker hand with “THEIR 2 CARDS”, the holder wins the prize amount shown in the area labeled “PRIZE” in the associated game. The best five-card poker hands from among the possible play symbols and play symbol captions are set forth on the back of each scratch-off ticket in scratch-off game number 747 and are ranked worst to best as follows:

- (1) One Pair - Two (2) play symbols with the same face but from different suits.
- (2) Two Pair - Two (2) sets of two (2) play symbols with each set consisting of two (2) play symbols with the same face but from different suits.
- (3) Three of a Kind - Three (3) play symbols with the same face but from different suits.
- (4) Straight - Five (5) play symbols with consecutively increasing values in any suit.
- (5) Flush - Any five (5) play symbols of the same suit.
- (6) Full House - Three (3) play symbols with the same face but from different suits and two (2) play symbols with the same face but from different suits (one (1) Three of a Kind and one (1) Two of a Kind).
- (7) Four of a Kind - Four (4) play symbols with the same face but from different suits.
- (8) Straight Flush - Five (5) play symbols with consecutively increasing values in the same suit.
- (9) Royal Flush - Five (5) play symbols with the ten (10), jack, queen, king, and ace, respectively, of the same suit.

(c) Play symbols have the value designated on the face of the play symbols except that those representing jacks, queens, kings, and aces, respectively, shall be treated as

Emergency Rules

having consecutively increasing values. A holder of valid scratch-off game number 747 may win multiple hands, but only one (1) prize per individual game on a ticket.

SECTION 5. The number of winning games, prize symbols, prize amounts, and the approximate number of winners in scratch-off game number 747 are as follows:

Number of Winning Games and Associated Prize Play Symbols	Prize Amount	Approximate Number of Winners
5 – \$1.00	\$5	285,600
1 – \$5.00	\$5	163,200
5 – \$2.00	\$10	204,000
2 – \$5.00	\$10	81,600
1 – \$10.00	\$10	81,600
1 – \$5.00 + 1 – \$10.00	\$15	20,400
1 – \$15.00	\$15	20,400
1 – \$20.00	\$20	10,200
4 – \$5.00	\$20	20,400
5 – \$4.00	\$20	40,800
2 – \$10.00	\$20	10,200
2 – \$5.00 + 3 – \$10.00	\$40	17,000
2 – \$10.00 + 1 – \$20.00	\$40	8,500
1 – \$40.00	\$40	8,500
2 – \$25.00	\$50	2,550
5 – \$10.00	\$50	3,740
1 – \$10.00 + 2 – \$20.00	\$50	2,550
1 – \$10.00 + 1 – \$40.00	\$50	2,550
1 – \$50.00	\$50	2,550
2 – \$50.00	\$100	2,040
5 – \$20.00	\$100	5,576
2 – \$25.00 + 1 – \$50.00	\$100	2,040
4 – \$25.00	\$100	2,040
1 – \$100	\$100	2,040
5 – \$100	\$500	680
1 – \$500	\$500	340
2 – \$500	\$1,000	102
5 – \$200	\$1,000	102
1 – \$1,000	\$1,000	102
5 – \$2,000	\$10,000	5
2 – \$5,000	\$10,000	5
1 – \$10,000	\$10,000	5
1 – \$100,000	\$100,000	4

SECTION 6. (a) There shall be approximately four million (4,000,000) scratch-off tickets initially available in scratch-off game number 747.

(b) The odds of winning a prize in scratch-off game number 747 are approximately 1 in 4.07.

(c) All reorders of tickets for scratch-off game number 747 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and

(3) odds;
as contained in the initial order.

SECTION 7. (a) The director or the director's designee shall promulgate rules and procedures to govern four (4) second-chance drawings from among qualified entries which will take place on or about February 17, 2005, March 17, 2005, April 14, 2005, and May 12, 2005, respectively. Players may enter one (1) or more of the second-chance drawings by mailing one (1) nonwinning scratch-off ticket in scratch-off game number 747 in an envelope no larger than 9½" × 4½" to Hold 'Em Poker Second Chance Drawing, PMB 382, 899 South College Mall Road, Bloomington, Indiana 47401 before the designated deadlines. The back of each such scratch-off ticket must contain the player's name, address, and telephone number, if any. Alternatively, players who join or who are already members of the Lotto Fun Club may enter the second-chance drawings on-line at www.hoosierlottery.com by clicking on the Hold 'Em Poker EZ ENTRY image and following the directions. There is no limit on the number of times a player may enter a second-chance drawing but a single scratch-off ticket may be the source of only one (1) entry. Any entries received after the last drawing date will be ineligible and destroyed. Detailed rules and procedures are available at www.hoosierlottery.com or upon written request.

(b) Each of the four (4) Hold 'Em Poker second-chance drawings shall select and award the following prizes:

(1) Five hundred forty (540) World Poker Tour™ merchandise prize packs valued at five hundred seventy-five dollars (\$575) containing:

- (A) one (1) black, leather duffel bag with a World Poker Tour™ hang tag;
- (B) one (1) pair of polarized sunglasses with World Poker Tour™ logo;
- (C) one (1) fleece blanket throw with embroidered World Poker Tour™ logo;
- (D) official World Poker Tour™ poker chips, two (2) decks of cards with World Poker Tour™ logo, and one (1) aluminum case;
- (E) one (1) World Poker Tour™ umbrella with logo; and
- (F) one (1) World Poker Tour™ clock with logo.

(2) One (1) grand prize World Poker Tour™ tournament trip valued at twenty thousand eight hundred ninety-two dollars and seventy-three cents (\$20,892.73) which amount covers:

- (A) round-trip coach flight reservations for two (2) to tournament location;
- (B) double occupancy hotel reservations for two (2) persons for a six (6) night and seven (7) day stay at the tournament location;
- (C) up to ten thousand dollars (\$10,000) buy-in to a World Poker Tour™ tournament from among the dates and locations designated by the commission;

- (D) one thousand dollars (\$1,000) in spending money;
 - (E) one (1) additional merchandise prize pack;
 - (F) two (2) tickets to watch the tournament finals in the trip location;
 - (G) training by a professional card player; and
 - (H) five thousand two hundred twenty-three dollars and eighteen cents (\$5,223.18) in federal income withholding taxes and six hundred sixty-nine dollars and fifty-five cents (\$669.55) in state income withholding taxes.
- (3) Merchandise prize pack winners must claim their prizes within one hundred eighty (180) days of the drawing.

(c) After the winners of the five hundred forty (540) merchandise prize packs have been selected in each drawing, those entries shall be mixed again and one (1) winner shall be selected from among the merchandise prize pack winners to receive the grand prize World Poker Tour™ tournament trip. A player may only win one (1) grand prize and agrees to be bound by commission and World Poker Tour™ rules. In the event a grand prize winner is less than twenty-one (21) years of age and consequently ineligible to participate in any World Poker Tour™ tournaments in the United States, the commission shall offer such winner the following options:

- (1) the winner may select the cash option of fifteen thousand dollars (\$15,000);
- (2) the winner may select a proxy that is over the age of twenty-one (21) to participate in a tournament located within the continental United States on such winner's behalf; or
- (3) the winner may elect to participate in a World Poker Tour™ tournament conducted in Aruba with full knowledge that such winner will not be eligible to participate in the Aruba tournament finals.

SECTION 8. The last day to claim a prize in scratch-off game number 747 is February 28, 2006.

SECTION 9. This document expires on March 31, 2006.

LSA Document #05-6(E)

Filed with Secretary of State: January 20, 2005, 4:08 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-7(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 744. Effective January 20, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 744, Leprechaun Luck".

SECTION 2. Scratch-off tickets in scratch-off game number 744 shall sell for one dollar (\$1) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 744 shall contain twelve (12) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Ten (10) play symbols and play symbol captions shall appear in the "YOUR NUMBERS" area arranged in pairs representing prize amounts and numbers or pictures. Two (2) play symbols and play symbol captions shall appear in the area labeled "LUCKY NUMBERS".

(b) The play symbols and play symbol captions, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR
- (5) 5
FIV
- (6) 6
SIX
- (7) 7
SVN
- (8) 8
EGT
- (9) 9
NIN
- (10) 10
TEN
- (11) A picture of a horseshoe
SHOE

(c) The play symbols representing prize amounts shall consist of the following possible play symbols:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$3.00
THREE
- (4) \$5.00
FIVE
- (5) \$6.00
SIX
- (6) \$10.00
TEN
- (7) \$20.00
TWENTY
- (8) \$40.00

Emergency Rules

FORTY
(9) \$100
ONE HUN
(10) \$1,000
ONE THOU

SECTION 4. The holder of a ticket in scratch-off game number 744 shall remove the latex material covering the twelve (12) play symbols and play symbol captions. If either of the play symbols and play symbol captions in the "YOUR NUMBERS" area match one (1) or more play symbols and play symbol captions in the "LUCKY NUMBERS" area, the holder is entitled to the paired prize amount. If the play symbol of a horseshoe is exposed in the "YOUR NUMBERS" area, the player is automatically entitled to the paired prize amount. A player can win up to five (5) times on a ticket. The matched prize amounts and approximate number of winners in scratch-off game number 744 are as follows:

Number of Matches and Matched Prize Amounts	Prize Amount	Approximate Number of Winners
1 – \$1.00	\$1	456,000
1 – \$1.00 + 1 – \$1.00 with shoe	\$2	228,000
1 – \$2.00	\$2	76,000
4 – \$1.00	\$4	30,400
2 – \$1.00 + 1 – \$2.00 with shoe	\$4	60,800
1 – \$2.00 + 1 – \$3.00 with shoe	\$5	22,800
5 – \$1.00	\$5	7,600
5 – \$2.00	\$10	7,600
2 – \$2.00 + 1 – \$6.00 with shoe	\$10	30,400
1 – \$10.00	\$10	7,600
2 – \$5.00 + 1 – \$10.00	\$20	11,400
1 – \$20.00	\$20	3,800
2 – \$10.00 + 1 – \$20.00 with shoe	\$40	5,225
4 – \$10.00	\$40	855
1 – \$40.00	\$40	950
5 – \$20.00	\$100	494
1 – \$100	\$100	494
1 – \$1,000 with shoe	\$1,000	19
1 – \$1,000	\$1,000	19

SECTION 5. (a) There shall be approximately four million five hundred thousand (4,500,000) scratch-off tickets initially available in scratch-off game number 744.

(b) The odds of winning a prize in scratch-off game number 744 are approximately 1 in 4.80.

(c) All reorders of tickets for scratch-off game number 744 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of two hundred forty thousand (240,000); and

(3) odds;
as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 744 is February 28, 2006.

SECTION 7. This document expires March 31, 2006.

LSA Document #05-7(E)

Filed with Secretary of State: January 20, 2005, 4:08 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-8(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 745. Effective January 20, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 745, White Ice 8s".

SECTION 2. Scratch-off tickets in scratch-off game number 745 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 745 shall contain twenty (20) play symbols and play symbol captions arranged in pairs of numbers and prize amounts all concealed under a large spot of latex material. The twenty (20) play symbols and play symbol captions shall appear in a matrix of ten (10) rows and two (2) columns.

(b) The play symbols and play symbol captions, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR
- (5) 5
FIV
- (6) 6
SIX
- (7) 7
SVN
- (8) 8
BKEGT (black eight)
- (9) 8
WTEGT (white eight)

Emergency Rules

- (10) 9
NIN
(11) 10
TEN
(12) 11
ELVN
(13) 12
TWLV
(14) 13
THRTN
(15) 14
FORTN
(16) 15
FIFTN
(17) 16
SIXTN
(18) 17
SVNTN
(19) 18
EGTN
(20) 19
NINTN
(21) 20
TWTY

(c) The play symbols and play symbol captions representing prize amounts shall consist of the following possible play symbols and play symbol captions:

- (1) \$2.00
TWO
(2) \$3.00
THREE
(3) \$4.00
FOUR
(4) \$5.00
FIVE
(5) \$10.00
TEN
(6) \$20.00
TWENTY
(7) \$50.00
FIFTY
(8) \$100
ONE HUN
(9) \$800
EGT HUN
(10) \$8,000
EGT THOU

SECTION 4. The holder of a ticket in scratch-off game number 745 shall remove the latex material covering the twenty (20) play symbols and play symbol captions. If a play symbol of a black "8" is exposed, the holder is entitled to the paired prize amount. If a play symbol of a white "8" is exposed, the holder is entitled to double the paired prize amount. A holder may win up to ten (10) times on a ticket.

The prize amounts and approximate number of winners in scratch-off game number 745 are as follows:

Winning Prize Play Symbol	Prize Amount	Approximate Number of Winners
1 – \$2.00	\$2	201,600
1 – \$2.00 with white 8	\$4	151,200
1 – \$4.00	\$4	25,200
1 – \$2.00 + 1 – \$3.00	\$5	37,800
1 – \$5.00	\$5	37,800
5 – \$2.00	\$10	6,300
2 – \$5.00	\$10	6,300
1 – \$5.00 with white 8	\$10	31,500
1 – \$10.00	\$10	6,300
1 – \$5.00 + 1 – \$5.00 with white 8	\$15	18,900
5 – \$3.00	\$15	6,300
10 – \$2.00	\$20	6,300
5 – \$4.00	\$20	3,150
1 – \$5.00 with white 8 + 1 – \$10.00	\$20	12,600
1 – \$20.00	\$20	3,150
10 – \$5.00	\$50	1,050
1 – \$10.00 + 1 – \$20.00 with white 8	\$50	2,100
1 – \$50.00	\$50	1,050
10 – \$10.00	\$100	210
1 – \$50.00 with white 8	\$100	210
2 – \$50.00	\$100	105
1 – \$100	\$100	105
4 – \$50.00 + 6 – \$100	\$800	21
1 – \$800	\$800	21
6 – \$100 + 1 – \$100 with white 8	\$800	63
10 – \$800	\$8,000	5
1 – \$8,000	\$8,000	4

SECTION 5. (a) There shall be approximately two million five hundred thousand (2,500,000) scratch-off tickets initially available in scratch-off game number 745.

(b) The odds of winning a prize in scratch-off game number 745 are approximately 1 in 4.51.

(c) All reorders of tickets for scratch-off game number 745 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 745 is February 28, 2006.

SECTION 7. This document expires March 31, 2006.

LSA Document #05-8(E)

Filed with Secretary of State: January 20, 2005, 4:10 p.m.

Emergency Rules

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-9(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 746. Effective January 20, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 746, Pot O'Gold".

SECTION 2. Scratch-off tickets in scratch-off game number 746 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 746 shall contain forty-eight (48) play symbols in the game play data area all concealed under a large spot of latex material. Thirty-six (36) play symbols shall appear in a matrix of six (6) rows and six (6) columns. The rows shall be labeled "A", "B", "C", "D", "E", and "F". The columns shall be labeled "1", "2", "3", "4", "5", and "6". Twelve (12) play symbols shall appear in the area labeled "YOUR LUCKY SPOTS". A chart labeled "LEGEND" shall appear below the play area and shall contain a table setting forth prize requirements and amounts.

(b) The "YOUR LUCKY SPOTS" area shall contain the following possible play symbols:

A1	A2	A3	A4	A5	A6
B1	B2	B3	B4	B5	B6
C1	C2	C3	C4	C5	C6
D1	D2	D3	D4	D5	D6
E1	E2	E3	E4	E5	E6
F1	F2	F3	F4	F5	F6

SECTION 4. The holder of a ticket in scratch-off game number 746 shall remove the latex material covering the forty-eight (48) play symbols. Players shall use the "YOUR LUCKY SPOTS" play symbols to locate the corresponding play symbols in the lucky grid area using the letter to determine the row and the number to determine the column. If three (3) of the corresponding play symbols are identical in the lucky grid area, the holder is entitled to the corresponding prize on the legend. The number of matching play symbols, the corresponding prize amounts, and number of winners in scratch-off game number 746 are as follows:

Number of Matches	Prize Amount	Approximate Number of Winners
1 – \$2.00	\$2	327,600
1 – \$5.00	\$5	138,600
1 – \$2.00 + 1 – \$5.00	\$7	25,200
1 – \$10.00	\$10	25,200
1 – \$5.00 + 1 – \$10.00	\$15	25,200
1 – \$25.00	\$25	12,600
1 – \$2.00 + 1 – \$5.00 + 1 – \$10.00 + 1 – \$25.00	\$42	6,300
1 – \$50.00	\$50	5,271

1 – \$2.00 + 1 – \$5.00 – 1 – \$10.00 + 1 – \$50.00	\$67	1,470
1 – \$5.00 – 1 – \$10.00 + 1 – \$25.00 + 1 – \$50.00	\$90	315
1 – \$100	\$100	210
1 – \$10.00 + 1 – \$25.00 + 1 – \$50.00 + 1 – \$100	\$185	210
1 – \$500	\$500	105
1 – \$1,000	\$1,000	21
1 – \$15,000	\$15,000	3

SECTION 5. (a) There shall be approximately two million five hundred thousand (2,500,000) scratch-off tickets initially available in scratch-off game number 746.

(b) The odds of winning a prize in scratch-off game number 746 are approximately 1 in 4.43.

(c) All reorders of tickets for scratch-off game number 746 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. The last day to claim a prize in scratch-off game number 746 is February 28, 2006.

SECTION 7. This document expires March 31, 2006.

LSA Document #05-9(E)

Filed with Secretary of State: January 20, 2005, 4:10 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-10(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 747. Repeals LSA Document #05-6(E). Effective January 24, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 747, Hold 'Em Poker".

SECTION 2. Scratch-off tickets in scratch-off game number 747 shall sell for five dollars (\$5) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 747 shall contain fifty (50) play symbols in the game play data area all concealed under a large spot of latex material. There shall be five (5) separate and independent games labeled "DEAL 1", "DEAL 2", "DEAL 3", "DEAL

4”, and “DEAL 5”, respectively. Nine (9) of the play symbols and play symbol captions in each game shall represent standard playing cards with two (2) appearing in the area labeled “YOUR 2 CARDS”, with two (2) appearing in the area labeled “THEIR 2 CARDS”, and with five (5) appearing in the area labeled “COMMUNITY CARDS”. Each game shall also contain one (1) play symbol and play symbol representing a prize amount appearing in the area labeled “PRIZE”.

(b) The play symbols, reflecting suits and faces associated with standard playing cards, and play symbol captions, reflecting abbreviations for the foregoing, that appear in scratch-off game number 747 shall consist of the following possible play symbols and play symbol captions:

- | | |
|---|---|
| (1) A playing card with ♠ and the number 2
TWS | NIC |
| (2) A playing card with ♠ and the number 3
THS | (22) A playing card with ♣ with the number 10
TNC |
| (3) A playing card with ♠ and the number 4
FRS | (23) A playing card with ♣ with the letter “J”
JKC |
| (4) A playing card with ♠ and the number 5
FVS | (24) A playing card with ♣ with the letter “Q”
QNC |
| (5) A playing card with ♠ and the number 6
SXS | (25) A playing card with ♣ with the letter “K”
KGC |
| (6) A playing card with ♠ and the number 7
SNS | (26) A playing card with ♣ with the letter “A”
ACC |
| (7) A playing card with ♠ and the number 8
ETS | (27) A playing card with ♦ and the number 2
TWD |
| (8) A playing card with ♠ and the number 9
NIS | (28) A playing card with ♦ and the number 3
THD |
| (9) A playing card with ♠ with the number 10
TNS | (29) A playing card with ♦ and the number 4
FRD |
| (10) A playing card with ♠ with the letter “J”
JKS | (30) A playing card with ♦ and the number 5
FVD |
| (11) A playing card with ♠ with the letter “Q”
QNS | (31) A playing card with ♦ and the number 6
SXD |
| (12) A playing card with ♠ with the letter “K”
KGS | (32) A playing card with ♦ and the number 7
SND |
| (13) A playing card with ♠ with the letter “A”
ACS | (33) A playing card with ♦ and the number 8
ETD |
| (14) A playing card with ♣ and the number 2
TWC | (34) A playing card with ♦ and the number 9
NID |
| (15) A playing card with ♣ and the number 3
THC | (35) A playing card with ♦ with the number 10
TND |
| (16) A playing card with ♣ and the number 4
FRC | (36) A playing card with ♦ with the letter “J”
JKD |
| (17) A playing card with ♣ and the number 5
FVC | (37) A playing card with ♦ with the letter “Q”
QND |
| (18) A playing card with ♣ and the number 6
SXC | (38) A playing card with ♦ with the letter “K”
KGD |
| (19) A playing card with ♣ and the number 7
SNC | (39) A playing card with ♦ with the letter “A”
ACD |
| (20) A playing card with ♣ and the number 8
ETC | (40) A playing card with ♥ and the number 2
TWH |
| (21) A playing card with ♣ and the number 9 | (41) A playing card with ♥ and the number 3
THH |
| | (42) A playing card with ♥ and the number 4
FRH |
| | (43) A playing card with ♥ and the number 5
FVH |
| | (44) A playing card with ♥ and the number 6
SXH |
| | (45) A playing card with ♥ and the number 7
SNH |
| | (46) A playing card with ♥ and the number 8
ETH |
| | (47) A playing card with ♥ and the number 9
NIH |
| | (48) A playing card with ♥ with the number 10
TNH |
| | (49) A playing card with ♥ with the letter “J” |

Emergency Rules

JKH

(50) A playing card with ♥ with the letter “Q”

QNH

(51) A playing card with ♥ with the letter “K”

KGH

(52) A playing card with ♥ with the letter “A”

ACH

(c) The play symbols and play symbol captions representing prize amounts in scratch-off game number 747 shall consist of the following possible play symbols and play symbol captions:

(1) \$1.00

ONE

(2) \$2.00

TWO

(3) \$4.00

FOUR

(4) \$5.00

FIVE

(5) \$10.00

TEN

(6) \$15.00

FIFTEEN

(7) \$20.00

TWENTY

(8) \$25.00

TWY FIVE

(9) \$40.00

FORTY

(10) \$50.00

FIFTY

(11) \$100

ONE HUN

(12) \$200

TWO HUN

(13) \$500

FIVE HUN

(14) \$1,000

ONE THOU

(15) \$2,000

TWO THOU

(16) \$5,000

FIVE THOU

(17) \$10,000

TEN THOU

(18) \$100,000

HUN THOU

SECTION 4. (a) The holder of a valid scratch-off ticket in scratch-off game number 747 shall remove the latex material covering the fifty (50) play symbols.

(b) In each game, the holder shall combine the “YOUR 2 CARDS” play symbols with the “COMMUNITY CARDS” play symbols and determine the best five-card poker hand.

The holder shall also combine the “THEIR 2 CARDS” play symbols with the “COMMUNITY CARDS” play symbols and determine the best five-card poker hand. If the best five-card poker hand with “YOUR 2 CARDS” beats the best five-card poker hand with “THEIR 2 CARDS”, the holder wins the prize amount shown in the area labeled “PRIZE” in the associated game. The best five-card poker hands from among the possible play symbols and play symbol captions are set forth on the back of each scratch-off ticket in scratch-off game number 747 and are ranked worst to best as follows:

(1) One Pair – Two (2) play symbols with the same face value but from different suits.

(2) Two Pair – Two (2) sets of two (2) play symbols with each set consisting of two (2) play symbols with the same face value but from different suits.

(3) Three of a Kind – Three (3) play symbols with the same face value but from different suits.

(4) Straight – Five (5) play symbols with consecutively increasing values in any suit.

(5) Flush – Any five (5) play symbols of the same suit.

(6) Full House – Three (3) play symbols with the same face value but from different suits and two (2) play symbols with the same face value but from different suits (one (1) Three of a Kind and one (1) Two of a Kind).

(7) Four of a Kind – Four (4) play symbols with the same face value but from different suits.

(8) Straight Flush – Five (5) play symbols with consecutively increasing values in the same suit.

(9) Royal Flush – Five (5) play symbols with the ten (10), jack, queen, king, and ace, respectively, of the same suit.

(c) Play symbols have the value designated on the face of the play symbols except that those representing jacks, queens, kings, and aces, respectively, shall be treated as having consecutively increasing values. A holder of valid scratch-off game number 747 may win multiple hands, but only one (1) prize per individual game on a ticket.

SECTION 5. The number of winning games, prize symbols, prize amounts, and the approximate number of winners in scratch-off game number 747 are as follows:

Number of Winning Games and Associated Prize Play Symbols	Prize Amount	Approximate Number of Winners
5 – \$1.00	\$5	285,600
1 – \$5.00	\$5	163,200
5 – \$2.00	\$10	204,000
2 – \$5.00	\$10	81,600
1 – \$10.00	\$10	81,600
1 – \$5.00 + 1 – \$10.00	\$15	20,400
1 – \$15.00	\$15	20,400
1 – \$20.00	\$20	10,200
4 – \$5.00	\$20	20,400
5 – \$4.00	\$20	40,800

Emergency Rules

2 – \$10.00	\$20	10,200
2 – \$5.00 + 3 – \$10.00	\$40	17,000
2 – \$10.00 + 1 – \$20.00	\$40	8,500
1 – \$40.00	\$40	8,500
2 – \$25.00	\$50	2,550
5 – \$10.00	\$50	3,740
1 – \$10.00 + 2 – \$20.00	\$50	2,550
1 – \$10.00 + 1 – \$40.00	\$50	2,550
1 – \$50.00	\$50	2,550
2 – \$50.00	\$100	2,040
5 – \$20.00	\$100	5,576
2 – \$25.00 + 1 – \$50.00	\$100	2,040
4 – \$25.00	\$100	2,040
1 – \$100	\$100	2,040
5 – \$100	\$500	680
1 – \$500	\$500	340
2 – \$500	\$1,000	102
5 – \$200	\$1,000	102
1 – \$1,000	\$1,000	102
5 – \$2,000	\$10,000	5
2 – \$5,000	\$10,000	5
1 – \$10,000	\$10,000	5
1 – \$100,000	\$100,000	4

SECTION 6. (a) There shall be approximately four million (4,000,000) scratch-off tickets initially available in scratch-off game number 747.

(b) The odds of winning a prize in scratch-off game number 747 are approximately 1 in 4.07.

(c) All reorders of tickets for scratch-off game number 747 shall have the same:

- (1) prize structure;
 - (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
 - (3) odds;
- as contained in the initial order.

SECTION 7. (a) The director or the director's designee shall promulgate rules and procedures to govern four (4) second-chance drawings from among qualified entries which will take place on or about February 17, 2005, March 17, 2005, April 14, 2005, and May 12, 2005, respectively. Players may enter one (1) or more of the second-chance drawings by mailing one (1) nonwinning scratch-off ticket in scratch-off game number 747 in an envelope no larger than 9½" × 4½" to Hold 'Em Poker Second Chance Drawing, PMB 382, 899 South College Mall Road, Bloomington, Indiana 47401 before the designated deadlines. The back of each such scratch-off ticket must contain the player's name, address, and telephone number, if any. Alternatively, players who join or who are already members of the Lotto

Fun Club may enter the second-chance drawings on-line at www.hoosierlottery.com by clicking on the Hold 'Em Poker EZ ENTRY image and following the directions. There is no limit on the number of times a player may enter a second-chance drawing but a single scratch-off ticket may be the source of only one (1) entry. Any entries received after the last drawing date will be ineligible and destroyed. Detailed rules and procedures are available at www.hoosierlottery.com or upon written request.

(b) Each of the four (4) Hold 'Em Poker second-chance drawings shall award the following prizes:

(1) Five hundred forty (540) World Poker Tour™ merchandise prize packs valued at five hundred seventy-five dollars (\$575) containing:

- (A) one (1) black, leather duffel bag with a World Poker Tour™ hang tag;
- (B) one (1) pair of polarized sunglasses with World Poker Tour™ logo;
- (C) one (1) fleece blanket throw with embroidered World Poker Tour™ logo;
- (D) official World Poker Tour™ poker chips, two (2) decks of cards with World Poker Tour™ logo, and one (1) aluminum case;
- (E) one (1) World Poker Tour™ umbrella with logo; and
- (F) one (1) World Poker Tour™ clock with logo.

(2) One (1) grand prize winner of a World Poker Tour™ tournament trip valued at twenty thousand eight hundred ninety-two dollars and seventy-three cents (\$20,892.73) which amount covers:

- (A) round-trip coach flight reservations for two (2) to tournament location;
- (B) double occupancy hotel reservations for two (2) persons for a six (6) night and seven (7) day stay at the tournament location;
- (C) up to ten thousand dollars (\$10,000) buy-in to a World Poker Tour™ tournament from among the dates and locations designated by the commission;
- (D) one thousand dollars (\$1,000) in spending money;
- (E) two (2) additional merchandise prize packs;
- (F) two (2) tickets to watch the tournament finals in the trip location;
- (G) training by a professional card player; and
- (H) five thousand two hundred twenty-three dollars and eighteen cents (\$5,223.18) in federal income withholding taxes and six hundred sixty-nine dollars and fifty-five cents (\$669.55) in state income withholding taxes.

(3) Grand prize winners may select a cash option of fifteen thousand dollars (\$15,000) in lieu of the World Poker Tour™ tournament trip.

(4) Merchandise prize pack winners must claim their prizes within one hundred eighty (180) days of the drawing. There is no cash option associated with the merchandise prize pack nor are federal income withholding taxes paid in association with that prize. There are no Indiana

Emergency Rules

income withholding taxes on prizes valued under two thousand one hundred dollars (\$2,100).

(c) Entries shall be mixed in accordance with the official Hold 'Em Poker drawing rules and procedures and one (1) grand prize winner shall be selected first followed by five hundred forty (540) winners of merchandise prize packs. A player may only win one (1) grand prize and agrees to be bound by commission and World Poker Tour™ rules. In the event a grand prize winner is less than twenty-one (21) years of age and consequently ineligible to participate in any World Poker Tour™ tournaments in the United States, the commission shall offer such winner the following options:

- (1) the winner may select the cash option of fifteen thousand dollars (\$15,000);
- (2) the winner may select a proxy that is over the age of twenty-one (21) to participate in a tournament located within the continental United States on such winner's behalf; or
- (3) the winner may elect to participate in a World Poker Tour™ tournament conducted in Aruba with full knowledge that such winner will not be eligible to participate in the Aruba tournament finals.

SECTION 8. The last day to claim a prize in scratch-off game number 747 is February 28, 2006.

SECTION 9. This document expires on March 31, 2006.

SECTION 10. LSA Document #05-6(E) IS REPEALED.

LSA Document #05-10(E)

Filed with Secretary of State: January 24, 2005, 1:43 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-16(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 028. Effective January 27, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 028, DiamondBack Slots".

SECTION 2. Pull-tab tickets for pull-tab game number 028 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. Pull-tab game number 028 is a match game.

SECTION 4. A pull-tab ticket in pull-tab game number 028 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play

symbols and play symbol captions in pull-tab game number 028 shall consist of the following possible play symbols:

- (1) A picture of a diamond with snakes
DIAMOND
- (2) A picture of saloon doors
DOORS
- (3) A picture of a dice
DICE
- (4) A picture of a number 7
SEVEN
- (5) A picture of a cactus
CACTUS
- (6) A picture of a mule kicking
WILD
- (7) A picture of a coyote
COYOTE
- (8) A picture of cherries
CHERRIES
- (9) A picture of an orange
ORANGE

SECTION 5. A row on a pull-tab ticket in pull-tab game number 028 which contains three (3) identical play symbols and play symbols [*sic., symbol*] captions or two (2) identical play symbols with the play symbol "Wild" is not a winning row unless all of the following are true:

- (1) The play symbols and play symbol captions in the line are consistent with those specified in SECTION 4 of this document.
- (2) The three (3) play symbols and play symbol captions in the line are bisected by a red arrow.
- (3) The prize amount appears on the left side of the line in red ink on a yellow box.

SECTION 6. Subject to SECTION 5 of this document, the holder of a valid pull-tab ticket for pull-tab game number 028 containing a match 3 winning row, or a match 2 plus the "Wild" symbol winning row is entitled to a prize the amount and the approximate number [*sic., numbers*] of which are as follows:

Matching Play Symbol in Winning Row	Prize Amount	Approximate Number of Prizes
2 of a kind plus wild symbol	\$0.50	198,246
3 cactus	\$1.00	26,790
3 seven	\$2.00	13,395
3 dice	\$5.00	8,037
3 saloon doors	\$10.00	5,358
3 diamond	\$125.00	2,679

SECTION 7. A total of approximately one million eight hundred thousand (1,800,000) pull-tab tickets will be initially available for pull-tab game number 028. The odds of winning a prize in pull-tab game 028 are approximately 1 in 7.07. If additional pull-tab tickets are made available

for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 028 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at www.hoosierlottery.com or may be obtained through the commission's toll-free customer service number or from any pull-tab retailer.

LSA Document #05-16(E)

Filed with Secretary of State: January 27, 2005, 4:21 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-17(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 029. Effective January 27, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 029, Nice Ice".

SECTION 2. Pull-tab tickets for pull-tab game number 029 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Pull-tab game number 029 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number 029 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 029 shall consist of the following possible play symbols:

(1) A picture of a gemstone

DIAMOND

(2) A picture of a snowman

SNOWMAN

(3) A picture of a snowflake

SNOWFLAKE

(4) A picture of an igloo

IGLOO

(5) A picture of a penguin

PENGUIN

(6) A picture of a person on a sled

SLED

(7) A picture of a shovel

SHOVEL

SECTION 5. A row on a pull-tab ticket in pull-tab game number 029 which contains three (3) identical play symbols is not a match 3 winning row unless all of the following are true:

(1) The play symbols and play symbol captions in the row are consistent with those specified in SECTION 4 of this document.

(2) The three (3) play symbols and play symbol captions in the row are bisected by a pink arrow.

(3) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. Subject to SECTION 5 of this document, the holder of a valid pull-tab ticket for pull-tab game number 029 containing a match 3 winning row is entitled to a prize amount the approximate numbers of which are as follows:

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
3 igloo	\$0.25	500,065
3 snowflake	\$1	78,135
3 snowman	\$5	20,836
3 diamond	\$50	5,209

SECTION 7. A total of approximately three million five hundred thousand (3,500,000) pull-tab tickets will be initially available for pull-tab game number 029. The odds of winning a prize in pull-tab game 029 are approximately 1 in 5.79. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 029 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at www.hoosierlottery.com or may be obtained through the commission's toll-free customer service number or from any pull-tab ticket retailer.

LSA Document #05-17(E)

Filed with Secretary of State: January 27, 2005, 4:21 p.m.

Change in Notice of Public Hearing

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #04-268

The Indiana Utility Regulatory Commission gives notice that the date of the public hearing for LSA Document #04-268, printed at 28 IR 1518, 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 **March 22, 2005** at 9:30 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 a proposed new rule governing distribution system improvement charges (DSIC) allowed for water utilities under IC 8-1-31. 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

from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027, press 0, and ask for ext. 3-6868 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change in Notice of Public Hearing 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
Indianapolis, Indiana 46204*

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may also 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 Government Center-North, 100 North Senate Avenue, Tenth Floor East, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-236

The Air Pollution Control Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #00-236, printed at 28 IR 627, 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, and IC 13-14-9, notice is hereby given that the public hearing on proposed amendments to 326 IAC 7-1.1-1, 326 IAC 7-1.1-2, 326 IAC 7-2-1, 326 IAC 7-4-1.1, and 326 IAC 7-4.1 noticed for January 7, 2005, was opened and continued by the Air Pollution Control Board to **March 2, 2005, at 1:00 p.m.**, at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.*

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

TITLE 326 AIR POLLUTION CONTROL BOARD

#04-181(APCB)

The Air Pollution Control Board gives notice that the date of the public hearing for consideration of preliminary adoption of #04-181(APCB), printed at 28 IR 417, 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 **May 4, 2005** 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 20-80 and 326 IAC 20-81.*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayl Killough, Rules Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027, press 0, and ask for extension 3-8628 (in Indiana). If the date of this hearing is

Change in Notice of Public Hearing

changed, it will be noticed in the Change in Notice of Public Hearing 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
Indianapolis, Indiana 46204*

or call (317) 233-0855 or (317) 232-6565 (TDD). 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.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

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
Indianapolis, Indiana 46204*

or call (317) 233-0855 or (317) 232-6565 (TDD). 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.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

#04-200(APCB)

The Air Pollution Control Board gives notice that the date of the public hearing for consideration of preliminary adoption of #04-200(APCB), printed at 28 IR 1341, 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 **May 4, 2005** at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 10-3 and 326 IAC 10-4 and new rule 326 IAC 10-5.*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register. Individuals requiring

TITLE 326 AIR POLLUTION CONTROL BOARD

#04-278(APCB)

The Air Pollution Control Board gives notice that the date of the public hearing for consideration of final adoption of #04-278(APCB), printed at 28 IR 1343, 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 **May 4, 2005** at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 6.8-2-4 (formerly 326 IAC 6-1-10.1).*

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 in Notice of Public Hearing 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:

Change in Notice of Public Hearing

*Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204*

or call (317) 233-0855 or (317) 232-6565 (TDD). 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.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

**TITLE 25 INDIANA DEPARTMENT OF
ADMINISTRATION**

LSA Document #05-25

Under IC 4-22-2-23, the Indiana Department of Administration intends to adopt a rule concerning the following:

OVERVIEW: Amends 25 IAC 5 relating to rules governing the division for minority and women's business enterprise development. The amendments will include, but may not be limited to, those necessary and appropriate to comply with the directives set forth in Executive Order 05-11, amendments relating to reciprocity or portability of certifications other than those addressed in Executive Order 05-11, changes in applications that have been submitted to the division, reapplication after denial of an application, and revocation of certifications. The amendments will also make technical or clarifying corrections. Questions or comments may be directed by mail to Deputy Commissioner, Minority and Women's Business Enterprises Division, Indiana Department of Administration, IGCS, Room W469, 402 West Washington Street, Indianapolis, IN 46204 or by electronic mail to mwdbe@idoa.IN.gov. Statutory authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13-16.5-5; IC 4-13.6-3-1.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-14

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 16-5-19 governing performance standards and enforcement of plugging and abandoning of oil and gas wells. Allows the use of water as a material for filling uncemented intervals in a plugged well. Public questions and comments may be sent to the Division of Hearings, Natural Resources Commission, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana 46204, by e-mail at jkane@nrc.in.gov, or by telephone at (317) 232-4699. Statutory authority: IC 14-10-2-4; IC 14-37-3.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-18

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 8 that governs the public use of DNR properties. Clarifies that the DNR's issuance of a

lease, license, or concession does not disqualify an area from administration as a "DNR property". Removes the general prohibition on leaving vehicles, watercraft, and other equipment in a DNR parking lot in excess of 48 hours. (This prohibition or a similar prohibition may still be established by signage at specific parking lots.) Clarifies the permit possession requirements on fish and wildlife areas and on reservoir properties. Makes other technical changes. Effective January 1, 2006. Questions or comments may be directed to slucas@nrc.in.gov or by telephone at (317) 233-3322. Statutory authority: IC 14-10-2-4; IC 14-11-2-1.

**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

LSA Document #05-19

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

OVERVIEW: Adopts rules to specify a system of civil penalties and other sanctions for a WIC vendor contract under the WIC program or federal regulations under 7 CFR 246. Adopts rules regarding authorization of WIC vendors. Written comments may be submitted to the Indiana State Department of Health, Community and Family Health Services Commission, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-19-3-4; IC 16-19-3-5; IC 16-35-1.5-6.

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #05-26

Under IC 4-22-2-23, the Department of Insurance intends to adopt a rule concerning the following:

OVERVIEW: The department intends to promulgate a rule to adjust the amounts that may be charged for copying medical records under IC 16-39. Written comments may be submitted to the Indiana Department of Insurance, Attn: Amy Strati, 311 West Washington Street, Suite 300, Indianapolis, Indiana 46204 or e-mail to astrati@doi.state.in.us. Statutory authority: IC 16-39-9-4.

Proposed Rules

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #02-335

DIGEST

Adds 326 IAC 6.5 and 326 IAC 6.8 to renumber the current rule into two articles, with counties divided by rules and sources divided by sections. Repeals 326 IAC 6-1. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: January 1, 2003, Indiana Register (26 IR 1266).

Second Notice of Comment Period and Notice of First Hearing: October 1, 2004, Indiana Register (28 IR 326).

Date of First Hearing: Opened on January 5, 2005, and continued to February 2, 2005.

Proposed Rule and Notice of Second Hearing: March 1, 2005, Indiana Register.

Date of Second Hearing: May 4, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on October 1, 2004, at 28 IR 326, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from October 1, 2004 through November 1, 2004, on IDEM's draft rule language. No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On January 5, 2005, the air pollution control board (board) opened and continued the first public hearing/board meeting to February 2, 2005 concerning the development of new articles 326 IAC 6.5 and 326 IAC 6.8. No comments were made on January 5, 2005 and no comments were made on February 2, 2005.

326 IAC 6-1-1	326 IAC 6-1-11.1
326 IAC 6-1-1.5	326 IAC 6-1-11.2
326 IAC 6-1-2	326 IAC 6-1-12
326 IAC 6-1-3	326 IAC 6-1-13
326 IAC 6-1-4	326 IAC 6-1-14
326 IAC 6-1-5	326 IAC 6-1-15
326 IAC 6-1-6	326 IAC 6-1-16
326 IAC 6-1-7	326 IAC 6-1-17
326 IAC 6-1-8.1	326 IAC 6-1-18
326 IAC 6-1-9	326 IAC 6.5
326 IAC 6-1-10.1	326 IAC 6.8
326 IAC 6-1-10.2	

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

ARTICLE 6.5. PARTICULATE MATTER LIMITATIONS EXCEPT LAKE COUNTY

Rule 1. General Provisions

326 IAC 6.5-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 1. (a) Except as provided in subsections (b) and (c), sources or facilities located in the counties of Clark, Dearborn, Dubois, Howard, Marion, St. Joseph, Vanderburgh, Vigo, or Wayne shall comply with the limitations in:

(1) 326 IAC 6.5-2 through 326 IAC 6.5-10, if the source or facility is specifically listed in 326 IAC 6.5-2 through 326 IAC 6.5-10; or

(2) section 2 of this rule, if the source or facility is not specifically listed in 326 IAC 6.5-2 through 326 IAC 6.5-10, but has:

(A) the potential to emit one hundred (100) tons or more; or

(B) actual emissions of ten (10) tons or more; of particulate matter per year.

(b) Particulate limitations shall not be established for combustion units that burn only natural gas at sources or facilities identified in 326 IAC 6.5-2 through 326 IAC 6.5-10, as long as the units continue to burn only natural gas.

(c) If the limitations in 326 IAC 6.5-2 through 326 IAC 6.5-10 and section 2 of this rule conflict with or are inconsistent with limitations established in 326 IAC 12, then the more stringent limitation shall apply. (*Air Pollution Control Board; 326 IAC 6.5-1-1*)

326 IAC 6.5-1-1.5 Definitions

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 1.5. (a) This section applies to the sources, facilities, and operations listed in this article.

(b) The following definitions apply throughout this article:

(1) "Asphalt concrete plant" means a facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cement.

(2) "Existing source" means any source that has commenced construction or is in operation on December 8, 2001.

(3) "Fuel combustion steam generator" means any furnace or boiler used in the process of burning solid, liquid, or gaseous fuel or any combination thereof for the purpose of producing steam by heat transfer.

(4) "Glass container manufacturing" means any industry manufacturing containers from soda-silica-lime-glass.

(5) "Grain elevator" means any plant or installation at which grain is:

(A) unloaded;

- (B) handled;
- (C) cleaned;
- (D) dried;
- (E) stored; or
- (F) loaded.

(6) "Mineral aggregate operation" means an operation involving:

- (A) mining;
- (B) blasting and crushing;
- (C) sizing;
- (D) storing; and
- (E) transporting;

of mineral materials.

(Air Pollution Control Board; 326 IAC 6.5-1-1.5)

326 IAC 6.5-1-2 Particulate emission limitations; fuel combustion steam generators, asphalt concrete plant, grain elevators, foundries, mineral aggregate operations; modification by commissioner

Authority: IC 13-14-8; IC 13-17-11; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 2. (a) Particulate matter emissions from facilities constructed after applicable dates in subsections (c) and (d) or not limited by subsection (b), (e), (f), or (g) shall not exceed seven-hundredths (0.07) gram per dry standard cubic meter (g/dscm) (three-hundredths (0.03) grain per dry standard cubic foot (dscf)).

(b) Fuel combustion steam generators are limited to the following particulate matter emissions limitations:

(1) For solid fuel-fired generators that have:

- (A) greater than sixty-three million (63,000,000) kilocalories (kcal) per hour heat input (two hundred fifty million (250,000,000) Btu), a particulate matter content of no greater than eighteen-hundredths (0.18) gram per million calories (one-tenth (0.10) pound per million Btu);
- (B) equal to or greater than six million three hundred thousand (6,300,000) kcal per hour heat input, but less than or equal to sixty-three million (63,000,000) kcal per hour heat input (equal to or greater than twenty-five million (25,000,000) Btu, but less than or equal to two hundred fifty million (250,000,000) Btu), a particulate matter content of no greater than sixty-three hundredths (0.63) gram per million calories (thirty-five hundredths (0.35) pound per million Btu); or
- (C) less than six million three hundred thousand (6,300,000) kcal per hour heat input (twenty-five million (25,000,000) Btu), a particulate matter content of no greater than one and eight-hundredths (1.08) grams per million calories (six-tenths (0.6) pound per million Btu).

(2) For all liquid fuel-fired steam generators, a particulate matter content of no greater than twenty-seven hun-

dredths (0.27) gram per million kcal (fifteen-hundredths (0.15) pound per million Btu).

(3) For all gaseous fuel-fired steam generators, a particulate matter content of no greater than one-hundredth (0.01) grain per dry standard cubic foot (dscf).

(c) Asphalt concrete plants in existence on or before June 11, 1973, and consisting of, but not limited to:

- (1) driers;
- (2) systems for:
 - (A) screening, handling, storing, and weighing hot aggregate;
 - (B) loading, transferring, and storing mineral filler; and
 - (C) mixing asphalt concrete; and
- (3) the loading, transfer, and storage systems associated with emission control systems;

are limited to particulate matter emissions of no greater than two hundred thirty (230) mg per dscm (one-tenth (0.1) grain per dscf).

(d) The following are the requirements for grain elevators:

- (1) For grain elevators that began construction or modification before January 13, 1977, any grain storage elevator located at any grain processing source that has a permanent grain storage capacity of thirty-five thousand two hundred (35,200) cubic meters (one million (1,000,000) U.S. bushels) or more, and any grain terminal elevator that has a permanent grain storage capacity of eighty-eight thousand one hundred (88,100) cubic meters (two million five hundred thousand (2,500,000) U.S. bushels) or more shall be limited to particulate matter emissions of no greater than seven-hundredths (0.07) g/dscm (three-hundredths (0.03) grain per dscf).
- (2) All grain elevators subject to this article shall provide for housekeeping and maintenance procedures that minimize the opportunity for particulate matter to become airborne and leave the property, such as the following:

- (A) Housekeeping practices shall be conducted as follows:

(i) Areas to be swept and maintained shall include, at a minimum, the following:

- (AA) General grounds, yard, and other open areas.
- (BB) Floors, decks, hopper areas, loading areas, dust collectors, and all areas of dust or waste concentrations.
- (CC) Grain driers with respect to accumulated particulate matter.

(ii) Cleanings and other collected waste material shall be handled and disposed of so that the area does not generate fugitive dust.

(iii) Dust from driveways, access roads, and other areas of travel shall be controlled.

(iv) Accidental spills and other accumulations shall be cleaned up as soon as possible but no later than completion of the day's operation.

(B) Equipment maintenance shall consist of procedures that eliminate or minimize emissions from equipment or a system caused by the following:

- (i) Malfunctions.
- (ii) Breakdowns.
- (iii) Improper adjustment.
- (iv) Operating above the rated or designed capacity.
- (v) Not following designed operating specifications.
- (vi) Lack of good preventive maintenance care.
- (vii) Lack of critical and proper spare replacement parts on hand.
- (viii) Lack of properly trained and experienced personnel.

(C) Emissions from the affected areas, operations, equipment, and systems shall not exceed twenty percent (20%) opacity as determined under 326 IAC 5-1.

(e) Gray iron foundries shall be limited to the following:

(1) Any cupola of a gray iron foundry shall be limited to particulate matter emissions of no greater than thirty-four hundredths (0.34) g/dscm (fifteen-hundredths (0.15) grain/dscf).

(2) Any melting process, excluding any cupola, of a gray iron foundry shall be limited to particulate matter emissions of no greater than sixteen-hundredths (0.16) g/dscm (seven-hundredths (0.07) grain/dscf).

(f) Glass container manufacturing furnace operations shall be limited to particulate matter emissions of no greater than one (1.0) gram per two (2.0) kilograms of process material (one (1.0) pound per ton).

(g) Mineral aggregate operations, where the process is totally enclosed, shall comply with the requirements in subsection (a). In addition, 326 IAC 2, 326 IAC 5-1, and 326 IAC 6-4 shall apply in all cases to mineral aggregate operations.

(h) Based on modeling analyses available to the commissioner, where it is determined that the limitations in subsections (a) through (g) are not adequate to achieve and maintain the ambient particulate air quality standards established by 326 IAC 1-3, the limitations set forth in this section may be changed for facilities:

- (1) having a significant impact on air quality and located in areas where the ambient particulate standard either is not attained or will not be maintained without emission limitations in addition to those set forth in this rule; and
- (2) required to comply with the prevention of significant deterioration requirements of 326 IAC 2.

These limitations shall be established in construction and operation permits issued in accordance with the procedures set forth in 326 IAC 2.

(i) If the emission limitations established in subsections (a) through (g) for facilities that were operating or under construction on August 7, 1980, impose a severe economic

hardship on any individual source, then the source may petition the commissioner for reconsideration of the limitations. If the source can demonstrate to the commissioner's satisfaction that a severe hardship will be caused if the applicable requirements in this section are enforced, then less restrictive emission limitations may be established by the commissioner, provided the less restrictive limitations will guarantee the attainment and maintenance of the particulate ambient air quality standards established by 326 IAC 1-3. (*Air Pollution Control Board; 326 IAC 6.5-1-2*)

326 IAC 6.5-1-3 Nonattainment area particulate limitations; compliance determination

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. Testing to determine the amount of particulate matter emitted from any facility subject to the requirements of this article shall be conducted in accordance with the procedures set forth in 40 CFR 60, Appendix A, Methods 1-5*, or other procedures approved by the commissioner and U.S. EPA.

*The following is incorporated by reference: 40 CFR 60, Appendix A, Methods 1-5. Copies may be obtained from the Government Printing Office, 732 North Capitol Street, Washington, D.C. 20401 and are available for review and copying at the 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 6.5-1-3*)

326 IAC 6.5-1-4 Compliance schedules

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) Unless the commissioner has determined that a performance test is not required for a facility, the owner or operator of a source shall submit to the commissioner the results of a performance test, conducted in accordance with section 3 of this rule, demonstrating compliance with the emissions limitations established under this article:

(1) within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated; or

(2) not later than one hundred eighty (180) days after the initial startup of the facility;

except when different compliance dates are established in a permit.

(b) If the emission limit applicable to a source or facility is made more stringent by reason of amendments to this article or by reason of amended permit requirements, then the source or facility shall achieve compliance as soon as practicable but not later than specified by the following schedule:

(1) Submittal of plans and specifications within six (6) months after:

- (A) the date the source becomes subject to the terms in this section; or
 (B) the effective date of the amended rule or permit imposing a stricter limit.

Whichever date is applicable to a particular source is hereafter referred to as the effective date.

- (2) Initiation of on-site construction or installation within twelve (12) months after the effective date.
 (3) Completion of on-site construction or installation within twenty-four (24) months after the effective date.
 (4) Achievement of compliance within twenty-eight (28) months after the effective date.
 (5) Submittal of performance results within thirty (30) months of the effective date.

(Air Pollution Control Board; 326 IAC 6.5-1-4)

326 IAC 6.5-1-5 Control strategies

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 5. (a) For existing sources, the following shall apply:

(1) Whenever emission limitations set forth in 326 IAC 6.5-2 through 326 IAC 6.5-10 are revised and established under section 2(h) and 2(i) of this rule, the revisions shall be submitted to U.S. EPA for approval as part of Indiana's SIP.

(2) If a permit issued by the commissioner, under this article, contains emission limitations more stringent than the limitations set forth in 326 IAC 6.5-2 through 326 IAC 6.5-10, then the emission limitations set forth in the permit shall supersede and replace the corresponding limitations in 326 IAC 6.5-2 through 326 IAC 6.5-10.

(b) For new sources, emission limitations and any revisions to emission limitations shall be established as conditions in permits.

(c) Upon issuance, the above permits shall be submitted to U.S. EPA for review, and the emission limitations contained in the permits shall be submitted as SIP revisions.

(d) In 326 IAC 6.5-2 through 326 IAC 6.5-10, where there are two (2) emission limits listed for a particular source or facility, the source or facility shall be required to comply with both limits. *(Air Pollution Control Board; 326 IAC 6.5-1-5)*

326 IAC 6.5-1-6 State implementation plan revisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 6. Any exemptions given or provisions granted under this article by the commissioner in sections 2(a), 2(g) through 2(i), 4, and 5 of this rule shall be submitted to U.S. EPA as revisions to the SIP. *(Air Pollution Control Board; 326 IAC 6.5-1-6)*

326 IAC 6.5-1-7 Scope; affected counties

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 7. This article shall contain control strategies and emission limitations for particulate emissions from sources in counties listed as follows:

326 IAC 6.5-2	Clark County
326 IAC 6.5-3	Dearborn County
326 IAC 6.5-4	Dubois County
326 IAC 6.5-5	Howard County
326 IAC 6.5-6	Marion County
326 IAC 6.5-7	St. Joseph County
326 IAC 6.5-8	Vanderburgh County
326 IAC 6.5-9	Vigo County
326 IAC 6.5-10	Wayne County

(Air Pollution Control Board; 326 IAC 6.5-1-7)

Rule 2. Clark County

326 IAC 6.5-2-1 General provisions

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 1. In addition to the emission limitations contained in 326 IAC 6.5-1-2, sources and facilities located in Clark County and listed in sections 2 through 12 of this rule shall meet the specified emission limitations. *(Air Pollution Control Board; 326 IAC 6.5-2-1)*

326 IAC 6.5-2-2 B & E Asphalt

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 2. B & E Asphalt in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
B & E Asphalt	002301	16P	Dryer, Screen, Conveyor	29.2		0.11

(Air Pollution Control Board; 326 IAC 6.5-2-2)

326 IAC 6.5-2-3 Colgate Palmolive

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 3. Colgate Palmolive in Clark County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Colgate Palmolive	0003	2P	Oil and Gas Fired Boilers	6.3	0.015	
	01-02		No. 8 & 9 88 MMBtu/Hr. each			
	05	3P	Oil and Gas Fired Boiler No. 10 100 MMBtu/Hr.	4.2	0.015	

(Air Pollution Control Board; 326 IAC 6.5-2-3)

326 IAC 6.5-2-4 Essroc Materials

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Essroc Materials in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Essroc Materials	0008	9P	Kiln No. 2	265.20		0.4 lb/ton
	12					
	04	10P	Limestone Kiln	120.40		0.58 lb/ton
	11	12P	Kiln No. 1	251.20		0.58 lb/ton

(Air Pollution Control Board; 326 IAC 6.5-2-4)

326 IAC 6.5-2-5 Gohman Asphalt

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 5. Gohman Asphalt in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Gohman Asphalt	0022	15P	Dryer, Screen, Conveyor	11.5		.087
	01					

(Air Pollution Control Board; 326 IAC 6.5-2-5)

326 IAC 6.5-2-6 Hillerich & Bradsby

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 6. Hillerich & Bradsby in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Hillerich & Bradsby	0032	21P	Incinerator-Waste Heat Boiler	26.1	0.240	
	01					
	02	22P	Wood Products	0.3		.001

(Air Pollution Control Board; 326 IAC 6.5-2-6)

326 IAC 6.5-2-7 Hooker Chemical

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 7. Hooker Chemical in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Hooker Chemical	0005 01	7P	Thermal Process	8.7		.023
	02	8P	Sodium Phosphate Process	85.2		.028

(Air Pollution Control Board; 326 IAC 6.5-2-7)

326 IAC 6.5-2-8 Kimball Case Goods

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 8. Kimball Case Goods in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Kimball Case Goods	0002 03	1P	Oil Fired Boiler 6 MMBtu/Hr.	0.3	0.0130	

(Air Pollution Control Board; 326 IAC 6.5-2-8)

326 IAC 6.5-2-9 PQ Corporation

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 9. PQ Corporation in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
PQ Corporation	0018 01	13P	Gas-Oil Boiler 5 MMBtu/Hr.	0.3	0.060	
	02	14P	Sodium Silicate Glass	51.8		1.4 lb/ton

(Air Pollution Control Board; 326 IAC 6.5-2-9)

326 IAC 6.5-2-10 Quality Paving

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 10. Quality Paving in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf

Proposed Rules

Quality Paving	0037 01	23P	Asphalt Batching	4.2	.03
----------------	------------	-----	------------------	-----	-----

(Air Pollution Control Board; 326 IAC 6.5-2-10)

326 IAC 6.5-2-11 Robinson Foundry

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 11. Robinson Foundry in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Robinson Foundry	0004 01	6P	Cupola	4.2		.476

(Air Pollution Control Board; 326 IAC 6.5-2-11)

326 IAC 6.5-2-12 USS Agri Chemicals

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 12. USS Agri Chemicals in Clark County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
USS Agri Chemicals	0024 01	17P	Unloading, Bulk Shipment	1.7		.004
	03	18P	Sieving, Crushing Scaling	11.1		0.02
	04	19P	Ammoniator	9.0		0.039
	05	20P	Dryer and Cooler	24.0		0.09

(Air Pollution Control Board; 326 IAC 6.5-2-12)

Rule 3. Dearborn County

326 IAC 6.5-3-1 General provisions

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 1. In addition to the emission limitations contained in 326 IAC 6.5-1-2, sources and facilities located in Dearborn County and listed in sections 2 through 9 of this rule shall meet the specified emission limitations. *(Air Pollution Control Board; 326 IAC 6.5-3-1)*

326 IAC 6.5-3-2 Anchor Glass

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 2. Anchor Glass in Dearborn County shall meet the following emission limits:

- (1) Particulate matter emissions from Glass Furnace 1 shall be limited to one (1) pound per ton and forty-eight (48) tons per year.
- (2) Particulate matter emissions from Glass Furnace 2

shall be limited to one (1) pound per ton and forty-two and eight-tenths (42.8) tons per year.

(Air Pollution Control Board; 326 IAC 6.5-3-2)

326 IAC 6.5-3-3 Dearborn Gravel

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 3. Dearborn Gravel in Dearborn County shall limit particulate matter emissions from screening/conveying/handling and storage to two and eight-tenths (2.8) tons per year. *(Air Pollution Control Board; 326 IAC 6.5-3-3)*

326 IAC 6.5-3-4 Indiana Michigan Power, Tanners Creek Station

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 4. Indiana Michigan Power, Tanners Creek Station in Dearborn County shall meet the following emission limits:
(1) Combined particulate matter emissions from Boilers 1,

2, and 3 shall be limited to ninety-thousandths (0.090) pound per million British thermal units and one thousand five hundred eighty-one and eighty-hundredths (1,581.80) tons per year.

(2) Particulate matter emissions from Boiler 4 shall be limited to one-tenth (.1) pound per million British thermal units and two thousand one hundred four (2,104) tons per year.

(Air Pollution Control Board; 326 IAC 6.5-3-4)

326 IAC 6.5-3-5 Laughery Gravel

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 5. Laughery Gravel in Dearborn County shall limit particulate matter emissions from storage to fourteen and four-tenths (14.4) tons per year. *(Air Pollution Control Board; 326 IAC 6.5-3-5)*

326 IAC 6.5-3-6 Lotus Ware House

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 6. Lotus Ware House in Dearborn County shall limit particulate matter emissions as follows:

(1) Particulate matter emissions from shipping/receiving/handling shall be limited to one hundred fifty-seven and one-tenth (157.1) tons per year.

(2) Particulate matter emissions from corn cleaning shall be limited to eleven and one-tenth (11.1) tons per year.

(3) Particulate matter emissions from corn drying shall be limited to twenty and nine-tenths (20.9) tons per year.

(Air Pollution Control Board; 326 IAC 6.5-3-6)

326 IAC 6.5-3-7 Paul H. Rohe Co.

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 7. Paul H. Rohe Co. in Dearborn County shall limit particulate matter emissions from the rotary dryer to twenty-two hundredths (0.22) grain per dry standard cubic foot and nineteen and ten-hundredths (19.10) tons per year. *(Air Pollution Control Board; 326 IAC 6.5-3-7)*

326 IAC 6.5-3-8 Joseph E. Seagram and Sons, Inc.

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 8. Joseph E. Seagram and Sons, Inc., in Dearborn County shall meet the following requirements and emission limits:

(1) Boiler 5 shall burn only natural gas.

(2) Particulate matter emissions from Boiler 6 shall be limited to one hundred eighty-thousandths (0.180) pound per million British thermal units.

(3) Particulate matter emissions from Boiler 6 shall be limited to two hundred fourteen and two-tenths (214.2) tons per twelve (12) consecutive months period.

(4) Seagram shall maintain a log for Boiler 6 that contains:

(A) fuel type used each hour;

(B) fuel amount used each month; and

(C) the monthly average heat and sulfur contents of each fuel burned.

(5) Within thirty (30) days of the end of each calendar quarter, Seagram shall report monthly emissions from Boiler 6 for each of the twelve (12) months before the end of the calendar quarter to the department. The report shall contain the information on fuel type, usage, sulfur content, and heat content necessary to determine monthly emissions. For purposes of calculating monthly emissions, the emission rate for Boiler 6, during periods when coal is being burned, shall be assumed to be eighteen-hundredths (0.18) pound per million British thermal units.

(Air Pollution Control Board; 326 IAC 6.5-3-8)

326 IAC 6.5-3-9 Schenley Distillers, Incorporated

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 9. Schenley Distillers, Incorporated, in Dearborn County shall meet the following emission limits:

(1) Particulate matter emissions from Boiler 1 shall be limited to one hundred fifty ten-thousandths (.0150) pound per million British thermal units and seven (7) tons per year.

(2) Particulate matter emissions from Boiler 2 shall be limited to one hundred fifty ten-thousandths (.0150) pound per million British thermal units and five and two-tenths (5.2) tons per year.

(3) Particulate matter emissions from Boiler 9 shall be limited to one hundred fifty ten-thousandths (.0150) pound per million British thermal units and four and five-tenths (4.5) tons per year.

(Air Pollution Control Board; 326 IAC 6.5-3-9)

Rule 4. Dubois County

326 IAC 6.5-4-1 General provisions

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 1. In addition to the emission limitations contained in 326 IAC 6.5-1-2, sources and facilities located in Dubois County and listed in sections 2 through 24 of this rule shall meet the specified emission limitations. *(Air Pollution Control Board; 326 IAC 6.5-4-1)*

326 IAC 6.5-4-2 Artec

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 2. Artec in Dubois County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Artec	0011	15P	Wood Chip Boiler 14 MMBtu/Hr.	12.0	0.60	
		111	Wood Working	2		

(Air Pollution Control Board; 326 IAC 6.5-4-2)

326 IAC 6.5-4-3 Dolly Madison Plant No. 4

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 3. Dolly Madison Plant No. 4 in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Dolly Madison Plant No. 4	0017	9P	Wood Boiler 5 MMBtu/Hr.	9.4	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-3)

326 IAC 6.5-4-4 Dolly Madison Plant No. 5

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 4. Dolly Madison Plant No. 5 in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Dolly Madison Plant No. 5	0016	8P	Coal Boiler 6 MMBtu/Hr.	9.4	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-4)

326 IAC 6.5-4-5 Dubois County Farm Bureau Co-op

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 5. Dubois County Farm Bureau Co-op in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Dubois County Farm Bureau Co-op	0014	22	Grain Elevator	348		

(Air Pollution Control Board; 326 IAC 6.5-4-5)

326 IAC 6.5-4-6 Forest Products No. 1

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 6. Forest Products No. 1 in Dubois County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Forest Products No. 1	0033	8	Wood Working	4.2		
	0033	5P	Wood Boiler 5 MMBtu/Hr.	9.0	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-6)

326 IAC 6.5-4-7 Hoosier Desk

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 7. Hoosier Desk in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Hoosier Desk	0003	111	Wood Working	4.6		

(Air Pollution Control Board; 326 IAC 6.5-4-7)

326 IAC 6.5-4-8 Indiana Chair

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 8. Indiana Chair in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Indiana Chair	0036	107	Wood Working	.4		

(Air Pollution Control Board; 326 IAC 6.5-4-8)

326 IAC 6.5-4-9 Indiana Desk

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 9. Indiana Desk in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Indiana Desk	0027	107	Wood Working	5.4		

(Air Pollution Control Board; 326 IAC 6.5-4-9)

326 IAC 6.5-4-10 Indiana Dimension

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 10. Indiana Dimension in Dubois County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Indiana Dimension	0036	2P	Coal-Wood/Bark Boiler 5 MMBtu/Hr.	9.0	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-10)

326 IAC 6.5-4-11 Indiana Furniture Industries

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. Indiana Furniture Industries in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Indiana Furniture Industries	0027	3P	Wood/Bark Boiler 7 MMBtu/Hr.	5.2	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-11)

326 IAC 6.5-4-12 Jasper Cabinet No. 1

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 12. Jasper Cabinet No. 1 in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Cabinet No. 1	0006	111	Wood Working	5		

(Air Pollution Control Board; 326 IAC 6.5-4-12)

326 IAC 6.5-4-13 Jasper Cabinet No. 2

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 13. Jasper Cabinet No. 2 in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Cabinet No. 2	0004	102	Wood Working	1.0		

(Air Pollution Control Board; 326 IAC 6.5-4-13)

326 IAC 6.5-4-14 Jasper Cabinets Corporation

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 14. Jasper Cabinets Corporation in Dubois County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Cabinets Corporation	0004	11P	Wood Boiler 5.3 MMBtu/Hr.	7.6	0.60	
			Wood Boiler 6.7 MMBtu/Hr.	7.6	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-14)

326 IAC 6.5-4-15 Jasper Chair

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 15. Jasper Chair in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Chair	0005	29P	Wood Boiler 18 MMBtu/Hr.	15.6	0.60	
	0005	107	Wood Working	.7		

(Air Pollution Control Board; 326 IAC 6.5-4-15)

326 IAC 6.5-4-16 Jasper Desk

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 16. Jasper Desk in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Desk	007	12P	Coal-Wood Boiler 8 MMBtu/Hr.	14.6	0.60	
	0007	107	Wood Working	3.9		

(Air Pollution Control Board; 326 IAC 6.5-4-16)

326 IAC 6.5-4-17 Jasper Laminates, Plant #1-Division of Kimball

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 17. Jasper Laminates, Plant #1-Division of Kimball in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Laminates, Plant #1-Division of Kimball	0042	10P	Wood-Wood Waste Boiler No. 1 20.5 MMBtu/Hr.	6.9	0.60	

Proposed Rules

31P

Natural Gas
Boiler No. 2
16.8 MMBtu/Hr.
Wood Working

0.2

0.003

0.01

104

(Air Pollution Control Board; 326 IAC 6.5-4-17)

326 IAC 6.5-4-18 Jasper Mun. Electric

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 18. Jasper Mun. Electric in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Mun. Electric	0002	28P	Coal Boiler 192 MMBtu/Hr.	265.6	0.350	

(Air Pollution Control Board; 326 IAC 6.5-4-18)

326 IAC 6.5-4-19 Jasper Office Furniture Co., Inc., Plant #1

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 19. Jasper Office Furniture Co., Inc., Plant #1 in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Office Furniture, Co., Inc., Plant #1	009	16P	Coal and Wood Boiler 11 MMBtu/Hr.	23.6	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-19)

326 IAC 6.5-4-20 Jasper Office Furniture

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 20. Jasper Office Furniture in Dubois County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Office Furniture	0009	107	Wood Working	1.2		

(Air Pollution Control Board; 326 IAC 6.5-4-20)

326 IAC 6.5-4-21 Jasper Seating

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
Affected: IC 13-15; IC 13-17

Sec. 21. Jasper Seating in Dubois County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Seating	0010	107	Wood Working	4.4		
	0010	17P	Coal-Wood/Bark Boiler 7 MMBtu/Hr.	17.7	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-21)

326 IAC 6.5-4-22 Jasper Veneer

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 22. Jasper Veneer in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Veneer	0037	19P	Boiler No. 1 Coal, Wood/Bark 5 MMBtu/Hr.	9.4	0.6	
		20P	Boiler No. 2, Coal- Wood/Bark 5 MMBtu/Hr.	8.7	0.6	
	0037	107	Wood Working	2.6		

(Air Pollution Control Board; 326 IAC 6.5-4-22)

326 IAC 6.5-4-23 Jasper Wood Products

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 23. Jasper Wood Products in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Jasper Wood Products	0038	13P	Coal-Wood Boiler No. 1 6 MMBtu/Hr.	9.0	0.60	
		14P	Coal-Wood Boiler No. 2 6 MMBtu/Hr.	9.0	0.60	
	0038	107	Wood Working	5.3		

(Air Pollution Control Board; 326 IAC 6.5-4-23)

326 IAC 6.5-4-24 Styline Industries, Plant #8

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 24. Styline Industries, Plant #8 in Dubois County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf

Proposed Rules

Styline Industries, 0035 4P Coal-Wood Boiler 9.0 0.60
Plant #8 7 MMBtu/Hr.
(Air Pollution Control Board; 326 IAC 6.5-4-24)

Rule 5. Howard County

326 IAC 6.5-5-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 1. In addition to the emission limitations contained in 326 IAC 6.5-1-2, sources and facilities located in Howard County and listed in sections 2 through 16 of this rule shall meet the specified emission limitations and requirements.
(Air Pollution Control Board; 326 IAC 6.5-5-1)

326 IAC 6.5-5-2 Chrysler-Haynes

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 2. Chrysler-Haynes in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Chrysler-Haynes	01A	2P	Reverberatory Furnace A	22.5		0.39
	01B	3P	Reverberatory Furnace B	22.5		0.39
	01C	4P	Reverberatory Furnace C	92.5		0.85
	01D	5P	Reverberatory Furnace D	92.5		0.85
	01E	6P	Reverberatory Furnace E	92.5		0.85
	01F	7P	Reverberatory Furnace F	92.5		0.85
	01G	8P	Reverberatory Furnace G	36.2		0.63
	02	9P	Gas Boilers 1-3 190 MMBtu/Hr. 1975 only			

(Air Pollution Control Board; 326 IAC 6.5-5-2)

326 IAC 6.5-5-3 Cuneo Press

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 3. Cuneo Press in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Cuneo Press	01-04	1P	4 Coal and Oil Boilers	48.0	0.65	

(Air Pollution Control Board; 326 IAC 6.5-5-3)

326 IAC 6.5-5-4 DaimlerChrysler-U.S. 31

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14
 Affected: IC 13-15; IC 13-17

Sec. 4. DaimlerChrysler-U.S. 31 in Howard County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
DaimlerChrysler-U.S. 31	01-03	10P	Boilers 1-3 1985 only	875.7	0.75	
	04-05		4-5 1975 only			

(Air Pollution Control Board; 326 IAC 6.5-5-4)

326 IAC 6.5-5-5 Delphi Delco

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. (a) Delphi Delco in Howard County shall meet the following requirements:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Delphi Delco						
100% natural gas	03	19P	4 Gas Fired Boilers Stack No. 1			
100% natural gas		20P	2 Gas Fired Boilers Stack No. 2			
100% natural gas		21P	2 Gas Fired Boilers Stack No. 3			
100% natural gas		22P	5 Gas Fired Boilers Stack No. 4			

(b) The gas fired boilers located at Stacks 1, 2, 3, and 4 at Delphi Delco, identified in subsection (a) as one hundred percent (100%) natural gas burners, shall burn only natural gas. (Air Pollution Control Board; 326 IAC 6.5-5-5)

326 IAC 6.5-5-6 Greentown Grain

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 6. Greentown Grain in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Greentown Grain	0011	68A	Shipping/Receiving 24,400 T/Yr.	7.3		
			Transferring/Conveying 24,400 T/Yr.	18.4		
			Drying 7,000 T/Yr.	2.4		

(Air Pollution Control Board; 326 IAC 6.5-5-6)

326 IAC 6.5-5-7 Howard Co. Farm Bureau Co-op (Greentown)

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 7. Howard Co. Farm Bureau Co-op (Greentown) in Howard County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Howard Co. Farm Bureau Co-op (Greentown)	0014	72A	Shipping/Receiving 14,296 T/Yr.	4.2		
			Transferring/Conveying 14,296 T/Yr.	10.8		
			Drying 5,579 T/Yr.	2.1		
			Grinding 2,000 T/Yr.	0.03		

(Air Pollution Control Board; 326 IAC 6.5-5-7)

326 IAC 6.5-5-8 Howard Co. Farm Bureau Co-op (Russiaville)

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 8. Howard Co. Farm Bureau Co-op (Russiaville) in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Howard Co. Farm Bureau Co-op (Russiaville)	0007	72A	Shipping/Receiving 11,239 T/Yr.	3.48		
			Transferring/Conveying 11,234 T/Yr.	28.16		
			Drying 3,078 T/Yr.	1.04		

(Air Pollution Control Board; 326 IAC 6.5-5-8)

326 IAC 6.5-5-9 Judson Feed & Grain

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 9. Judson Feed & Grain in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Judson Feed & Grain	0013	14A	Shipping/Receiving 5,866 T/Yr.	1.7		
			Transferring/Conveying 5,866 T/Yr.	4.5		

(Air Pollution Control Board; 326 IAC 6.5-5-9)

326 IAC 6.5-5-10 Kokomo Grain Co.

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 10. (a) Kokomo Grain Co. in Howard County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Kokomo Grain Co.	0006	18A	Shipping/Receiving 60,000 T/Yr.	4.5		
			Transferring/Conveying 60,000 T/Yr.	11.1		
			100% natural gas			
			Drying 25,000 T/Yr.			

(b) The unit for drying twenty-five thousand (25,000) t/yr located at Kokomo Grain Co., identified in subsection (a) as one hundred percent (100%) natural gas burners, shall burn only natural gas. (*Air Pollution Control Board; 326 IAC 6.5-5-10*)

326 IAC 6.5-5-11 Mohr Construction

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 11. Mohr Construction in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Mohr Construction	01	23P	Dryer/Screening Conveying	49.7		0.14

(*Air Pollution Control Board; 326 IAC 6.5-5-11*)

326 IAC 6.5-5-12 Name, Inc.

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 12. Name, Inc., in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Name, Inc.	01	24P	Drum Mixer	28.5		0.05

(*Air Pollution Control Board; 326 IAC 6.5-5-12*)

326 IAC 6.5-5-13 Penn-Dixie; boilers

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 13. Penn-Dixie in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Penn-Dixie	02	11P	Oil and Gas Fired Boilers 66 MMBtu/Hr. Stack No. 1	21.2	0.08	

Proposed Rules

	12P	Oil and Gas Fired Boilers 66 MMBtu/Hr. Stack No. 2	21.2	0.08
	13P	Gas Fired Boiler 66 MMBtu/Hr. Stack No. 3	3.1	0.01
04	15P	2 Coal Boilers Stack No. 1	671.2	5.10
	16P	2 Coal Boilers Stack No. 2	671.2	5.10

(Air Pollution Control Board; 326 IAC 6.5-5-13)

326 IAC 6.5-5-14 Penn-Dixie; furnaces

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 14. Penn-Dixie in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Penn-Dixie	0004	59A	Electric Arc. Furnace	15.3		
			378,100 T/Yr. in 1975			
			554,300 T/Yr. in 1985			
			Soak and Rodmill Furnace	103.6		
			4,509 × 10 ³ gal/Yr.			

(Air Pollution Control Board; 326 IAC 6.5-5-14)

326 IAC 6.5-5-15 Russiaville Feed & Grain

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 15. Russiaville Feed & Grain in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Russiaville Feed & Grain	0008	34A	Shipping/Receiving	1.7		
			5,332 T/Yr.			
			Transferring/Conveying	4.2		
			5,332 T/Yr.			

(Air Pollution Control Board; 326 IAC 6.5-5-15)

326 IAC 6.5-5-16 Yeoman Stone & Sand

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 16. Yeoman Stone & Sand in Howard County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf

Yeoman Stone & Sand	0010	59A	Primary Crushing	53.9
			403,000 T/Yr.	
			Secondary Crushing	178.0
			280,000 T/Yr.	

(Air Pollution Control Board; 326 IAC 6.5-5-16)

Rule 6. Marion County

326 IAC 6.5-6-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12; IC 13-14-4-3; IC 13-16-1

Sec. 1. (a) In addition to the emission limitations contained in 326 IAC 6.5-1-2, the following limitations listed in sections 2 through 36 of this rule shall apply to sources in Marion County.

(b) Sources shall be considered in compliance with the tons per year emission limits established in sections 2 through 36 of this rule if within five percent (5%) of the emission limit. (Air Pollution Control Board; 326 IAC 6.5-6-1)

326 IAC 6.5-6-2 Allison Transmission

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 2. (a) Allison Transmission in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Allison Transmission	0017	01-05	Boilers 1, 2, 3, 4, 5	39.3 com- bined	.15 each	

(b) In addition to complying with section 1 of this rule and subsection (a), Allison Transmission shall comply with the following:

(1) Maintain monthly fuel usage records for each boiler identified in subsection (a) that contain sufficient information to estimate emissions, including the following:

- (A) Boiler identification and heat capacity.
- (B) Fuel usage for each type of fuel.
- (C) Heat content of fuel.

(2) Within thirty (30) days of the end of each calendar quarter, a written report shall be submitted to the department and the Indianapolis office of environmental services division of the monthly emissions of the boilers identified in subsection (a) and including the information in subdivision (1).

(3) Compliance with the annual tons per year limitation shall be based on the sum of the monthly emissions for each twelve (12) month period.

(4) The fuel usage records shall be maintained at the source for three (3) years and available for an additional two (2) years. The records shall be made available to the department or its designated representative upon request.

(Air Pollution Control Board; 326 IAC 6.5-6-2)

326 IAC 6.5-6-3 Asph. Mat. & Const., Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. Asph. Mat. & Const., Inc., in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Asph. Mat. & Const., Inc.	0098	01	Oxid. Tank	.3		.004

(Air Pollution Control Board; 326 IAC 6.5-6-3)

Proposed Rules

326 IAC 6.5-6-4 Bridgeport Brass

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Bridgeport Brass in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Bridgeport Brass	0005	01	Boiler 1	21.5	.350	
	0005	02	Boiler 2	21.5	.350	
	0005	03	Boiler 3	21.5	.350	

(Air Pollution Control Board; 326 IAC 6.5-6-4)

326 IAC 6.5-6-5 Central Soya

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. Central Soya in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Central Soya	0008	09A	Elevator Gallery Belt Trippers (East and West)	0.92		.006
	0008	09B	Elevator Gallery Belt Loaders (East and West)	0.70		.006
	0008	09C	Elevator Grain Dryer Conveying Legs	1.01		.006
	0008	10A	Elevator #1 Truck and Rail Receiving System and Basement	7.23		.006
	0008	10B	Elevator #2 Truck and Rail Receiving System	4.95		.006

(Air Pollution Control Board; 326 IAC 6.5-6-5)

326 IAC 6.5-6-6 Central State Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. Central State Hospital in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Central State Hospital	0009	01	Boilers 7 and 8	22.0	.350	
	0009	02	Boiler 3	17.0	.350	

(Air Pollution Control Board; 326 IAC 6.5-6-6)

326 IAC 6.5-6-7 Chevrolet

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. Chevrolet in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Chevrolet <i>(Air Pollution Control Board; 326 IAC 6.5-6-7)</i>	0010	0103	Boilers 1-3	65.8	.300	

326 IAC 6.5-6-8 Chrys. (El.) Shade

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. Chrys. (El.) Shade in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Chrys. (El.) Shade <i>(Air Pollution Control Board; 326 IAC 6.5-6-8)</i>	0011	01	All Boilers	67.8	.324	

326 IAC 6.5-6-9 Chrys. (Fdy.) S. Tibbs

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. Chrys. (Fdy.) S. Tibbs in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Chrys. (Fdy.) S. Tibbs	0012	01	Cup.-Scrub	34.2		.085
	0012	02	D. Cl. Ck. 4 St.	4.9		.038
	0012	07	H. C. Ov. B. Ck.	4.2		.008
	0012	08	H. C. Ov. A. Ck.	3.1		.006
	0012	09	H. C. Ov. A. By	6.2		.029
	0012	10	H. C. Pst. Cr.	less than 1 T/yr		.001
	0012	11	H. C. Ov. B. Ry.	.4		.005
	0012	12	H. Rv. Ov. Jkt.	less than 1 T/yr		.001
	0012	13	H. Ry. Ov. A. CCC	less than 1 T/yr		.002
	0012	14	Bg. Ex. Rb. 1 St.	2.6		.020
	0012	16	Hyd. Fdy. Gre.	1.2		.004
	0012	18	Ck. Unload.	5.9		.021
	0012	19	Flsk. Sk.-Out	50.8		.030
	0012	22	Snd. Trnsfr.	2.6		.019
	0012	25	Cr. Grinding	.01		.001
	0012	26	Cr. Grinding	1.6		.007
	0012	28	Cl. Op. Cr. K. O.	8.2		.034
	0012	29	Cl. Room	6.8		.020
	0012	30	Cl. Room	4.2		.020
	0012	31	Chp. Op.	16.7		.020

Proposed Rules

0012 34

Cst. Cl.

57.5

.020

(Air Pollution Control Board; 326 IAC 6.5-6-9)

326 IAC 6.5-6-10 Community Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. Community Hospital in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Community Hospital	0014	01	Keller Boiler	.5	.014	

(Air Pollution Control Board; 326 IAC 6.5-6-10)

326 IAC 6.5-6-11 Design Mix

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. Design Mix in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Design Mix	0091	01	Roty. Dry.	9.8		.092

(Air Pollution Control Board; 326 IAC 6.5-6-11)

326 IAC 6.5-6-12 Farm Bureau (Fert.)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. Farm Bureau (Fert.) in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Farm Bureau (Fert.)	0653	02	Gr. Dry Cooler	15.2		.013
	0653	04	Ammoniator	3.9		.047
	0653	05	Cooler Gr.	6.3		.026
	0653	06	Screen Gr.	less than 1 T/yr		.005
	0653	07	Bag. Ship.	.1		.004

(Air Pollution Control Board; 326 IAC 6.5-6-12)

326 IAC 6.5-6-13 FMC Bearing

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. FMC Bearing in Marion County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
FMC Bearing	0025	01	Boilers 1-3	17.0	.300	

(Air Pollution Control Board; 326 IAC 6.5-6-13)

326 IAC 6.5-6-14 FMC Chain

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 14. FMC Chain in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
FMC Chain	0062	0105	Boilers	7.6	.300	
	0062	07	Anneal. Ov.	.1		.004

(Air Pollution Control Board; 326 IAC 6.5-6-14)

326 IAC 6.5-6-15 Ford Motor Co.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 15. Ford Motor Co. in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Ford Motor Co.	0021	01	Boiler 3	38.6	.270	
	0021	02	Boiler 2	55.1	.270	
	0021	03	Boiler 1	16.5	.270	

(Air Pollution Control Board; 326 IAC 6.5-6-15)

326 IAC 6.5-6-16 Fort Benjamin Harrison

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 16. Fort Benjamin Harrison in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Fort Benjamin Harrison	0022	01	Boiler 1	16.7	.350	
	0022	02	Boiler 2	16.7	.350	
	0022	03	Boiler 3	16.7	.350	
	0022	04	Boiler 4	16.7	.350	

(Air Pollution Control Board; 326 IAC 6.5-6-16)

326 IAC 6.5-6-17 Glass Containers

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 17. Glass Containers in Marion County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Glass Containers <i>(Air Pollution Control Board; 326 IAC 6.5-6-17)</i>	0293	01	Glass Melting Furnace	43.0		(1 lb/ton)

326 IAC 6.5-6-18 Illinois Cereal Mills, Incorporated

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 18. Illinois Cereal Mills, Incorporated, in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Illinois Cereal Mills, Incorporated	0020	01	Cleaver Brooks Boiler	1.0	.014	
	0020	02	Old Mill—Dust	4.3		.030
	0020	05	Old Mill—Dust	4.3		.030
	0020	06	Warehouse—Dust	5.8		.030
	0020	07	New Mill Dryers	3.0		.030
	0020	08	New Mill Dryers	3.0		.030
	0020	09	New Mill Dryers	3.0		.030
	0020	10	New Mill Dryers	3.0		.030
	0020	11	New Mill Dryers	9.4		.030
	0020	12	New Mill Coolers	3.1		.030
	0020	13	New Mill Cleaner	3.3		.030
	0020	14	Elevator Dust	1.6		.030
	0020	15	Headhouse Suction	3.1		.030
	0020	16	Corn Cleaner	1.0		.131
	0020	17	Corn Cleaner	1.0		.131
	0020	18	Headhouse Suction	6.0		.030
	0020	19	Old Mill Dust	5.9		.030
	0020	20	Large Hammermill	8.2		.030
	0020	03	Old Mill Dust	4.3		.030
	0020	04	Old Mill Dust	4.3		.030

(Air Pollution Control Board; 326 IAC 6.5-6-18)

326 IAC 6.5-6-19 Indep. Concrete Pipe

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 19. Indep. Concrete Pipe in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Indep. Concrete Pipe	0457	01	Ct. St. Bn. 04	.21		.014
	0457	02	Ct. St. Bn. 03	.41		.014

(Air Pollution Control Board; 326 IAC 6.5-6-19)

326 IAC 6.5-6-20 Indpls. Rubber Co.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 20. Indpls. Rubber Co. in Marion County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Indpls. Rubber Co.	0064	01	Boilers	70.0	.350	

(Air Pollution Control Board; 326 IAC 6.5-6-20)

326 IAC 6.5-6-21 Ind. Asph. Pav. Co.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 21. Ind. Asph. Pav. Co. in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Ind. Asph. Pav. Co.	0027	01	Roty. Dry. 1	7.8		.074
	0027	02	Roty. Dry. 2	3.9		.066

(Air Pollution Control Board; 326 IAC 6.5-6-21)

326 IAC 6.5-6-22 Ind. Veneers

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 22. Ind. Veneers in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Ind. Veneers	0031	01	Wd. & Cl. Boil.	13.9	.330	

(Air Pollution Control Board; 326 IAC 6.5-6-22)

326 IAC 6.5-6-23 IPL

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 23. IPL in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
IPL (Perry K)	0034	01	Boiler 11		*0.125	
			(natural gas, coke oven gas)			
	0034	01	Boiler 12 (coal)		*0.175	
	0034	02	Boiler 13		*.082	
			(natural gas, coke oven gas)			
	0034	02	Boiler 14		*.082	
			(natural gas, coke oven gas)			
	0034	03	Boiler 15 (coal)		*.106	
	0034	03	Boiler 16 (coal)		*.106	
	0034	03	Boiler 17 (oil)		*.015	
	0034	03	Boiler 18 (oil)		*.015	

Proposed Rules

			Boilers 11, 12, 13, 14, 15, 16, 17, and 18	484.4 total	
IPL (Stout)	0033	09	Boiler 9	1.9	*.015
	0033	10	Boiler 10	2.2	*.015
	0033	11	Boiler 50	82.2	*.135
	0033	12	Boiler 60	82.2	*.135
	0033	13	Boiler 70	830.7	*.1
	0033	14	Gas Turbine 1	.28	*.015
	0033	15	Gas Turbine 2	.28	*.015
	0033	16	Gas Turbine 3	.28	*.015

*Compliance shall be determined using 40 CFR 60, Appendix A, Method 5.**

**This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is available for review and copying at the Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 6.5-6-23*)

326 IAC 6.5-6-24 Nat'l R.R. (Amtrak)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 24. Nat'l R.R. (Amtrak) in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Nat'l R.R. (Amtrak)	0646	01	Boiler 1	23.0	.350	
	0646	02	Boiler 2	23.0	.350	

(*Air Pollution Control Board; 326 IAC 6.5-6-24*)

326 IAC 6.5-6-25 National Starch

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 25. (a) National Starch in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
National Starch	0042	06	61-9	4.1		.016
	0042	11	56-2	11.3		0.010
	0042	12	71-2	2.6		.030
	0042	13	61-6	.1		.030
	0042	22	56-1	7.02		0.020
	0042	29	40-4	44.1		0.020
	0042	30	40-3	42.3		0.020
	0042	31	40-2	31.9		0.020
	0042	43A	42-1	.9		.030
	0042	46	61-14A	.6		.029
	0042	47	61-14	1.2		.028
	0042	55	42-8	4.2		.030
	0042	56A	42-7A	1.7		.032

Proposed Rules

	0042	56B	42-7B	1.7	.032
	0042	56C	42-7C	1.7	.032
	0042	57A	42-3A	1.8	.032
	0042	57B	42-3B	1.8	.032
	0042	57C	42-3C	1.8	.032
	0042	57D	42-3D	1.8	.032
	0042	57E	42-3E	1.8	.032
	0042	57F	42-3F	1.8	.032
	0042	59	42-4	2.3	.029
	0042	60	42-10	2.4	.030
	0042	63	42-6	2.5	.030
	0042	64	71-1	.9	.030
	0042	67A	71-5A	.3	.026
	0042	67B	71-5B	.3	.026
	0042	67C	71-5C	.3	.026
	0042	67D	71-5D	.3	.026
	0042	67E	71-5E	.3	.026
	0042	67F	71-5F	.3	.026
	0042	67G	71-5G	.3	.026
	0042	67H	71-5H	.3	.026
	0042	67I	71-5I	.3	.026
	0042	67J	71-5J	.3	.026
	0042	67K	71-5K	.3	.026
	0042	67L	71-5L	.3	.026
	0042	68A	71-4A	.3	.026
	0042	68B	71-4B	.3	.026
	0042	68C	71-4C	.3	.026
	0042	68D	71-4D	.3	.026
	0042		575-1	32.4	.018
	0042		575-2	32.4	0.011
100% natural gas	0042	04	Boiler 4		

(b) Processes 40-4, 40-3, 40-2, 575-1, and 575-2 and Boiler 4 at National Starch, identified in subsection (a) as one hundred percent (100%) natural gas burners, shall burn only natural gas. (*Air Pollution Control Board; 326 IAC 6.5-6-25*)

326 IAC 6.5-6-26 Navistar International

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 26. (a) Navistar International in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Navistar International	0039	1a	E.M. 1 Baghouse	45.7		.019
	0039	1b	E.M. 2 Baghouse	53.5		.020
	0039	02	Boiler 1	14.0	.30	
	0039	03	Boiler 2	13.0	.30	

Proposed Rules

0039	04	Boiler 3	34.9	.30	
0039	05	Phase 1 Baghouse	35.4		.020
0039	06	Phase 3 Baghouse	55.1		.020
0039	07	M-3 Baghouse	72.4		.015
0039	98	Phase 4 Baghouse	99.6		.02
0039	99	Phase 5 Baghouse	62.0		.02
0039	08	Cst. Cl. Cr. 1	.0		.0
0039	09	Pngbrn. Shtb.	.0		.0
0039	10	Cst. Clg. Cr. 2	.0		.0

(b) In addition to complying with section 1 of this rule and subsection (a), Navistar International Transportation Corporation shall comply with the following:

(1) The height of each of the two (2) stacks on the M-3 baghouse (Point ID 07) shall be increased by fifty (50) feet by August 31, 1990.

(2) Within thirty (30) days of December 14, 1989, Navistar shall submit to the department the following:

(A) A certification as to the complete and permanent shutdown of the sources identified as Point ID 8, 9, and 10 of subsection (a) and No. 2 Large Mold Line, M-2 Mold Line, and M-4 Mold Line and the core-making and core-knockout operations for these mold lines.

(B) A written list of sources not identified in sections 2 through 5 of this rule, this section, and sections 27 through 36 of this rule with a potential to emit ten (10) or greater tons per year.

(3) Within thirty (30) days of the end of each calendar quarter, a written report shall be submitted to the department of the monthly emissions from each emission point identified in subsection (a) that contains information necessary to estimate emissions, including the following:

(A) For boilers, the following:

(i) Fuel type.

(ii) Usage.

(iii) Ash content.

(iv) Heat content.

(B) For other processes, the following:

(i) Appropriate production data.

(ii) Emission factors.

(iii) Proper documentation of the emission factors.

(4) The tons per year limitation shall be met based on the sum of the monthly emissions for each twelve (12) month period.

(5) A written report detailing Navistar's operation and maintenance program to provide for proper operation of and to prevent deterioration of the air pollution control equipment on the emission points identified as Point ID 1a, 1b, 5, 6, 7, 98, and 99 in subsection (a) to be submitted to the department by July 31, 1990.

(Air Pollution Control Board; 326 IAC 6.5-6-26)

326 IAC 6.5-6-27 Praxair

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 27. Praxair in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Praxair	0060	01	3 Boilers	35.5	.350	

(Air Pollution Control Board; 326 IAC 6.5-6-27)

326 IAC 6.5-6-28 Quemetco (RSR Corp.)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 28. Quemetco (RSR Corp.) in Marion County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Quemetco (RSR Corp.)	0079	01	Rev. Fur. 01	5.8		.016
<i>(Air Pollution Control Board; 326 IAC 6.5-6-28)</i>						

326 IAC 6.5-6-29 RCA

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 29. RCA in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
RCA	0047	02	2 Boil Oil	28.7	.15	
<i>(Air Pollution Control Board; 326 IAC 6.5-6-29)</i>						

326 IAC 6.5-6-30 Refined Metals

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 30. Refined Metals in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Refined Metals	0036	01	Blast Furnace	2.8		.003
	0036	02	Pot Furnace	less than 1 T/yr		.0005
<i>(Air Pollution Control Board; 326 IAC 6.5-6-30)</i>						

326 IAC 6.5-6-31 Reilly Industries, Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 31. Reilly Industries, Inc., in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Reilly Industries, Inc.	0049	01	186 N		.15	
	0049	02	2722 W		.15	
	0049	03	2726 S		.15	
			186N, 2722 W, and 2726 S	12.2 total		
100% natural gas	0049	04	2728 S	2.2	.15	
	0049	05	2607 T			
	0049	06	2714 V	3.1	.15	
	0049	07	2707 V	.4	.011	
100% natural gas	0049	08	2724 W			
	0049	09	702611			

Proposed Rules

100% natural gas	0049	10	722804	.2	.011
	0049	11	732714	7.5	.15
	0049	12	2706 Q	.1	.011
100% natural gas	0049	13	2713 W		
100% natural gas	0049	14	2714 W		
	0049	18	2729 Q	.1	.011
	0049	20	2740 Q	2.0	.15

(b) In addition to complying with subsection (a), Reilly Industries, Inc., shall comply with the following:

(1) Processes 2607 T, 702611, 722804, 2713 W, and 2714 W at Reilly Industries, Inc., identified in subsection (a) as one hundred percent (100%) natural gas burners, shall burn only natural gas.

(2) Maintain monthly fuel usage records for processes 186 N, 2722 W, and 2726 S that contain sufficient information to estimate emissions including the following:

(A) Boiler identification.

(B) Fuel usage for each type of fuel.

(C) Heat content of fuel.

(D) Emission factor used to calculate emissions.

(3) Within thirty (30) days of the end of each calendar quarter, a written report shall be submitted to the department and the Indianapolis office of environmental services division of the monthly emissions for each of the previous

twelve (12) months for boilers 186 N, 2722 W, and 2726 S, including the information in subdivision (2).

(4) Compliance with the annual tons per year limitation shall be based on the sum of the monthly emissions for each twelve (12) month period.

(5) The fuel usage records shall be maintained at the source for three (3) years and available for an additional two (2) years. The records shall be made available to the department or its designated representative upon request.

(Air Pollution Control Board; 326 IAC 6.5-6-31)

326 IAC 6.5-6-32 Richardson Co.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 32. Richardson Co. in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Richardson Co.	0065	01	Boil. 2 Oil	1.5	.015	

(Air Pollution Control Board; 326 IAC 6.5-6-32)

326 IAC 6.5-6-33 Rolls-Royce Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 33. (a) Rolls-Royce Corporation in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Rolls-Royce Corporation	311	01	Boilers 0070-01 through 0070-04		.337	
	311	02	Boilers 0070-58 and 0070-59		.15	
	311	03	Boilers 0070-62 through 0070-65		.15	
	311	01, 02, 03	Boilers 0070-01 through 0070-04, 0070-58, 0070-59, 0070-62 through 0070-65	130 total for all boilers		

(b) In addition to complying with section 1 of this rule and subsection (a), Rolls-Royce Corporation shall comply with the following:

(1) Boilers 0070-01 through 0070-04 may use only:

- (A) #2 fuel oil;
- (B) #4 fuel oil;
- (C) natural gas; or
- (D) landfill gas;

as a fuel.

(2) Boilers 0070-58, 0070-59, and 0070-62 through 0070-65 may use only:

- (A) #6 fuel oil;
- (B) #4 fuel oil;
- (C) #2 fuel oil;
- (D) natural gas; or
- (E) landfill gas;

as a fuel.

(3) Boilers 0070-01 through 0070-04, 0070-58, 0070-59, and 0070-62 through 0070-65 shall have the following limitations depending upon the fuel being used:

- (A) When using only #4 fuel oil, the amount used for the listed boilers collectively is not to exceed thirty-seven million one hundred forty-two thousand eight hundred (37,142,800) gallons per year based on a three hundred sixty-five (365) day rolling figure.
- (B) When using coal, #6 fuel oil, #2 fuel oil, natural gas, or landfill gas, the limitation listed in clause (A) shall be adjusted as follows:

(i) When using #6 fuel oil, the gallons per year of #4 fuel oil shall be reduced by two and six-tenths (2.6) gallons per gallon used.

(ii) When using natural gas, the gallons per year of #4 fuel oil shall be reduced by eighty-eight hundred-thousandths (0.00088) gallon per cubic foot of natural gas burned.

(iii) When using #2 fuel oil, the gallons per year of #4 fuel oil shall be reduced by twenty-eight hundredths (0.28) gallon per gallon used.

(iv) When using landfill gas, the gallons per year of #4 fuel oil shall be reduced by one hundred sixteen hundred-thousandths (0.00116) gallon per cubic foot of landfill gas burned.

(4) A log shall be maintained to document compliance with subdivision (3). These records shall be maintained for at least the previous twenty-four (24) month period and shall be made available upon request by the department.

(Air Pollution Control Board; 326 IAC 6.5-6-33)

326 IAC 6.5-6-34 St. Vincent's Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 34. St. Vincent's Hospital in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
St. Vincent's Hospital <i>(Air Pollution Control Board; 326 IAC 6.5-6-34)</i>	0476	0103	Boilers 1-3	.7	.011	

326 IAC 6.5-6-35 Sludge Incinerator

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 35. Sludge Incinerator in Marion County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Sludge Incinerator	0032	01	Incinerator #5	17.9		.030
	0032	02	Incinerator #6	17.9		.030
	0032	03	Incinerator #7	17.9		.030
	0032	04	Incinerator #8	17.9		.030
	0032	05	Incinerators #1-4	72.5		.030

(Air Pollution Control Board; 326 IAC 6.5-6-35)

326 IAC 6.5-6-36 Stokely Van Camp

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 36. Stokely Van Camp in Marion County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Stokely Van Camp <i>(Air Pollution Control Board; 326 IAC 6.5-6-36)</i>	0056	0103	Boiler	93.3	.350	

Rule 7. St. Joseph County

326 IAC 6.5-7-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 1. In addition to the emission limitations contained in 326 IAC 6.5-1-2, sources and facilities located in St. Joseph County and listed in sections 2 through 20 of this rule shall meet the specified emission limits. *(Air Pollution Control Board; 326 IAC 6.5-7-1)*

326 IAC 6.5-7-2 Allied Signal Aerospace

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 2. (a) Allied Signal Aerospace in St. Joseph County shall meet the following requirements:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Allied Signal Aerospace 100% natural gas	01	10P	3 Gas Fired Boilers 31 MMBtu/Hr. total			

(b) Three (3) boilers at Allied Signal Aerospace, identified in subsection (a) as one hundred percent (100%) natural gas burners, shall burn only natural gas. *(Air Pollution Control Board; 326 IAC 6.5-7-2)*

326 IAC 6.5-7-3 AM General

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 3. AM General in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
AM General	29	39P	Oil Fired Boiler No. 1 9 MMBtu/Hr.	6.60	0.150	
	30	40P	Oil Fired Boiler No. 2 9 MMBtu/Hr.	9.40	0.150	

(Air Pollution Control Board; 326 IAC 6.5-7-3)

326 IAC 6.5-7-4 ARCO Engg. Const. Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 4. ARCO Engg. Const. Corporation in St. Joseph County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
ARCO Engg. Const. Corpora- tion	01	26P	Rotary Dryer	24.70		0.153

(Air Pollution Control Board; 326 IAC 6.5-7-4)

326 IAC 6.5-7-5 Asphalt Engineers

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. Asphalt Engineers in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Asphalt Engineers	01	9P	Rotary Dryer	10.40		0.270

(Air Pollution Control Board; 326 IAC 6.5-7-5)

326 IAC 6.5-7-6 Bosch Braking Systems

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. (a) Bosch Braking Systems in St. Joseph County shall meet the following requirements:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Bosch Braking Systems						
100% natural gas	01-03	29P	Boiler Nos. 1, 2, 3 Gas Fired 84 MMBtu/Hr. each			
100% natural gas	04-05	30P	Boiler No. 4 Gas Fired 63 MMBtu/Hr.			

(b) Boiler Nos. 1, 2, 3, and 4 at Bosch Braking Systems, identified in subsection (a) as one hundred percent (100%) natural gas burners, shall burn only natural gas. (Air Pollution Control Board; 326 IAC 6.5-7-6)

326 IAC 6.5-7-7 I & M-Twin Branch

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. I & M-Twin Branch in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
I & M-Twin Branch	02-03	48P	Boilers Nos. 41 and 42 Oil Fired 525 MMBtu/Hr. each	35.80		0.014
	04	49P	Boiler No. 5 oil fired 1,367 MMBtu/Hr.	61.90		0.014

(Air Pollution Control Board; 326 IAC 6.5-7-7)

Proposed Rules

326 IAC 6.5-7-8 Mishawaka Brass

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. Mishawaka Brass in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Mishawaka Brass	01	27P	Rotary Furnace	4.13		0.091

(Air Pollution Control Board; 326 IAC 6.5-7-8)

326 IAC 6.5-7-9 Northern Indiana Children's Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. Northern Indiana Children's Hospital in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Northern Indiana Children's Hospital	01-03	13P	3 Oil Fired Boilers 3 MMBtu/Hr. each	1.40	0.060	

(Air Pollution Control Board; 326 IAC 6.5-7-9)

326 IAC 6.5-7-10 RACO

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. RACO in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
RACO	01	41P	Oil Fired Boilers Nos. 1, and 2.21 MMBtu/Hr.	4.20	0.080	
	02	42P	Boiler No. 3 Oil Fired 10 MMBtu/Hr.	3.50	0.080	
	03	43P	Boiler No. 4 Oil Fired 10 MMBtu/Hr.	3.50	0.080	

(Air Pollution Control Board; 326 IAC 6.5-7-10)

326 IAC 6.5-7-11 Reith Riley Construction

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. Reith Riley Construction in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf

Reith Riley Construction

Plant No. 0027	01	44P	Rotary Dryer	1.70	0.052
Plant No. 0017	02	45P	Rotary Dryer	11.10	0.132

(Air Pollution Control Board; 326 IAC 6.5-7-11)

326 IAC 6.5-7-12 Reliance Electric-Dodge Division

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. Reliance Electric-Dodge Division in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Reliance Electric-Dodge Division	01	31P	3 Electric Induction Furnaces	37.50		0.090
	03	32P	Chip and Grinding-Main Baghouse	5.5		0.001
	04	33P	South Foundry-Sand Handling	6.66		0.017
	05	34P	South Foundry-Shake Out	5.17		0.012
	07	35P	East Foundry-Shake Out and Sand Handling	3.16		0.010
	10	37P	Wheelblast, Railblast, #1 Spinner Hanger	5.5		0.015

(Air Pollution Control Board; 326 IAC 6.5-7-12)

326 IAC 6.5-7-13 Saint Mary's

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. (a) Saint Mary's in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Saint Mary's	01	54P	Boiler No. 2 Coal Fired 63 MMBtu/Hr.	12.90	0.110	
	02	55P	Boiler No. 3 Coal Fired 63 MMBtu/Hr.	12.90	0.110	
100% natural gas	03	56P	Boiler No. 1 Gas Fired 63 MMBtu/Hr.			

(b) Boiler No. 1 at Saint Mary's, identified in subsection (a) as one hundred percent (100%) natural gas burner, shall burn only natural gas. (Air Pollution Control Board; 326 IAC 6.5-7-13)

326 IAC 6.5-7-14 Sibley Machine & Foundry

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 14. Sibley Machine & Foundry in St. Joseph County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Sibley Machine & Foundry	01	1P	Cupola	26.8		0.71
	02	2P	Grinding	3.0		0.023
	03	3P	Tumble Blast	5.0		0.030
	04	4P	Table Blasting	4.3		0.037
	05	5P	Sand Handling	5.0		0.052
	06	6P	Sand Handling	19.0		0.074
	07	7P	Sand Handling	14.60		0.027
	08	8P	Sand Handling	5.6		0.021

(Air Pollution Control Board; 326 IAC 6.5-7-14)

326 IAC 6.5-7-15 Uniroyal

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 15. Uniroyal in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Uniroyal	01-03	17P	Boilers No. 1, 2, 3 Coal and Gas Fired 150 MMBtu/Hr. each	40	0.100	

(Air Pollution Control Board; 326 IAC 6.5-7-15)

326 IAC 6.5-7-16 University of Notre Dame

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 16. University of Notre Dame in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
University of Notre Dame	01-03	14P	Boiler No. 1, No. 6 Oil and Gas Fired 137 MMBtu/Hr.		0.087	
			Boiler No. 2 and 3 Coal Fired 96 MMBtu/Hr. each		0.28	
	04	15P	Boiler No. 4 Oil, Gas, and Coal Fired 234 MMBtu/Hr.		0.17	
	05	16P	Boiler No. 5, No. 2 Oil Fired 244.5 MMBtu/Hr.		0.02	
			Boiler Nos. 1, 2, 3, 4, and 5	118.7 total		

(Air Pollution Control Board; 326 IAC 6.5-7-16)

326 IAC 6.5-7-17 Volney Felt Mills

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 17. Volney Felt Mills in St. Joseph County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Volney Felt Mills	01	11P	Oil Fired Boiler 22 MMBtu/Hr.	5.90	0.130	
	02	12P	Hammer Mill	1.0		0.028

(Air Pollution Control Board; 326 IAC 6.5-7-17)

326 IAC 6.5-7-18 Walsh & Kelly

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 18. Walsh & Kelly in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Walsh & Kelly		46P	Rotary Dryer	20.48		0.049

(Air Pollution Control Board; 326 IAC 6.5-7-18)

326 IAC 6.5-7-19 Wheelabrator Frye

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 19. Wheelabrator Frye in St. Joseph County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Wheelabrator Frye	01	18P	Standby Furnaces Nos. 1 and 2	0.12		0.006
	02	19P	Standby Furnaces Nos. 3 and 4	0.30		0.006
	03	20P	Furnace No. 5	2.80		0.004
	04	21P	Furnace No. 6	2.80		0.004
	05	22P	Sand Handling	1.70		0.017
	07	23P	Heat Treatment Furnace	8.70*		0.055
	08	24P	Shot Separation	5.90		0.036
	09	25P	Foundry Arc Furnace	4.20		0.004

*Difference between RACT allowed and projected actual emissions on tons/year basis is very small and impact on air quality is insignificant from this source; projected actual emission is the strategy allowed emission. (Air Pollution Control Board; 326 IAC 6.5-7-19)

326 IAC 6.5-7-20 White Farm Equipment Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 20. White Farm Equipment Company in St. Joseph County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
White Farm Equipment Company <i>(Air Pollution Control Board; 326 IAC 6.5-7-20)</i>	01	28P	Coal Fired Boiler 17 MMBtu/Hr.	21.90	0.470	

Rule 8. Vanderburgh County

326 IAC 6.5-8-1 General provisions

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) In addition to the emission limits contained in 326 IAC 6.5-1-2, sources and facilities located in Vanderburgh County and listed in sections 2 through 15 of this rule shall meet the specified emission limits.

(b) Compliance with the tons per year limit shall be acceptable if within five percent (5%) of the established tons per year emission limit. *(Air Pollution Control Board; 326 IAC 6.5-8-1)*

326 IAC 6.5-8-2 Bernadin

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. Bernadin in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Bernadin <i>(Air Pollution Control Board; 326 IAC 6.5-8-2)</i>	01	04	Coal Boiler	9.0	0.220	

326 IAC 6.5-8-3 Craddock Finishing

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. Craddock Finishing in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Craddock Finishing <i>(Air Pollution Control Board; 326 IAC 6.5-8-3)</i>	01	27	Coal Boiler	0.7	0.085	

326 IAC 6.5-8-4 Evv. State Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Evv. State Hospital in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Evv. State Hospital <i>(Air Pollution Control Board; 326 IAC 6.5-8-4)</i>	01	06	Coal Boiler No. 1	69.53	0.50	
	02	07	Oil Boiler No. 2	1.04	0.014	
	03	08	Oil Boiler No. 3	1.04	0.014	

326 IAC 6.5-8-5 Evansville Veneer & Lumber

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. Evansville Veneer & Lumber in Vanderburgh County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Evansville Veneer & Lumber <i>(Air Pollution Control Board; 326 IAC 6.5-8-5)</i>	01	29	Wood Boiler	89.34	1.10	

326 IAC 6.5-8-6 General Foods

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. General Foods in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
General Foods	01-02	30	Oil Boiler Nos. 2 and 3	6.95	0.046	
	03	31	Wheat Clean	2.09		0.007
	04	32	Conveying	0.03		0.002
	07	33	Flour Grind	1.04		0.011
	08	34*	Conveying	1.04		0.003
	09	35	Wheat Clean	2.09		0.011
	10	36	Wheat Clean	36.15		0.680
	11	37	Wheat Hand	40.67		0.368
	12	38	Grain Unload	4.87		0.084
	13	39	Grain Unload	0.7		0.102
	14	40	Dust Control	36.15		1.329
	15	41	Wheat Clean	3.48		0.047
	16	42	Grain Dryer	9.73		0.007

*Difference between actual and RACT emissions on ton/yr. basis is small and the impact on air quality from this source is insignificant; 1985 projected emissions is the strategy allowed emission for this source. *(Air Pollution Control Board; 326 IAC 6.5-8-6)*

326 IAC 6.5-8-7 Inland Container

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. Inland Container in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Inland Container <i>(Air Pollution Control Board; 326 IAC 6.5-8-7)</i>	02-03	28	Gas and Oil Boiler	2.1	0.030	

326 IAC 6.5-8-8 International Steel

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. International Steel in Vanderburgh County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
International Steel	01	12	Coal Boiler Nos. 1 and 2	10.8	0.150	

(Air Pollution Control Board; 326 IAC 6.5-8-8)

326 IAC 6.5-8-9 Mead Johnson

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. Mead Johnson in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Mead Johnson	01-02	16	Coal Boiler Nos. 3 and 4	130.71	0.38	
	03	17	Coal Boiler	68.14	0.280	

(Air Pollution Control Board; 326 IAC 6.5-8-9)

326 IAC 6.5-8-10 National of Evansville

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. National of Evansville in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
National of Evansville	01	18	Coal Boiler	99.08	5.2	

(Air Pollution Control Board; 326 IAC 6.5-8-10)

326 IAC 6.5-8-11 Nunn Milling

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. Nunn Milling in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Nunn Milling	01	43	Wheat Grind	133.49		11.63
	02	44	Hammer Mill	17.73		0.790
	03	45	Corn Mill 1	0.14		0.008
	04	46	Corn Mill 2	0.14		0.003
	05	47	Screen and Clean	9.39		1.66
	06	48	Flour Purify	3.13		0.277
	07	49	Pack Shack	9.39		0.738
	08	50	Wheat Scour	9.39		0.738

(Air Pollution Control Board; 326 IAC 6.5-8-11)

326 IAC 6.5-8-12 Purina Mills, Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. Purina Mills, Inc., in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Purina Mills, Inc.	03	52	Unloading	0.03		0.001
	04	53	Palleting	1.39		0.018

(Air Pollution Control Board; 326 IAC 6.5-8-12)

326 IAC 6.5-8-13 Sigeco

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. (a) Sigeco in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Sigeco						
100% natural gas	01	01	Gas Turbine			

(b) The gas turbine at Sigeco, identified in subsection (a) as one hundred percent (100%) natural gas burner, shall burn only natural gas. *(Air Pollution Control Board; 326 IAC 6.5-8-13)*

326 IAC 6.5-8-14 Whirlpool Hwy. 41

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 14. Whirlpool Hwy. 41 in Vanderburgh County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Whirlpool Hwy. 41	01	21	Coal Boiler No. 2	33.37	0.119	
	02	22	Coal Boiler No. 3	33.37	0.119	
	03	23	Coal Boiler No. 4	815.55	1.70	
	04	24	Oil Boiler No. 5	24.68	0.066	

(Air Pollution Control Board; 326 IAC 6.5-8-14)

326 IAC 6.5-8-15 Whirlpool-Morgan Avenue

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 15. Whirlpool-Morgan Avenue in Vanderburgh County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Whirlpool-Morgan Avenue	01	25	Coal Boiler No. 1	163.04	0.642	
	02-03	26	Coal Boiler Nos. 2 and 3	237.43	0.750	

(Air Pollution Control Board; 326 IAC 6.5-8-15)

Rule 9. Vigo County

326 IAC 6.5-9-1 General provisions

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) In addition to the emission limits contained in 326 IAC 6.5-1-2, sources and facilities located in Vigo County and listed in sections 2 through 20 of this rule shall meet the specified emission limitations.

(b) Compliance with the tons per year limit shall be acceptable if within five percent (5%) of the established tons per year emission limit. (Air Pollution Control Board; 326 IAC 6.5-9-1)

326 IAC 6.5-9-2 Alcan

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. Alcan in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Alcan	466.23	4376.07	No. 2 Melter	49.3		3 lb/ton
	466.23	4376.06	No. 3 Melter	49.3		3 lb/ton
	466.23	4376.05	No. 4 Melter	49.3		3 lb/ton
	466.23	4376.04	No. 5 Melter	144.5		3 lb/ton
	466.23	4376.03	No. 6 Melter	144.5		3 lb/ton
	466.23	4376.09	No. 7 Melter	184.0		3 lb/ton

(Air Pollution Control Board; 326 IAC 6.5-9-2)

326 IAC 6.5-9-3 Colombian Home Products

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. Columbian Home Products in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Columbian Home Products	455.36	4370.89	No. 1 and 2 Boilers (1 stack)	69.0	.35	

(Air Pollution Control Board; 326 IAC 6.5-9-3)

326 IAC 6.5-9-4 Gartland Foundry

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Gartland Foundry in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Gartland Foundry	464.54	4365.81	Cupola	112.5		.15 gr/dscf

(Air Pollution Control Board; 326 IAC 6.5-9-4)

326 IAC 6.5-9-5 Graham Grain

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. Graham Grain in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Graham Grain	464.21	4365.73	Drying	1.7		Good housekeeping as defined by this article and the board or its designated agent.
	464.21	4365.81	Handling	16.0		

(Air Pollution Control Board; 326 IAC 6.5-9-5)

326 IAC 6.5-9-6 Indiana Gas & Chemical

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. Indiana Gas & Chemical in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Indiana Gas & Chemical	465.88	4366.27	4 Boilers	61.6	.15	
	465.92	4366.30	Coal Unloading	38.6		Comply with 326 IAC 11-3
	465.91	4366.24	Quenching	86.9		Comply with 326 IAC 11-3
	465.91	4366.32	No. 1 Charging and Coking	77.2		Comply with 326 IAC 11-3
	465.91	4366.32	No. 4 Pushing	2.2		.04 lb/ton of coke
	465.89	4366.35	No. 1 Underfire Stack	7.0		.03 gr/dscf
	465.91	4366.29	No. 2 Charging and Coking	77.2		Comply with 326 IAC 11-3
	465.91	4366.29	No. 2 Pushing	2.2		.04 lb/ton of coke
	465.91	4366.27	No. 2 Underfire Stack	7.0		.03 gr/dscf

(Air Pollution Control Board; 326 IAC 6.5-9-6)

326 IAC 6.5-9-7 ISU

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. ISU in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
ISU	465.03	4369.14	No. 2 and 3 Boilers (1 stack)	207.5	.35	Boilers 2 and 3 will not be used simultaneously with Boiler 5.
	465.03	4369.14	No. 5 Boiler (1 stack)	232.4	.35	
	465.04	4369.13	No. 4 Boiler	57.5	.15	

(Air Pollution Control Board; 326 IAC 6.5-9-7)

Proposed Rules

326 IAC 6.5-9-8 International Paper

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. International Paper in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
International Paper	463.42	4365.58	No. 1 and 4 Boilers	483.8	.35	
	463.71	4366.00	No. 5 Boiler	61.2	.15	
	463.65	4665.57	Reclaim Furnace	311.0		71 lb/hr

(Air Pollution Control Board; 326 IAC 6.5-9-8)

326 IAC 6.5-9-9 J.I. Case

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. J.I. Case in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
J.I. Case	466.32	4375.13	No. 1 and 2 Boilers (1 stack)	308.3	.68	

(Air Pollution Control Board; 326 IAC 6.5-9-9)

326 IAC 6.5-9-10 Martin Marietta

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. Martin Marietta in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Martin Marietta	459.30	4360.60	Gravel Pit	86.7		Comply with 326 IAC 6-4 and good housekeeping as defined in this article and by the board or its designated agent.

(Air Pollution Control Board; 326 IAC 6.5-9-10)

326 IAC 6.5-9-11 PSI

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. PSI in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units

Proposed Rules

PSI **463.58 4375.20** **Units 1-6** **4102.3** **0.1338**
(Air Pollution Control Board; 326 IAC 6.5-9-11)

326 IAC 6.5-9-12 Rose Hulman

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 12. Rose Hulman in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Rose Hulman	472.19	4370.38	No. 1 Boiler	49.3	.6	

(Air Pollution Control Board; 326 IAC 6.5-9-12)

326 IAC 6.5-9-13 Sisters of Providence

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 13. Sisters of Providence in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Sisters of	460.48	4373.41	No. 2 and 3 Boilers	89.9		20.52 lb/hr
Providence	460.50	4373.42	No. 5, 7, and 8 Boilers	106.2		24.24 lb/hr

(Air Pollution Control Board; 326 IAC 6.5-9-13)

326 IAC 6.5-9-14 Terre Haute Concrete

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 14. Terre Haute Concrete in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Terre Haute Concrete	465.44	4368.96	Batch Plant No. 1	52.5		Comply with 326 IAC 6-4 and good housekeeping procedures as defined by the board or its designated agent.
	465.44	4368.98	Batch Plant No. 2	48.3		

(Air Pollution Control Board; 326 IAC 6.5-9-14)

326 IAC 6.5-9-15 Terre Haute Grain

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 15. Terre Haute Grain in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units

Proposed Rules

Terre Haute Grain	465.89	4365.42	Unloading	45.9	Good housekeeping as defined by this article and the board or its designated agent.
	465.87	4365.40	Loading	22.9	
	465.85	4365.39	Bin Unloading	76.1	
	465.89	4365.37	Drying	10.1	

(Air Pollution Control Board; 326 IAC 6.5-9-15)

326 IAC 6.5-9-16 Terre Haute Malleable

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 16. Terre Haute Malleable in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Terre Haute Malleable	4660.50	4371.32	Exhaust Fans	3.8		.15 gr/dscf

(Air Pollution Control Board; 326 IAC 6.5-9-16)

326 IAC 6.5-9-17 Ulrich Chemical

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 17. Ulrich Chemical in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Ulrich Chemical	466.13	4365.39	Soda Ash Handling	4.5		.03 gr/dscf

(Air Pollution Control Board; 326 IAC 6.5-9-17)

326 IAC 6.5-9-18 United States Penitentiary

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 18. United States Penitentiary in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
United States	461.15	4363.13	No. 1 Boiler	41.1	.15	
Penitentiary	461.15	4363.12	No. 2 Boiler	41.1	.15	
	461.15	4363.11	No. 3 Boiler	41.1	.15	
	462.43	4363.63	Camp Boiler	20.5	.15	

(Air Pollution Control Board; 326 IAC 6.5-9-18)

326 IAC 6.5-9-19 Wabash Fibre Box

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 19. Wabash Fibre Box in Vigo County shall meet the following emission limits:

Proposed Rules

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Wabash Fibre Box	466.57	4370.89	Boiler	16.4	.15	
	466.54	4371.01	Reserve Boiler	55.2	.6	

(Air Pollution Control Board; 326 IAC 6.5-9-19)

326 IAC 6.5-9-20 Wabash Valley Asphalt

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 20. Wabash Valley Asphalt in Vigo County shall meet the following emission limits:

Source	East Km	North Km	Process	Emission Limits		
				tons/yr	lbs/million Btu	other units
Wabash Valley Asphalt	468.38	4374.20	North Plant	194.7		Comply with 326 IAC 6-4
	459.30	4360.60	South Plant	315.6		Comply with 326 IAC 6-4

(Air Pollution Control Board; 326 IAC 6.5-9-20)

Rule 10. Wayne County

326 IAC 6.5-10-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. In addition to the emission limitations contained in 326 IAC 6.5-1-2, sources and facilities located in Wayne County and listed in sections 2 through 19 of this rule shall meet the specified emission limitations. (Air Pollution Control Board; 326 IAC 6.5-10-1)

326 IAC 6.5-10-2 Barrett Paving Materials

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. Barrett Paving Materials in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Barrett Paving Materials	0029	24	Primary Crushing	17.40		
			Secondary Crushing	63.3		
			Screening/Conveying/Handling	292.4		

(Air Pollution Control Board; 326 IAC 6.5-10-2)

326 IAC 6.5-10-3 Belden Wire and Cable (office)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. Belden Wire and Cable (office) in Wayne County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Belden Wire and Cable (office)	0003	1P	Oil Boiler 39 MMBtu/Hr.	8.0	0.015	

(Air Pollution Control Board; 326 IAC 6.5-10-3)

326 IAC 6.5-10-4 Belden Wire and Cable (plant)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Belden Wire and Cable (plant) in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Belden Wire and Cable (plant)	0003	39	Plastic Compounding		8.0	
			Rubber Mixing		0.14	
			Pneumatic		10.80	

(Air Pollution Control Board; 326 IAC 6.5-10-4)

326 IAC 6.5-10-5 Cambridge City Milestone Contractors

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. Cambridge City Milestone Contractors in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Cambridge City Milestone Contractors	0028	14P	Rotary Dryer	67.4		0.218

(Air Pollution Control Board; 326 IAC 6.5-10-5)

326 IAC 6.5-10-6 Dana Perfect Circle-Hagerstown

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. Dana Perfect Circle-Hagerstown in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Dana Perfect Circle-Hagerstown	0014	10P	Gas Boiler 50 MMBtu/Hr.	2.10	0.010	

(Air Pollution Control Board; 326 IAC 6.5-10-6)

326 IAC 6.5-10-7 Dana Perfect Circle-Richmond

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. Dana Perfect Circle-Richmond in Wayne County shall meet the following emission limits:

Proposed Rules

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Dana Perfect Circle—Richmond	0004	2P	Cupola	51.50		0.133
<i>(Air Pollution Control Board; 326 IAC 6.5-10-7)</i>						

326 IAC 6.5-10-8 Design & Manufacturing

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. Design & Manufacturing in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Design & Manufacturing		34P	1 Coal Boiler 43.5 MMBtu/Hr.	38.20	0.350	
<i>(Air Pollution Control Board; 326 IAC 6.5-10-8)</i>						

326 IAC 6.5-10-9 Earlham College

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. Earlham College in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Earlham College		31P	Oil Boiler 14 MMBtu/Hr.	0.70	0.080	
<i>(Air Pollution Control Board; 326 IAC 6.5-10-9)</i>						

326 IAC 6.5-10-10 Farmer's Grain

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. Farmer's Grain in Wayne County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Farmer's Grain	0017	47	Shipping, Receiving, Transferring, Conveying, Drying	732.0		

(Air Pollution Control Board; 326 IAC 6.5-10-10)

326 IAC 6.5-10-11 Johns Manville Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. Johns Manville Corporation in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf

Proposed Rules

Johns Manville Corporation	0006	15P	25 MMBtu/Hr. Natural Gas Boiler	1.5	0.0137
		16P	Lines 2 and 3 Natural Gas Melt Furnaces	7.8	0.01
		17P	Line 6 Electric Melt Furnace	3.9	0.020
		19P	Line 3 Curing Oven	27.4	0.02
		20P	Line 6 Curing Oven	6.2	0.02
		21P	Line 2 Forming Process	58.3	0.02
		22P	Line 3 Forming Process	123.6	0.02
		23P	Line 6 Forming Process	45.4	0.02

(Air Pollution Control Board; 326 IAC 6.5-10-11)

326 IAC 6.5-10-12 Joseph H. Hill Co.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. Joseph H. Hill Co. in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Joseph H. Hill Co. PLT-A	0007	5P	3 Oil Boilers (Single Stack) 30 MMBtu/Hr.	1.40	0.015	
PLT-B	0031	6P	Oil Boiler 22.5 MMBtu/Hr.	1.0	0.015	
		7P	3 Oil Boilers (Single Stack) 175 MMBtu/Hr.	5.60	0.015	
PLT-C	0032	8P	Oil Boiler No. 1 19 MMBtu/Hr.	0.70	0.015	
		9P	Oil Boiler No. 2 7 MMBtu/Hr.	0.30	0.015	

(Air Pollution Control Board; 326 IAC 6.5-10-12)

326 IAC 6.5-10-13 Purina Mills, Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. Purina Mills, Inc. in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Purina Mills, Inc.	0033	32P	2 Oil Boilers One Stack 27 MMBtu/Hr.	1.0	0.015	

(Air Pollution Control Board; 326 IAC 6.5-10-13)

326 IAC 6.5-10-14 Richmond Milestone Contractors

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 14. Richmond Milestone Contractors in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Richmond Milestone Contractors	0008	13P	Rotary Dryer	50.80		0.158

(Air Pollution Control Board; 326 IAC 6.5-10-14)

326 IAC 6.5-10-15 Richmond Power & Light

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 15. Richmond Power & Light in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Richmond Power & Light	0009	28P	Coal Boiler No. 1 385 MMBtu/Hr.	320*	0.19*	
		29P	Coal Boiler No. 2 730 MMBtu/Hr.	700*	0.22*	

*The combined emissions from Coal Boiler No. 1 and Coal Boiler No. 2 shall not exceed 0.22 lbs/MMBtu. (Air Pollution Control Board; 326 IAC 6.5-10-15)

326 IAC 6.5-10-16 Richmond State Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 16. Richmond State Hospital in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Richmond State Hospital	0025	24P	(4 Gas/Oil Boilers) 123.4 MMBtu/Hr.	7.7	0.014	

(Air Pollution Control Board; 326 IAC 6.5-10-16)

326 IAC 6.5-10-17 Schrock Cabinet Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 17. Schrock Cabinet Company in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Schrock Cabinet Company	0015	26P	Wood Boiler 10 MMBtu/Hr.	7.60	0.190	
		27P	Coal Boiler 10 MMBtu/Hr.	6.90	0.280	

(Air Pollution Control Board; 326 IAC 6.5-10-17)

326 IAC 6.5-10-18 Wallace Metals

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 18. Wallace Metals in Wayne County shall meet the following emission limits:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Wallace Metals	0011	33P	Oil Boiler 6.5 MMBtu/Hr.	0.10	0.015	

(Air Pollution Control Board; 326 IAC 6.5-10-18)

Proposed Rules

326 IAC 6.5-10-19 Wayne County Farm Bureau

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 19. Wayne County Farm Bureau in Wayne County shall meet the following emission limit:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Wayne County Farm Bureau	0021	39	Shipping/Receiving, Transfer-ring/Conveying, Screening/Cleaning, Drying	10.40		

(Air Pollution Control Board; 326 IAC 6.5-10-19)

SECTION 2. 326 IAC 6.8 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6.8. PARTICULATE MATTER LIMITATIONS FOR LAKE COUNTY

Rule 1. General Provisions

326 IAC 6.8-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 1. (a) Except as provided in subsection (b), sources or facilities located in Lake County shall comply with the limitations in:

(1) 326 IAC 6.8-2 through 326 IAC 6.8-11, if the source or facility is specifically listed in 326 IAC 6.8-2 through 326 IAC 6.8-11; or

(2) section 2 of this rule, if the source or facility is not specifically listed in 326 IAC 6.8-2 through 326 IAC 6.8-11, but has:

(A) the potential to emit one hundred (100) tons or more; or

(B) actual emissions of ten (10) tons or more; of particulate matter per year.

(b) If the limitations in 326 IAC 6.8-2 through 326 IAC 6.8-11 and section 2 of this rule conflict with or are inconsistent with limitations established in 326 IAC 12, then the more stringent limitations shall apply. (Air Pollution Control Board; 326 IAC 6.8-1-1)

326 IAC 6.8-1-1.5 Definitions

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 1.5. (a) This section applies to the sources, facilities, and operations listed in this article.

(b) The following definitions apply throughout this article:

(1) "Asphalt concrete plant" means a facility used to

manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cement.

(2) "Existing source" means any source that has commenced construction or is in operation on December 8, 2001.

(3) "Fuel combustion steam generator" means any furnace or boiler used in the process of burning solid, liquid, or gaseous fuel or any combination thereof for the purpose of producing steam by heat transfer.

(4) "Glass container manufacturing" means any industry manufacturing containers from soda-silica-lime-glass.

(5) "Grain elevator" means any plant or installation at which grain is:

(A) unloaded;

(B) handled;

(C) cleaned;

(D) dried;

(E) stored; or

(F) loaded.

(6) "Mineral aggregate operation" means an operation involving:

(A) mining;

(B) lasting and crushing;

(C) sizing;

(D) storing; and

(E) transporting;

of mineral materials.

(Air Pollution Control Board; 326 IAC 6.8-1-1.5)

326 IAC 6.8-1-2 Particulate emission limitations; fuel combustion steam generators, asphalt concrete plant, grain elevators, foundries, mineral aggregate operations; modification by commissioner

Authority: IC 13-14-8; IC 13-17-11; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 2. (a) Particulate matter emissions from facilities constructed after applicable dates in subsections (c) and (d)

or not limited by subsection (b), (e), (f), or (g) shall not exceed seven-hundredths (0.07) gram per dry standard cubic meter (g/dscm) (three-hundredths (0.03) grain per dry standard cubic foot (dscf)).

(b) Fuel combustion steam generators are limited to the following particulate matter emissions limitations:

(1) For solid fuel-fired generators that have:

(A) greater than sixty-three million (63,000,000) kilocalories (kcal) per hour heat input (two hundred fifty million (250,000,000) Btu), a particulate matter content of no greater than eighteen-hundredths (0.18) gram per million calories (one-tenth (0.10) pound per million Btu);

(B) equal to or greater than six million three hundred thousand (6,300,000) kcal per hour heat input, but less than or equal to sixty-three million (63,000,000) kcal per hour heat input (equal to or greater than twenty-five million (25,000,000) Btu, but less than or equal to two hundred fifty million (250,000,000) Btu), a particulate matter content of no greater than sixty-three hundredths (0.63) gram per million calories (thirty-five hundredths (0.35) pound per million Btu); or

(C) less than six million three hundred thousand (6,300,000) kcal per hour heat input (twenty-five million (25,000,000) Btu), a particulate matter content of no greater than one and eight-hundredths (1.08) grams per million calories (six-tenths (0.6) pound per million Btu).

(2) For all liquid fuel-fired steam generators, a particulate matter content of no greater than twenty-seven hundredths (0.27) gram per million kcal (fifteen-hundredths (0.15) pound per million Btu).

(3) For all gaseous fuel-fired steam generators, a particulate matter content of no greater than one-hundredth (0.01) grain per dry standard cubic foot (dscf).

(c) Asphalt concrete plants in existence on or before June 11, 1973, and consisting of, but not limited to:

(1) driers;

(2) systems for:

(A) screening, handling, storing, and weighing hot aggregate;

(B) loading, transferring, and storing mineral filler;

(C) mixing asphalt concrete; and

(3) the loading, transfer, and storage systems associated with emission control systems;

are limited to particulate matter emissions of no greater than two hundred thirty (230) mg per dscm (one-tenth (0.1) grain per dscf).

(d) The following are the requirements for grain elevators:

(1) For grain elevators that began construction or modification before January 13, 1977, any grain storage elevator located at any grain processing source that has a permanent grain storage capacity of thirty-five thousand two

hundred (35,200) cubic meters (one million (1,000,000) U.S. bushels) or more, and any grain terminal elevator that has a permanent grain storage capacity of eighty-eight thousand one hundred (88,100) cubic meters (two million five hundred thousand (2,500,000) U.S. bushels) or more shall be limited to particulate matter emissions of no greater than seven-hundredths (0.07) g/dscm (three-hundredths (0.03) grain per dscf).

(2) All grain elevators subject to this article shall provide for housekeeping and maintenance procedures that minimize the opportunity for particulate matter to become airborne and leave the property, such as the following:

(A) Housekeeping practices shall be conducted as follows:

(i) Areas to be swept and maintained shall include, at a minimum, the following:

(AA) General grounds, yard, and other open areas.

(BB) Floors, decks, hopper areas, loading areas, dust collectors, and all areas of dust or waste concentrations.

(CC) Grain driers with respect to accumulated particulate matter.

(ii) Cleanings and other collected waste material shall be handled and disposed of so that the area does not generate fugitive dust.

(iii) Dust from driveways, access roads, and other areas of travel shall be controlled.

(iv) Accidental spills and other accumulations shall be cleaned up as soon as possible but no later than completion of the day's operation.

(B) Equipment maintenance shall consist of procedures that eliminate or minimize emissions from equipment or a system caused by the following:

(i) Malfunctions.

(ii) Breakdowns.

(iii) Improper adjustment.

(iv) Operating above the rated or designed capacity.

(v) Not following designed operating specifications.

(vi) Lack of good preventive maintenance care.

(vii) Lack of critical and proper spare replacement parts on hand.

(viii) Lack of properly trained and experienced personnel.

(C) Emissions from the affected areas, operations, equipment, and systems shall not exceed twenty percent (20%) opacity as determined under 326 IAC 5-1.

(e) Gray iron foundries shall be limited to the following:

(1) Any cupola of a gray iron foundry shall be limited to particulate matter emissions of no greater than thirty-four hundredths (0.34) g/dscm (fifteen-hundredths (0.15) grain/dscf).

(2) Any melting process, excluding any cupola, of a gray iron foundry shall be limited to particulate matter emissions of no greater than sixteen-hundredths (0.16) g/dscm

(seven-hundredths (0.07) grain/dscf).

(f) Glass container manufacturing furnace operations shall be limited to particulate matter emissions of no greater than one (1.0) gram per two (2.0) kilograms of process material (one (1.0) pound per ton).

(g) Mineral aggregate operations, where the process is totally enclosed, shall comply with the requirements in subsection (a). In addition, 326 IAC 2, 326 IAC 5-1, and 326 IAC 6-4 shall apply in all cases to mineral aggregate operations.

(h) Based on modeling analyses available to the commissioner, where it is determined that the limitations in subsections (a) through (g) are not adequate to achieve and maintain the ambient particulate air quality standards established by 326 IAC 1-3, the limitations set forth in this section may be changed for facilities:

- (1) having a significant impact on air quality and located in areas where the ambient particulate standard either is not attained or will not be maintained without emission limitations in addition to those set forth in this section; and
- (2) required to comply with the prevention of significant deterioration requirements of 326 IAC 2.

These limitations shall be established in construction and operation permits issued in accordance with the procedures set forth in 326 IAC 2.

(i) If the emission limitations established in subsections (a) through (g) for facilities that were operating or under construction on August 7, 1980, impose a severe economic hardship on any individual source, then the source may petition the commissioner for reconsideration of the limitations. If the source can demonstrate to the commissioner's satisfaction that a severe hardship will be caused if the applicable requirements in this rule are enforced, then less restrictive emission limitations may be established by the commissioner, provided the less restrictive limitations will guarantee the attainment and maintenance of the particulate ambient air quality standards established by 326 IAC 1-3. (*Air Pollution Control Board; 326 IAC 6.8-1-2*)

326 IAC 6.8-1-3 Compliance determination

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. Testing to determine the amount of particulate matter emitted from any facility subject to the requirements of this article shall be conducted in accordance with the procedures set forth in 40 CFR 60, Appendix A, Methods 1-5*, or other procedures approved by the commissioner and U.S. EPA.

*The following is incorporated by reference: 40 CFR 60, Appendix A, Methods 1-5. Copies may be obtained from the

Government Printing Office, 732 North Capitol Street, Washington, D.C. 20401 and are available for review and copying at the Department of Environmental Management, Office of Air Quality, Room 1003, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 6.8-1-3*)

326 IAC 6.8-1-4 Compliance schedules

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 4. (a) Unless the commissioner has determined that a performance test is not required for a facility, the owner or operator of a source shall submit to the commissioner the results of a performance test, conducted in accordance with section 3 of this rule, demonstrating compliance with the emissions limitations established under this article:

- (1) within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated; or
- (2) not later than one hundred eighty (180) days after the initial startup of the facility;

except when different compliance dates are established in a permit.

(b) If the emission limit applicable to a source or facility is made more stringent by reason of amendments to this article or by reason of amended permit requirements, then the source or facility shall achieve compliance as soon as practicable but not later than specified by the following schedule:

- (1) Submittal of plans and specifications within six (6) months after:
 - (A) the date the source becomes subject to the terms in this rule; or
 - (B) the effective date of the amended rule or permit imposing a stricter limit.Whichever date is applicable to a particular source is hereafter referred to as the effective date.
- (2) Initiation of on-site construction or installation within twelve (12) months after the effective date.
- (3) Completion of on-site construction or installation within twenty-four (24) months after the effective date.
- (4) Achievement of compliance within twenty-eight (28) months after the effective date.
- (5) Submittal of performance results within thirty (30) months of the effective date.

(*Air Pollution Control Board; 326 IAC 6.8-1-4*)

326 IAC 6.8-1-5 Control strategies

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. (a) For existing sources, the following shall apply:
(1) Whenever emission limitations set forth in 326 IAC 6.8-2 through 326 IAC 6.8-10 are revised and established under section 2(h) and 2(i) of this rule, the revisions shall be submitted to U.S. EPA for approval as part of Indi-

ana's SIP.

(2) If a permit issued by the commissioner, under this article, contains emission limitations more stringent than the limitations set forth in 326 IAC 6.8-2 through 326 IAC 6.8-10, then the emission limitations set forth in the permit shall supersede and replace the corresponding limitations in 326 IAC 6.8-2 through 326 IAC 6.8-10.

(b) For new sources, emission limitations and any revisions to emission limitations shall be established as conditions in permits.

(c) Upon issuance, the above permits shall be submitted to U.S. EPA for review, and the emission limitations contained in the permits shall be submitted as SIP revisions.

(d) In 326 IAC 6.8-2 through 326 IAC 6.8-10, where there are two (2) emission limits listed for a particular source or facility, the source or facility shall be required to comply with both limits. (*Air Pollution Control Board; 326 IAC 6.8-1-5*)

326 IAC 6.8-1-6 State implementation plan revisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. Any exemptions given or provisions granted under this article by the commissioner in sections 2(a), 2(g) through 2(i), 4, and 5 of this rule shall be submitted to U.S. EPA as revisions to the SIP. (*Air Pollution Control Board; 326 IAC 6.8-1-6*)

326 IAC 6.8-1-7 Scope

Authority: IC 13-14-8; IC 13-17-1-1; IC 13-17-3-4; IC 13-17-3-14

Affected: IC 13-15; IC 13-17

Sec. 7. This article shall contain control strategies and emission limitations for particulate emissions from sources in Lake County as follows:

326 IAC 6.8-2	PM₁₀ Emission Requirements
326 IAC 6.8-3	Opacity Limits; Exceptions to 326 IAC 5-1-2
326 IAC 6.8-4	Opacity Limits; Test Methods
326 IAC 6.8-5	Opacity Continuous Emissions Monitors
326 IAC 6.8-6	Opacity Combustion Sources; Natural Gas
326 IAC 6.8-7	Site-Specific Control Requirements
326 IAC 6.8-8	Continuous Compliance Plan
326 IAC 6.8-9	PM₁₀ Coke Battery Emission Requirements
326 IAC 6.8-10	Fugitive Particulate Matter
326 IAC 6.8-11	Particulate Matter Contingency Measures

(*Air Pollution Control Board; 326 IAC 6.8-1-7*)

Rule 2. Lake County: PM₁₀ Emission Requirements

326 IAC 6.8-2-1 General provisions and definitions

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 and 326 IAC 6.8-3 through 326 IAC 6.8-8 apply to the sources, facilities, and operations in Lake County listed in sections 3 through 38 of this rule.

(b) The following definitions apply throughout this rule and 326 IAC 6.8-3 through

326 IAC 6.8-8:

- (1) "gr/dscf" means grains of particulate matter per dry standard cubic foot of exhaust air.
- (2) "lbs/hr" means pounds of particulate matter emissions emitted per one (1) sixty (60) minute period.
- (3) "lbs/MMBtu" means pounds of particulate matter emissions per million British thermal units heat input of fuels fired in the source, unless otherwise stated.
- (4) "lbs/ton" means pounds of particulate matter emissions per ton of product output from the particular facility, unless otherwise stated. Byproducts, which may be sold as product, shall not be included under the term "product".

(c) All emission limits in this rule and 326 IAC 6.8-3 through 326 IAC 6.8-8 shall be PM₁₀ limits, unless otherwise stated. (*Air Pollution Control Board; 326 IAC 6.8-2-1*)

326 IAC 6.8-2-2 Lake County: PM₁₀ and total suspended particulate emissions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. Sources located in Lake County and listed in sections 3 through 38 of this rule shall comply with the corresponding PM₁₀ and total suspended particulates (TSP) emission limitations and other requirements in this rule and 326 IAC 6.8-3 through 326 IAC 6.8-8 consistent with the provisions as applicable in 326 IAC 6.8-7. Each emission limit applies to one (1) stack serving one (1) facility unless otherwise noted. The emission limitations apply to:

- (1) one (1) stack serving the multiple units specified when the facility description notes "stack serving"; and
- (2) each stack of multiple stacks serving multiple facilities when the facility description notes "each stack serving".

(*Air Pollution Control Board; 326 IAC 6.8-2-2*)

326 IAC 6.8-2-3 American Steel Foundries-East Chicago

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. American Steel Foundries-East Chicago in Lake County shall meet the following emission limits:

Proposed Rules

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Sand kiln and cooler	0.636 lbs/ton	16.29
Sandheater mixing	0.520 lbs/ton	11.44
Electric induction furnaces (2 units)	0.104 lbs/ton	1.248
#2 tumblast with dust collector	0.145 lbs/ton of product	0.678
#3 tumblast with dust collector	0.145 lbs/ton of product	0.678
Shakeout dust collector	0.012 lbs/ton of product	0.384

(Air Pollution Control Board; 326 IAC 6.8-2-3)

326 IAC 6.8-2-4 American Steel Foundry-Hammond

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. American Steel Foundry-Hammond in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving coil spring grinder numbers 3-0386 and 3-0389	1.083 lbs/ton	0.045
Stack serving coil spring grinder number 3-0244	0.021 lbs/ton	0.040
Tub grinder number 3-0388	0.015 lbs/ton	2.00
Coil spring grinder number 3-0247	0.019 lbs/ton	0.03
Coil spring grinder number 3-0249	3.792 lbs/ton	1.82
Coil spring grinders numbers 3-0385, 3-295, and 3-0233	0.019 lbs/ton	0.05
Shot blast peener number 3-1804	0.011 lbs/ton	0.06
Shot blast peener number 3-1811	0.018 lbs/ton	0.06
Shot blast peener number 3-1821	0.016 lbs/ton	0.06
Shot blast peener number 3-1823	0.016 lbs/ton	0.06
Small coil manufacturing (ESP number 3-3024)	0.014 lbs/ton	0.02
Medium coil manufacturing (ESP number 3-3027)	0.700 lbs/ton	2.10
Large coil manufacturing (ESP number 3-3028)	0.700 lbs/ton	3.50
Miscellaneous coil manufacturing (ESP number 3-3026)	0.700 lbs/ton	1.05

(Air Pollution Control Board; 326 IAC 6.8-2-4)

326 IAC 6.8-2-5 Associated Box

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. Associated Box in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limit (lbs/hr)
Wood chip fired space heating boiler	0.810 lbs/MMBtu	4.450

(Air Pollution Control Board; 326 IAC 6.8-2-5)

326 IAC 6.8-2-6 BP Products North America Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. BP Products North America Inc. in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Number 1 CRU, F-101 feed preheater	0.004 lbs/MMBtu	0.267
Stack serving number 1 CRU, F-102, F-201, F-202 heat-ers	0.004 lbs/MMBtu	0.290

Proposed Rules

Stack serving number 1 power station, boiler numbers 1, 2, 3, and 4	0.016 lbs/MMBtu	15.809
Stack serving number 1 power station, boiler numbers 5, 6, 7, and 8	0.016 lbs/MMBtu	13.244
Stack serving number 11 pipe still furnaces H-101, H-102, H-103, H-104, coke preheaters	0.004 lbs/MMBtu	0.741
Number 11 pipe still, H-1X heater	0.031 lbs/MMBtu	6.867
Number 11 pipe still, H-2 vacuum heater	0.032 lbs/MMBtu	1.440
Number 11 pipe still, H-200 crude charge	0.032 lbs/MMBtu	7.866
Number 11 pipe still, H-3 vacuum heater	0.031 lbs/MMBtu	1.704
Number 11 pipe still, H-300 furnace	0.031 lbs/MMBtu	4.931
Stack serving number 12 pipe still, H-1A and H-1B preheaters and H-2 vacuum heater	0.025 lbs/MMBtu	16.348
Each stack serving number 12 pipe still, H-1CN and H-1CS crude preheater	0.004 lbs/MMBtu	0.444
Number 12 pipe still, H-1CX crude preheater	0.004 lbs/MMBtu	0.924
Number 2 isomerization, F-7 furnace	0.004 lbs/MMBtu	0.085
Number 2 isomerization, H-1 feed heater furnace	0.004 lbs/MMBtu	0.704
Each stack serving number 3 power station, boiler numbers 1, 2, 3, 4, and 6	0.030 lbs/MMBtu	17.49
Number 3 ultraformer, F-7 furnace	0.004 lbs/MMBtu	0.085
Number 3 ultraformer, H-1 feed heater furnace	0.004 lbs/MMBtu	0.852
Number 3 ultraformer, H-2 feed heater furnace	0.004 lbs/MMBtu	0.685
Number 3 ultraformer, waste heat recovery unit	0.004 lbs/MMBtu	1.537
Stack serving number 37 pipe still, B-1 feed preheater, B-2 wax fractioner	0.018 lbs/MMBtu	1.903
Stack serving number 4 ultraformer, F-1 ultrafiner furnace F-8A and F-8B reboilers	0.004 lbs/MMBtu	1.459
Number 4 ultraformer, F-2 preheater furnace	0.004 lbs/MMBtu	1.059
Number 4 ultraformer, F-3 number 1 reheat furnace	0.004 lbs/MMBtu	0.896
Stack serving number 4 ultraformer, F-4 number 2 reheat furnace, F-5 number 3 reheat furnace, and F-6 number 4 reheat furnace	0.004 lbs/MMBtu	1.060
Number 4 ultraformer, F-7 furnace	0.004 lbs/MMBtu	0.159
Aromatics recovery unit, F-200A furnace	0.004 lbs/MMBtu	0.924
Aromatics recovery unit, F-200B furnace	0.004 lbs/MMBtu	0.924
Blending oil desulphurization, F-401 furnace	0.004 lbs/MMBtu	0.130
Cat feed hydrotreating unit	0.004 lbs/MMBtu	0.246
F-1 Berry Lake distillate heater	0.004 lbs/MMBtu	0.048
F-2 Steiglitz Park residual heater	0.008 lbs/MMBtu	0.208
Stack serving heavy oils unit, H-101, H-201, H-202	0.004 lbs/MMBtu	0.030
NMP extraction unit, B-105 furnace	0.023 lbs/MMBtu	1.174
NMP extraction unit, B-106 furnace	0.004 lbs/MMBtu	0.352
Oil hydrotreating unit	0.004 lbs/MMBtu	0.059
Sulfur recovery unit incinerator	0.004 lbs/MMBtu	0.090
Asphalt oxidizer number 1	0.000 lbs/ton	0.000
Asphalt oxidizer number 2	0.000 lbs/ton	0.000
Asphalt oxidizer number 3	0.000 lbs/ton	0.000
Tail gas unit (new)	0.110 lbs/ton	0.103

Proposed Rules

Wastewater sludge fluid bed incinerator	0.173 lbs/ton based on 79,000 lbs/hr fluidizing air flow	6.84
FCU 500	1.220 lbs/1,000 lbs coke burned	73.20
FCU 600	1.10 lbs/1,000 lbs coke burned	55.00
DDU WB-301	0.004 lbs/MMBtu	0.250
DDU WB-302	0.004 lbs/MMBtu	0.240
Hydrogen unit B-1	0.009 lbs/MMBtu	3.340

(Air Pollution Control Board; 326 IAC 6.8-2-6)

326 IAC 6.8-2-7 Bucko Construction

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. Bucko Construction in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Rotary dryer	0.017 lbs/hr	4.440

(Air Pollution Control Board; 326 IAC 6.8-2-7)

326 IAC 6.8-2-8 Cerestar USA, Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. Cerestar USA, Inc., in Lake County shall meet the following emission limits:

Source	Stack Number	lbs/hr	gr/dscf
Stack serving boiler numbers 6 and 7	10-03-U-P and 10-04-U-P	30.3	
Stack serving boiler numbers 8 and 10	10-05-U-P and 10-06-U-P	22.7	
Activated carbon regenerating furnace	15G-01-R-F	0.34	0.01
Bulk carbon/bulk filter aid system	17-03-R-P	0.06	0.01
Corn syrup solids dust collection system number 2	18-03-R-P	0.30	0.01
Special starch (P. G.) manufacturing equipment system number 1	18-06-S-P	0.17	0.01
Special starch (P. G.) manufacturing equipment system number 2	18-07-S-P	0.084	0.01
Special starch (P. G.) manufacturing equipment system number 3C (½ system number 3)	18-08-S-P	0.12	0.01
Special starch (P. G.) manufacturing equipment system number 3D (½ system number 3)	18-09-S-P	0.12	0.01
Gluten ring dryer #1	19-03-G-P	4.76	0.015
Receiver for first stage germ dryer	21A-01-G-P	0.12	0.015
First stage germ dryer exhaust	21A-02-G-P	0.67	0.01
Equipment conveying corn dirt to dirt storage silo	30-16-G-P	0.06	0.01
Waxy feed conveyor system	31-02-G	0.27	0.01
Finished gluten conveying system (Tank 2 or 3)	31-10-G-P or 31-11-G-P	0.19	0.02
Gluten receiver	31-13-G (3/95)	0.23	0.02
Germ storage silo	31-14-G (10/95)	0.097	0.01
Corn receiving and storage-bin vent #5	33-01-G (12/95)	0.171	0.02
Corn receiving and storage-bin vent #6	33-02-G (12/95)	0.171	0.02
Corn cleaner	33-03-G (12/95)	0.21	0.01

Proposed Rules

Dextrin incoming starch, building 34	34-01-S-P	0.04	0.01
Dextrin starch reactor #1	34-02-S-P	0.180	0.01
Dextrin starch cooler #1	34-03-S-P	0.042	0.01
Dextrin storage hopper, building 34	34-05-S-P	0.11	0.01
Dextrin feed hoppers: 1 and 2 (System 1)	34-06-S and	0.030	0.01
Dextrin air lock feeder	34-07-S (12/92)		
Dextrin starch cooler	34B-01-S (10/93)	0.042	0.01
Dextrin storage hopper	34B-03-S (10/93)	0.114	0.01
Dextrin starch reactor #2	34B-04-S (10/93)	0.179	0.01
Dextrin feed hoppers: 3 and 4 (System 2)	34B-05-S and	0.030	0.01
#1 and #2 Dextrin air lock feeder	34B-06-S (10/93)		
Dextrin incoming starch batch scale hopper No. 2	34B-13-S (10/93)	0.067	0.01
Feed receiver	35-05-G	0.568	0.01
Dextrin bulk loading equipment	48-09-S-P	0.26	0.01
Receiver for second stage germ dryer	51A-01-G-P	0.19	0.02
Second stage germ dryer exhaust	51A-02-G-P	1.01	0.015
Sulfate bag dumping	52-02-S-P	0.20	0.01
Starch milling system number 1	59-01-S-P	0.43	0.01
Starch milling system number 2	59-02-S-P	0.43	0.01
Starch ring dryer number 2	59-03-S-P	3.50	0.006
Stack serving starch bulk loading equipment (receiver)	76-02-S-P	0.17	0.01
Stack serving starch bulk loading equipment (railcar loading)	76-03-S-P	0.17	0.01
Stack serving special starch (P.G.) manufacturing equipment system	85-01-S-P	0.24	0.01
Fiber drying equipment	89-01-G (10/95)	4.50	0.01
Wet fiber cyclone receiver	89-02-G (10/95)	0.178	0.01
Rotary feed dryer	89-03-G (10/95)	4.5	0.03
Milled feed hopper	89-04-G (10/95)	0.50	0.01
Feed pelletizing B	91-14-G-P	2.10	0.015
Feed pelletizing C	91-15-G-P	2.10	0.015
Feed pelletizing D	91-16-G-P	0.23	0.01
Starch conveying system number 46	93-01-W-P	0.17	0.01
Starch conveying system 47	93-02-W-P	0.17	0.02
Dextrin conveying system 48	93-03-W-P	0.17	0.01
Dried corn syrup conveying system, frodex	93-04-W-P	0.069	0.01
Corn syrup solids conveyor equipment	93-05-W-P	0.066	0.01
Stack serving starch packing systems number 1 and 2, building 93 (43 and 44)	93-06-W-P and	0.23	0.01
	93-07-W-P		
Frodex semibulk packing system, building 93	93-08-W-P	0.083	0.01
Each stack serving bag dump numbers 1 and 2	93-09-W-P and	0.10	0.01
	93-10-W-P		
Starch bulk loading	93-14-W (2/93)	0.273	0.01
Starch vacuum clean-up system	93-15-W (2/93)	0.021	0.01
Starch mixing and bagging system #1	93-16-W (5/95)	0.130	0.01
Starch mixing and bagging system #2	93-17-W (5/95)	0.264	0.01
New corn syrup spray dryer cooler system number 3 (SIP #2)	100-01-R-P	4.96	0.015
#4 corn syrup spray dryer	100-03-R (93)	4.2	0.01
Carbon regeneration furnace #2	104-01-R (2/96)	0.728	0.015
Soda ash tank	104-02-R (2/96)	0.154	0.02
Filter aid hopper	104-03-R (2/96)	0.044	0.02
Sodium bisulfate bag dump	104-05-R (2/96)	0.080	0.02

Proposed Rules

Each stack serving bulk corn starch storage bin numbers 20 through 36 (five (5) stacks may operate at one (1) time)	120-01-S-P to 120-17-S-P	0.56	0.01
Gluten dryer system	121-01-G (3/95)	3.0	0.03
Waxy feed drum dryer scrubber	124-01-G-P	11.12	0.03
Waxy feed milling equipment	124-22-G-P	0.051	0.01
Germ dryer/cooler	124A-01-G (11/94)	1.852	0.02
Starch ring dryer number 3	125-01-S-P	3.50	0.006
Waxy bulk cornstarch storage bins numbers 95 through 98 (only one (1) may operate at a time)	126-01-S-P to 126-04-S-P	0.16	0.01
BCD dryer, building 127	127-01-B-P	0.57	0.01
#1 and #2 vacuum cleaner system	127-21-B and 127-22-B (5/93)	0.031	0.01
#1 and #2 BCD storage hopper	127-23-B and 127-24-B (5/93)	0.18	0.01
BCD mill feeder hopper	127-25-B (5/93)	0.028	0.01
BCD packing hopper	127-26-B (5/93)	0.005	0.01
Special starch process with starch dryer number 4, building 128	128-01-S-P	3.5	0.01
Four products blending systems, building 93	130-01-S-P to 130-04-S-P	0.42	0.01
Dextrin blender	130-05-S (7/93)	0.248	0.01
Corn receiving and storage-bin vent #1 and #2	140-01-G and 140-02-G (12/95)	0.343	0.02
Corn receiving and storage-bin vent #3 and #4	140-03-G and 140-04-G (12/95)	0.343	0.02
Corn dump pit	140-05-G (12/95)	1.286	0.01
Corn scale system	140-06-G (12/95)	0.154	0.01
Corn elevator conveying	140-07-G (12/95)	0.086	0.01

(Air Pollution Control Board; 326 IAC 6.8-2-8)

326 IAC 6.8-2-9 E. I. Dupont

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. E. I. Dupont in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Sodium silicate furnace	1.439 lbs/ton	6.0

(Air Pollution Control Board; 326 IAC 6.8-2-9)

326 IAC 6.8-2-10 General Refractory

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. General Refractory in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Ball milling storage	0.041 lbs/ton	0.410
Crushing and sizing	0.012 lbs/ton	0.460
Material handling system	0.003 lbs/ton	0.220
Material loading	0.006 lbs/ton	0.150
Material weighing	0.064 lbs/ton	0.350
Mixing and packaging	0.354 lbs/ton	2.480

Sizing, conveying, and storage **0.029 lbs/ton** **0.580**
(Air Pollution Control Board; 326 IAC 6.8-2-10)

326 IAC 6.8-2-11 Georgia Pacific

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 11. Georgia Pacific in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler number 1	0.129 lbs/MMBtu	9.380

(Air Pollution Control Board; 326 IAC 6.8-2-11)

326 IAC 6.8-2-12 Globe Industries

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 12. Globe Industries in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving asphalt saturators (2 units)	0.060 lbs/ton of product	4.500

(Air Pollution Control Board; 326 IAC 6.8-2-12)

326 IAC 6.8-2-13 Hammond Group Inc. (HGI)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 13. Hammond Group Inc. (HGI) in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack 17-S-40	0.030 gr/dscf	2.120
Stack 20-S-36	0.022 gr/dscf	0.395
Stack 20-S-41	0.022 gr/dscf	0.450
Stack 20-S-37	0.022 gr/dscf	0.200
Stack 20-S-38	0.022 gr/dscf	0.087
Stack 17-S-25	0.030 gr/dscf	2.120
Stack 20-S-42	0.022 gr/dscf	0.200
Stack 20-S-43	0.022 gr/dscf	0.087
Stack 20-S-39	0.022 gr/dscf	0.496
Stack 20-S-44	0.022 gr/dscf	0.496
Stack 13-S-48	0.022 gr/dscf	0.471
Stack 14-S-45	0.022 gr/dscf	0.471

(Air Pollution Control Board; 326 IAC 6.8-2-13)

326 IAC 6.8-2-14 Hammond Group Inc.-Halstab Division

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 14. Hammond Group Inc.-Halstab Division in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack S-1	0.022 gr/dscf	0.220

Proposed Rules

Stack S-2	0.022 gr/dscf	0.080
Stack S-4	0.022 gr/dscf	1.460
Stack S-5	0.022 gr/dscf	1.030
Stacks S-6, S-7, and S-8, each stack	0.022 gr/dscf	0.570
Stacks S-9, S-10, S-11, S-12, S-13, S-14, S-15, and S-16, each stack	0.022 gr/dscf	0.200
Stack S-17	0.022 gr/dscf	1.990

(Air Pollution Control Board; 326 IAC 6.8-2-14)

326 IAC 6.8-2-15 Hammond Group Inc. (HGI)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 15. Hammond Group Inc. (HGI) in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack 1-S-54	0.0 gr/dscf	0.000
Stack 4A-S-8	0.022 gr/dscf	0.250
Stack 14-S-16	0.022 gr/dscf	0.250
Stack 1-S-2	0.022 gr/dscf	0.250
Stack 1-S-26	0.022 gr/dscf	0.250
Stack 16-S-56	0.022 gr/dscf	1.000
Stack 1-S-52	0.022 gr/dscf	1.000
Stack 1-S-27	0.022 gr/dscf	0.290
Stack 4-S-35	0.022 gr/dscf	0.570
Stack 6-S-33	0.022 gr/dscf	0.900
Stack 4B-S-34	0.022 gr/dscf	0.400
Stack 6-S-47	0.022 gr/dscf	0.400
V-1	0.022 gr/dscf	1.000
Stack 14-S-15	0.022 gr/dscf	0.320

(Air Pollution Control Board; 326 IAC 6.8-2-15)

326 IAC 6.8-2-16 Harbison Walker Refractories, Hammond Works

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 16. Harbison Walker Refractories, Hammond Works in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Each stack serving tunnel kiln numbers 1 (S-6) and 2 (S-3)	1.36 lbs/ton	4.50
Each stack serving tunnel kiln numbers 1 (S-6) and 2 (S-3) if only one kiln is in operation	1.36 lbs/ton	8.40
Lanley oven (S-7)	0.210 lbs/ton	0.840
Basic dryer (stack 8)	0.916 lbs/ton	3.020
Chrome ore crushing (D-9)	0.024 lbs/ton	0.490
Chrome ore rotary dryer (D-10)	0.032 lbs/ton	0.640
Chrome ore handling (D-11) and storage	0.020 lbs/ton	0.410
Chrome ore screening (D-12) and milling	0.078 lbs/ton	1.240
Chrome ore finished (D-13) material handling and storage	0.044 lbs/ton	0.700
Magnesite unloading and crushing (D-18)	0.017 lbs/ton	0.580
Magnesite material handling and storage (D-2)	0.012 lbs/ton	0.410

Proposed Rules

Magnesite screening and milling (D-8)	0.051 lbs/ton	1.280
Specialty magnesite handling system (D-16)	0.097 lbs/ton	0.260
Magnesite chrome ore mixer number 3 (D-6)	0.033 lbs/ton	0.230
Magnesite chrome ore mixer number 2 and flat mixer (D-5)	0.033 lbs/ton	0.460
Magnesite chrome ore mixer number 1 (D-4)	0.033 lbs/ton	0.230
Magnesite carbon mixers (D-7)	0.054 lbs/ton	0.460
Magnesite smooth roll crusher system (D-15)	0.067 lbs/ton	0.500
Magnesite auxiliary milling system (D-14)	0.086 lbs/ton	0.170

(Air Pollution Control Board; 326 IAC 6.8-2-16)

326 IAC 6.8-2-17 Inland Steel

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 17. Inland Steel in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Number 4 slab mill scarfer	0.039 lbs/ton	21.97
Number 2A bloomer scarfer	0.107 lbs/ton	10.70
Mold foundry baghouse	0.011 gr/dscf	26.00
Sinter plant discharge end and cooler baghouse	0.01 gr/dscf TSP	11.70 TSP
Sinter plant windbox baghouse	0.007 gr/dscf TSP	17.00 TSP
Lime plant silo baghouses	0.085 lbs/ton	5.530
Lime plant firing and kiln baghouses	0.110 lbs/ton	7.149
Number 4 roll shop ervin blaster/baghouse	0.0052 gr/dscf TSP	0.210 TSP
Number 4 roll shop wheelabrator baghouse	0.0052 gr/dscf TSP	0.260 TSP
Number 4A roll shop ervin blaster/baghouse	0.0052 gr/dscf TSP	0.210 TSP
Number 4A roll shop pangborn blaster/baghouse	0.0052 gr/dscf TSP	0.260 TSP
Number 2 roll shop pangborn blaster/baghouse	0.0052 gr/dscf TSP	0.270 TSP
Number 6 roll shop roll blaster/baghouse	0.0052 gr/dscf TSP	0.200 TSP
Electric shop blasters/baghouses	0.0052 gr/dscf TSP	1.070 TSP
Number 11 coke battery preheaters (2 units)	0.00	0.00
Number 11 coke battery shed baghouse	0.00	0.00
Number 6 coke battery underfire stack	0.00	0.00
Number 7 coke battery underfire stack	0.00	0.00
Number 8 coke battery underfire stack	0.00	0.00
Number 9 coke battery underfire stack	0.00	0.00
Number 10 coke battery underfire stack	0.00	0.00
Number 11 coke battery underfire stack	0.00	0.00
Number 7B blast furnace canopy baghouse	0.003 gr/dscf	11.22
Number 7 blast furnace stockhouse pellet baghouse	0.0052 gr/dscf	4.00
Number 7 blast furnace casthouse baghouse	0.011 gr/dscf TSP	22.00 TSP
Number 7 blast furnace coke screening baghouse	0.007 gr/dscf TSP	4.200 TSP
Number 7 blast furnace stockhouse coke baghouse	0.01 gr/dscf TSP	2.00 TSP
Number 1 blast furnace stoves (4 units)	0.000	0.000
Number 2 blast furnace stoves (4 units)	0.000	0.000
Number 2 basic oxygen furnace number 10 furnace stack	0.058 lbs/ton TSP	16.00 TSP
Number 2 basic oxygen furnace number 20 furnace stack	0.058 lbs/ton TSP	16.00 TSP

Proposed Rules

Number 2 basic oxygen furnace caster fume collection baghouse	0.0052 gr/dscf TSP	2.00 TSP
Number 2 basic oxygen furnace ladle metallurgical station baghouse	0.0052 gr/dscf TSP	2.00 TSP
Number 2 basic oxygen furnace secondary ventilation system scrubber	0.015 gr/dscf TSP	12.00 TSP
Number 2 basic oxygen furnace tundish dump baghouse	0.0052 gr/dscf TSP	2.200 TSP
Number 2 basic oxygen furnace charging aisle reladling and desulfurization baghouse	0.011 gr/dscf TSP	28.30 TSP
Number 2 basic oxygen furnace truck and ladle hopper baghouse	0.0052 gr/dscf TSP	0.800 TSP
Number 2 basic oxygen furnace flux storage and batch baghouse	0.0052 gr/dscf TSP	0.530 TSP
Number 4 basic oxygen furnace reladling and desulfurization baghouse	0.0052 gr/dscf TSP	8.26 TSP
Number 4 basic oxygen furnace scrubber stack (steelmaking)	0.187 lbs/ton TSP	100.00 TSP
Number 4 basic oxygen furnace vacuum degassing baghouse	0.01 gr/dscf TSP	4.280 TSP
Number 4 basic oxygen furnace secondary ventilation system baghouse	0.006 gr/dscf TSP	22.30 TSP
Stack serving blast furnace stove, number 5 (3 units)	0.016 lbs/MMBtu	4.70
Stack serving blast furnace stove, number 6 (4 units)	0.016 lbs/MMBtu	3.64
Stack serving blast furnace stove, number 7 (3 units)	0.0076 lbs/MMBtu	6.32
Stack serving "A" blast furnace stoves (3 units)	0.021 lbs/MMBtu	5.090
Stack serving "B" blast furnace stoves (3 units)	0.021 lbs/MMBtu	5.090
100 inch plate mill reheat furnace	0.078 lbs/MMBtu	13.74
Number 2 bloom mill soaking pit, numbers 1 through 4	0.000	0.000
Number 2 bloom mill soaking pit numbers 5 through 16 collective	0.000	0.000
Number 2 bloom mill soaking pit numbers 19 through 20 collective	0.000	0.000
Number 4 slabber soaking pit numbers 1 through 18 collective	0.0 lbs/MMBtu	0.0
Number 4 slabber soaking pit numbers 19 through 45 collective	0.006 lbs/MMBtu	1.750
Stack serving number 2AC station boiler numbers 207 through 210	0.000	0.000
Stack serving number 2AC station boiler numbers 211 through 213	0.018 lbs/MMBtu	16.20
Stack serving number 3AC station boiler numbers 301 through 304	0.018 lbs/MMBtu	16.20
Number 3AC station boiler number 305	0.018 lbs/MMBtu	5.400
Stack serving number 4AC station boiler number 401 through 404	0.042 lbs/MMBtu	76.578
Number 4AC station boiler number 405	0.028 lbs/MMBtu	18.78
Stack serving number 5 boiler house (3 units)	0.013 lbs/MMBtu	18.05
Electric arc furnace shop direct shell evacuation system baghouse roof monitor	0.0052 gr/dscf	17.14
Electric arc furnace shop ladle metallurgical station baghouse	0.01 gr/dscf	0.820
Coal conveyor transfer baghouse A	0.003 gr/dscf	0.17

Blending system baghouse B	0.003 gr/dscf	0.54
Coal storage bin baghouse C	0.003 gr/dscf	0.23
Coal pulverizer baghouse D	0.0015 gr/dscf	0.93
Coal pulverizer baghouse E	0.0015 gr/dscf	0.93
Number 7 blast furnace coal storage bin baghouse F	0.003 gr/dscf	0.09
Number 7 blast furnace coal storage bin baghouse G	0.003 gr/dscf	0.09
Numbers 5 and 6 blast furnace coal storage bin baghouse H	0.003 gr/dscf	0.09

(Air Pollution Control Board; 326 IAC 6.8-2-17)

326 IAC 6.8-2-18 Jupiter Aluminum Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 18. Jupiter Aluminum Corporation in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Reverberatory furnace number 10	.060 lbs/ton	0.970
Reverberatory furnace number 20	.142 lbs/ton	0.430
Reverberatory furnace number 30	.145 lbs/ton	0.510
Reverberatory furnace number 40	.145 lbs/ton	0.510
Reverberatory furnace number 50	.130 lbs/ton	1.137

(Air Pollution Control Board; 326 IAC 6.8-2-18)

326 IAC 6.8-2-19 Keil Chemical-Division of Ferro Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 19. Keil Chemical-Division of Ferro Corporation in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Cleaver Brooks boiler B-4	0.007 lbs/MMBtu	0.09
Cleaver Brooks boiler B-5	0.007 lbs/MMBtu	0.14
VA power B-3 boiler	0.007 lbs/MMBtu	0.04
Chlorinated wax process	0.001 lbs/ton	0.003
Pyro-chek 68PB1	0.052 lbs/ton	0.030
Pyro-chek 77PB2	0.122 lbs/ton	0.040
Sulfurized fat process	0.157 lbs/ton	0.230

(Air Pollution Control Board; 326 IAC 6.8-2-19)

326 IAC 6.8-2-20 LaSalle Steel Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 20. LaSalle Steel Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Fume scrubber	0.015 lbs/ton	0.060
Number 11 furnace precipitator	0.548 lbs/ton	0.940
Stack serving shot blast baghouse (2 units)	0.001 lbs/ton	0.020

(Air Pollution Control Board; 326 IAC 6.8-2-20)

Proposed Rules

326 IAC 6.8-2-21 LTV Steel Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 21. LTV Steel Corporation in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving number 3 blast furnace stoves	0.027 lbs/MMBtu	11.73
Stack serving number 4 blast furnace stoves	0.027 lbs/MMBtu	12.93
Stack serving hot strip mill slab heat furnace numbers 1, 2, and 3	0.086 lbs/MMBtu	36.56
Utility boiler number 3	0.066 lbs/MMBtu	12.85
Utility boiler number 4	0.066 lbs/MMBtu	12.85
Utility boiler number 5	0.066 lbs/MMBtu	25.69
Utility boiler number 6	0.066 lbs/MMBtu	25.69
Utility boiler number 7	0.066 lbs/MMBtu	25.69
Utility boiler number 8	0.066 lbs/MMBtu	61.59
Basic oxygen furnace main stack	0.018 gr/dscf	69.40
Reladling and desulfurization baghouse	0.008 gr/dscf	10.49
Ladle metallurgical station baghouse	0.004 gr/dscf	3.630
Sinter plant breaker discharge end	0.02 gr/dscf TSP	18.05 TSP
Sinter plant windbox stack 08	0.02 gr/dscf TSP	49.70 TSP

(Air Pollution Control Board; 326 IAC 6.8-2-21)

326 IAC 6.8-2-22 Marblehead Lime Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 22. Marblehead Lime Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Flue dust loadout number 1 (MHL 14)	0.003 lbs/ton	0.110
Flue dust loadout number 2 (MHL 15)	0.003 lbs/ton	0.100
Lime grinder (MHL 13)	0.015 lbs/ton	0.440
Lime handling baghouse number 1 (MHL 6)	0.002 lbs/ton	0.260
Lime handling baghouse number 2 (MHL 7)	0.002 lbs/ton	0.180
Lime handling baghouse number 3 (MHL 8)	0.0004 lbs/ton	0.050
Lime handling baghouse number 4 (MHL 9)	0.001 lbs/ton	0.130
Lime loadout baghouse number 1 (MHL 10)	0.0004 lbs/ton	0.050
Lime loadout baghouse number 2 (MHL 11)	0.0004 lbs/ton	0.050
Lime loadout baghouse number 3 (MHL 12)	0.004 lbs/ton	0.410
Lime rotary kiln number 1	0.478 lbs/ton	9.950
Lime rotary kiln number 2	0.478 lbs/ton	9.950
Lime rotary kiln number 3	0.478 lbs/ton	9.950
Lime rotary kiln number 4	0.478 lbs/ton	9.950
Lime rotary kiln number 5	0.478 lbs/ton	9.950

(Air Pollution Control Board; 326 IAC 6.8-2-22)

326 IAC 6.8-2-23 Marport Smelting

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 23. Marport Smelting in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
North baghouse	0.601 lbs/ton	2.300
South baghouse	1.279 lbs/ton	4.900

(Air Pollution Control Board; 326 IAC 6.8-2-23)

326 IAC 6.8-2-24 Methodist Hospital

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 24. Methodist Hospital in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler number 1	0.044 lbs/MMBtu	0.350

(Air Pollution Control Board; 326 IAC 6.8-2-24)

326 IAC 6.8-2-25 National Recovery Systems

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 25. National Recovery Systems in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Drying system	0.203 lbs/ton	4.060
Material storage handling	0.034 lbs/ton	0.680
Each stack serving lime fines storage silos (2 stacks)	0.001 lbs/ton	0.012

(Air Pollution Control Board; 326 IAC 6.8-2-25)

326 IAC 6.8-2-26 NIPSCo-Mitchell

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 26. (a) NIPSCo-Mitchell in Lake County shall meet the following requirements and emission limits for boiler numbers 4, 5, 6, and 11:

- (1) Operation under either subdivision (2)(B) or (2)(C) shall only be allowed provided that a nozzle is in the stack serving boiler numbers 4 and 5 such that the stack diameter is restricted to eight and three-tenths (8.3) feet.
- (2) NIPSCo may operate under any one (1) of the following scenarios:

(A) Boiler numbers 4, 5, 6, and 11 may operate simultaneously under the following conditions:

- (i) One (1) of boiler number 4 or 5 may operate on coal if the other boiler is operated on natural gas or is not operating. Particulate emissions from the stack serving boiler numbers 4 and 5 shall be limited to one-tenth (0.1) pound per million Btu and one hundred twenty-eight and seventy-five hundredths (128.75) pounds per

hour.

- (ii) Boiler numbers 6 and 11 may operate simultaneously on coal. Particulate emissions from the stack serving boiler numbers 6 and 11 shall be limited to one-tenth (0.1) pound per million Btu and two hundred thirty-six (236.0) pounds per hour.

(B) Boiler numbers 4, 5, 6, and 11 may operate simultaneously on coal subject to the following conditions:

- (i) Particulate emissions from the stack serving boiler numbers 4 and 5 shall be limited to seventy-four thousandths (0.074) pound per million Btu and one hundred eighty-five (185.0) pounds per hour.
- (ii) Particulate emissions from the stack serving boiler numbers 6 and 11 shall be limited to seventy-four thousandths (0.074) pound per million Btu and one hundred seventy-five (175.0) pounds per hour.

(C) One (1) set of either boiler numbers 4 and 5 or 6 and 11 may operate on coal, if the other set is not operating, subject to the following conditions:

- (i) Particulate emissions from the stack serving boiler numbers 4 and 5 shall be limited to one-tenth (0.1)

Proposed Rules

pound per million Btu and two hundred fifty (250.0) pounds per hour.

(ii) Particulate emissions from the stack serving boiler numbers 6 and 11 shall be limited to one-tenth (0.1) pound per million Btu and two hundred thirty-six (236) pounds per hour.

(3) NIPSCo shall maintain a daily log of the following for boiler numbers 4, 5, 6, and 11:

(A) Fuel type.

(B) Transition time of changes between or within operating scenarios.

The log shall be maintained for a minimum of five (5) years and shall be made available to the department and U.S. EPA upon request.

(4) Emission limits shall be maintained during transition periods within or between operating scenarios.

(b) On or after May 13, 1999, biennial stack testing shall be conducted in the stack serving boiler numbers 4 and 5 and in the stack serving boiler numbers 6 and 11 meeting the following conditions:

(1) Stack testing shall begin within sixty (60) days and be completed within ninety (90) days of the initial use of the operating scenario specified in subsection (a)(2)(B). Particulate emissions from boiler numbers 4, 5, 6, and 11 shall be limited to seventh-four thousandths (0.074) pound per million Btu.

(2) After the initial stack test specified in subdivision (1), NIPSCo may use the operating scenario specified in subsection (a)(2)(B) if in the previous biennial stack test particulate emissions from boiler numbers 4, 5, 6, and 11 met the emission limitation of seventh-four thousandths (0.074) pound per million Btu.

(3) If the operating scenario specified in subsection (a)(2)(B) has not been used since the previous biennial stack test specified in this subdivision, then particulate emissions from boiler numbers 4, 5, 6, and 11 shall be limited to one-tenth (0.1) pound per million Btu.

(4) If the operating scenario specified in subsection (a)(2)(B) has been utilized since the previous biennial stack test specified in this subdivision and NIPSCo no longer has the ability to operate the boilers as specified in subsection (a)(2)(B), then particulate emissions from boiler numbers 4, 5, 6, and 11 shall be limited to one-tenth (0.1) pound per million Btu.

All emissions testing shall be conducted in accordance with the procedures specified in 326 IAC 3-6. Records of stack test data shall be maintained for a minimum of five (5) years and shall be made available to the department and U.S. EPA upon request. (*Air Pollution Control Board; 326 IAC 6.8-2-26*)

326 IAC 6.8-2-27 Praxair

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 27. Praxair in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Cylinder paint spray booth, stack 033	42.5 lbs/ton	0.340
Drum + shotblaster and baghouse, stack 075	0.002 gr/dscf	0.028
Drum paint spray booth, stack 073	42.5 lbs/ton	0.340
Cylinder shotblaster number 2 baghouse, stack 030	0.004 gr/dscf	0.042
Generators, numbers 1 through 6	0.008 lbs/MMBtu	0.279
Cylinder shotblaster number 1 baghouse, stack 031	0.002 gr/dscf	0.020

(*Air Pollution Control Board; 326 IAC 6.8-2-27*)

326 IAC 6.8-2-28 Premier Candy Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 28. Premier Candy Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler number 1 (North)	0.069 lbs/MMBtu	0.420
Boiler number 2 (South)	0.069 lbs/MMBtu	0.450

(*Air Pollution Control Board; 326 IAC 6.8-2-28*)

326 IAC 6.8-2-29 Reed Minerals Plant #14

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 29. Reed Minerals Plant #14 in Lake County shall meet the following emission limits:

Proposed Rules

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Fluidized bed dryer	0.015 gr/dscf	3.5
Crushing and screening	0.015 gr/dscf	9.0

(Air Pollution Control Board; 326 IAC 6.8-2-29)

326 IAC 6.8-2-30 Rhodia, Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 30. Rhodia, Inc., in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Package boiler	0.007 lbs/MMBtu	0.755
Preheater	0.007 lbs/MMBtu	0.230
Sulfuric acid production unit number 4	0.150 lbs/ton acid produced	6.958 acid mist

(Air Pollution Control Board; 326 IAC 6.8-2-30)

326 IAC 6.8-2-31 Silgan Containers Manufacturing

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 31. Silgan Containers Manufacturing in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving incinerators (3 units)	0.007 lbs/MMBtu	0.310
Coil coater	0.007 lbs/MMBtu	0.290

(Air Pollution Control Board; 326 IAC 6.8-2-31)

326 IAC 6.8-2-32 Smith Ready Mix

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 32. Smith Ready Mix in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Central mix	0.0013 lbs/ton	0.350

(Air Pollution Control Board; 326 IAC 6.8-2-32)

326 IAC 6.8-2-33 State Line Energy, LLC

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 33. State Line Energy, LLC in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Unit 3	0.100 lbs/MMBtu	213.00
Unit 4	0.100 lbs/MMBtu	356.80

(Air Pollution Control Board; 326 IAC 6.8-2-33)

Proposed Rules

326 IAC 6.8-2-34 The Chinnet Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 34. The Chinnet Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Molded pulp dryer number 1	0.546 lbs/ton	0.210
Molded pulp dryer number 2	0.546 lbs/ton	0.250
Molded pulp dryer number 3	0.546 lbs/ton	0.290
Molded pulp dryer number 4	0.546 lbs/ton	0.290
Molded pulp dryer number 5	0.546 lbs/ton	0.130
Molded pulp dryer number 6	0.546 lbs/ton	0.130
Molded pulp dryer number K34	0.546 lbs/ton	0.130
Molded pulp dryer number 8	0.546 lbs/ton	0.350
Molded pulp dryer number 9	0.546 lbs/ton	0.410
Molded pulp dryer number 10	0.546 lbs/ton	0.350
Babcock and Wilcox boiler	0.007 lbs/MMBtu	0.050

(Air Pollution Control Board; 326 IAC 6.8-2-34)

326 IAC 6.8-2-35 Unilever HPC, USA

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 35. Unilever HPC, USA in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler house, building number 8, boiler number 2	0.116 lbs/MMBtu	9.570
Stack serving boiler house, building number 8, boiler numbers 3 and 4	0.116 lbs/MMBtu	18.88
Dowtherm boiler, DEFI process building 6	0.004 lbs/MMBtu	2.700
Milling and pelletizer soap dust collection system (DC-1), building number 15	0.020 gr/dscf	1.03
Powder dye dust collector system (DC-4), building number 15	0.020 gr/dscf	0.130
Schenible wet scrubber and demister collector system, building number 15	0.030 gr/dscf	1.030
Each stack serving detergent bar soap noodle bins numbers 1, 2, and 3 dust collection system (DC-5, DC-6, and DC-7)	0.020 gr/dscf	0.210
Stack serving chip mixers numbers 1, 2, and 3 soap dust collection system, building number 15 (DC-8, DC-9, and DC-10)	0.020 gr/dscf	0.720
Rework soap dust collection system (DC-3), building number 15	0.020 gr/dscf	0.800
Three chill rolls and apron conveyors (DC-2), building number 15	0.020 gr/dscf	1.090
High titer granules and chips manufacturing process, building number 6	0.930 lbs/ton	3.500
Detergent bar soap manufacturing process number 1, stack 7, building number 6	1.140 lbs/ton	4.000
Detergent bar soap manufacturing process number 2, stack 16A, building number 6	1.140 lbs/ton	4.000
Bulk filtrol unloading bleached earth dust collection system, building number 1	0.020 gr/dscf	0.070
Oil refinery/filter aid bag dumping operation, building number 1	0.020 gr/dscf	0.220
3 soap dryers dust collection system, building number 14	0.020 gr/dscf	0.120

Proposed Rules

6 noodle bins and 1 scrap kettle dust collection system, building number 3	0.020 gr/dscf	0.860
Dust collector system for soap rework grinding process, building number 14	0.020 gr/dscf	0.250
Stack serving hard soap finishing lines numbers 1, 2, 3, 5, 7, and 8 dust collection system (DC), building number 14	0.020 gr/dscf	1.540
Sulfonation process	0.205 lbs/ton	0.390
Soap dryer cleanout system, tank number 1, building number 14	0.030 gr/dscf	0.390
Soap dryer cleanout system, tank number 2, building number 14	0.030 gr/dscf	0.300
Crude glycerine filter aid dust collection system, building number 2	0.020 gr/dscf	0.130
Glycerine carbon handling dust collection system, building number 2	0.020 gr/dscf	0.170
Bulk urea handling system, new detergent bulk soap, building number 15A	0.020 gr/dscf	0.100
American hydrotherm boiler 2, stack 1A, building number 15A	0.150 lbs/MMBtu	1.830
Schenible wet scrubber and demister collection system, stack 2A, building number 15A	0.030 gr/dscf	1.030
Flex Kleen dust collection system DC-1053, stack 3A, building number 15A	0.020 gr/dscf	0.940
Flex Kleen dust collection system DC-1054, stack 4A, building number 15A	0.020 gr/dscf	0.940
Flex Kleen dust collection system DC-1055, stack 5A, building number 15A	0.020 gr/dscf	0.940
Flex Kleen dust collection system DC-1056, stack 6A, building number 15A	0.020 gr/dscf	0.940
Flex Kleen dust collection system DC-1050, stack 7A, building number 15A	0.020 gr/dscf	2.130
Flex Kleen dust collection system DC-1052, stack 8A, building number 15A	0.020 gr/dscf	2.130
Bulk Borax unloading to storage silo, stack 9A, building number 8	0.020 gr/dscf	0.130
Oil refinery/filter aid mixing tank number 44, building number 1, stack 15A	0.060 lbs/ton	0.030
Sample detergent bar soap line operation, building 14, stack 17A (Air Pollution Control Board; 326 IAC 6.8-2-35)	0.002 lbs/ton	0.002

326 IAC 6.8-2-36 Union Tank Car Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 36. Union Tank Car Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Grit blaster	0.01 gr/dscf	9.9

(Air Pollution Control Board; 326 IAC 6.8-2-36)

326 IAC 6.8-2-37 U.S. Gypsum Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 37. U.S. Gypsum Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Raw material handling		
Rail car unloading, stack J10	0.010 gr/dscf	0.070

Proposed Rules

Each stack serving raw material conveying and storage, stacks J11, J12, and J13	0.015 gr/dscf	0.190
Rock handling process		
Drying, grinding, and calcining, stack M1	0.012 gr/dscf	3.210
Stucco elevating and conveying, stack M2	0.015 gr/dscf	2.210
Franklin fiber process, stack M6	0.011 gr/dscf	0.313
Wallboard manufacturing process		
Paper grinding and stucco system, stack B1	0.020 gr/dscf	2.230
Wallboard end sawing, stack B2	0.020 gr/dscf	0.860
Speciality board manufacturing process (kerfing), stack B3	0.020 gr/dscf	0.260
Each stack serving ready mix process, stacks J1, J2, and J3	0.017 lbs/ton	0.100
Dry texture paint process		
Mixing and packing, stack J4	0.020 gr/dscf	0.190
Bag dumping, stack J5	0.010 gr/dscf	0.100
Dry additive conveying, stack J6	0.010 gr/dscf	0.030
Dry joint compound process		
Mixing and packing, stack J7	0.020 gr/dscf	0.340
Additive air conveying, stack J8	0.010 gr/dscf	0.34
Panel saw process	0.020 gr/dscf	0.140

(Air Pollution Control Board; 326 IAC 6.8-2-37)

326 IAC 6.8-2-38 USS-Gary Works

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 38. USS-Gary Works in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Coke battery #2 precarbonization system electrostatic precipitators	not applicable	62.5 (total)
Coke battery #3 precarbonization system electrostatic precipitators	not applicable	62.5 (total)
Number 3 sinter plant coolers	0.0300 gr/dscfm	272.57 (total)
Number 3 sinter plant discharge area baghouses	0.0100 gr/dscfm	20.57 (total)
Number 3 sinter plant sinter screening station baghouse	0.0100 gr/dscfm	10.89
Number 3 sinter plant storage bins building baghouse	0.0100 gr/dscfm	0.43
Number 3 sinter plant windbox stacks	0.020 gr/dscfm	200 (total)
Number 4 boiler house boilers when three boilers are operating	0.036 lbs/MMBtu	54.1 (total)
Number 4 boiler house boilers when one or two boilers are operating	0.054 lbs/MMBtu	54.1 (total)
Plate mill batch reheat furnaces nos. 6 and 8	0.009 lbs/MMBtu	0.070 (total)
Plate mill continuous reheat furnaces 1 and 2	0.009 lbs/MMBtu	3.72 (total)
84" hot strip mill reheat furnaces nos. 1, 2, 3, and 4	0.017 lbs/MMBtu	40.80 (total)
84" hot strip mill waste heat boiler no. 1	0.043 lbs/MMBtu	10.00
84" hot strip mill waste heat boiler no. 2	0.043 lbs/MMBtu	10.00
Blast furnace number 13 stoves	0.024 lbs/MMBtu	20.40 (total)
Blast furnace number 4 stoves	0.033 lbs/MMBtu	11.70 (total)
Blast furnace number 6 stoves	0.033 lbs/MMBtu	11.70 (total)
Blast furnace number 8 stoves	0.033 lbs/MMBtu	11.70 (total)
Coke battery number 2 underfiring stack	not applicable	32.30
Coke battery number 3 underfiring stack	not applicable	25.50
Coke battery number 5 underfiring stack	not applicable	24.70

Proposed Rules

Coke battery number 7 underfiring stack	not applicable	21.30
Coke plant boiler house, boiler numbers 1 and 2	0.003 lbs/MMBtu	0.75 (total)
Coke plant boiler house, boiler number 3	0.012 lbs/MMBtu	1.80
Coke plant boiler house, boiler numbers 4 and 5	0.012 lbs/MMBtu	3.90
Coke plant boiler house, boiler number 6	0.012 lbs/MMBtu	2.00
Coke plant boiler house, boiler number 7	0.012 lbs/MMBtu	1.90
Coke plant boiler house, boiler number 8	0.012 lbs/MMBtu	2.90
Number 1 BOP hot metal desulfurization baghouse	0.007 gr/dscfm	15.0
Number 2 Q-BOP LMF numbers 1 and 2 material handling baghouse	0.007 gr/dscfm	3.83
Number 2 Q-BOP LMF number 3 hot fume exhaust/material handling baghouse	0.0070 gr/dscfm	2.70
Number 2 Q-BOP hot metal desulfurization baghouse	0.007 gr/dscfm	13.0
Number 1 BOP gas cleaning system	0.011 gr/dscfm	46.0 (total)
Number 2 Q-BOP gas cleaning system	0.0153 gr/dscfm	44.40 (total)
TBBH boiler number 6	0.039 lbs/MMBtu	27.80
TBBH boiler numbers 1, 2, 3, and 5 when four boilers are operating	0.037 lbs/MMBtu	61.0 (total)
TBBH boiler numbers 1, 2, 3, and 5 when three boilers are operating	0.050 lbs/MMBtu	61.0 (total)
TBBH boiler numbers 1, 2, 3, and 5 when one or two boilers are operating	0.074 lbs/MMBtu	61.0 (total)
Number 2 Q-BOP north flux handling system baghouse	0.0070 gr/dscfm	1.80
Number 2 Q-BOP south flux handling system baghouse	0.0070 gr/dscfm	1.80
Number 2 Q-BOP secondary emissions baghouse	0.007 gr/dscfm	27.0
Number 3 sinter plant S1/S2 baghouse	0.0100 gr/dscfm	1.29
TBBH boiler number 4A	0.012 lbs/MMBtu	2.90
Number 13 blast furnace casthouse baghouse	0.0090 gr/dscfm	38.57
Number 1 BOP Casbell/OB lancing baghouse	0.070 gr/dscfm	5.10
Number 2 Q-BOP LMF number 1 hot fume exhaust baghouse	0.007 gr/dscfm	5.1
Number 2 Q-BOP LMF number 2 hot fume exhaust baghouse	0.007 gr/dscfm	5.1
Coke plant desulfurization facility tail gas incinerator	not applicable	0.13
Slab mill slab grinder baghouse	0.0100 gr/dscfm	2.57
EGL boiler house	0.0033 lbs/MMBtu	0.13 (total)
Coke battery number 5/7 pushing emissions control baghouse	0.017 lb/ton coke produced	1.28
Number 2 Q-BOP RH-degasser slag conditioning baghouse	0.007 gr/dscfm	5.49
Coke plant boiler house lime storage silo baghouse	0.030 gr/dscfm	0.28
Plate mill heat treatment furnace	0.003 gr/dscfm	0.096

(Air Pollution Control Board; 326 IAC 6.8-2-38)

Rule 3. Lake County: Opacity Limits; Exceptions to 326 IAC 5-1-2

326 IAC 6.8-3-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. Opacity limits listed in sections 2 through 4 of this rule shall be complied with and shall take precedence over those in 326 IAC 5-1-2 with which they conflict. *(Air Pollution Control Board; 326 IAC 6.8-3-1)*

326 IAC 6.8-3-2 Inland Steel

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. Inland Steel in Lake County shall meet the following opacity limits:

Proposed Rules

Source	Opacity
Electric arc furnace direct shell evacuation system baghouse	5%, 6 minute average
Electric furnace shop roof monitor	20%, 6 minute average
Electric furnace shop ladle metallurgical station baghouse	5%, 6 minute average
Number 2 basic oxygen furnace, number 10 furnace off-gas scrubber	20%, 6 minute average
Number 2 basic oxygen furnace, number 20 furnace off-gas scrubber	20%, 6 minute average
Number 2 basic oxygen furnace caster fume collection baghouse	5%, 3 minute average
Number 2 basic oxygen furnace charging isle and reladling desulfurization baghouse	5%, 3 minute average
Number 2 basic oxygen furnace flux storage and batch baghouse	5%, 3 minute average
Number 2 basic oxygen furnace ladle metallurgy station baghouse	5%, 3 minute average
Number 2 basic oxygen furnace roof monitor	20%, 3 minute average
Number 2 basic oxygen furnace secondary ventilation system scrubber	20%, 6 minute average
Number 2 basic oxygen furnace truck and ladle hopper baghouse	5%, 3 minute average
Number 2 basic oxygen furnace tundish dump baghouse	5%, 3 minute average
Number 4 basic oxygen furnace off-gas scrubber	20%, 6 minute average
Number 4 basic oxygen furnace reladling and desulfurization baghouse	5%, 3 minute average
Number 4 basic oxygen furnace roof monitor	20%, 3 minute average
Number 4 basic oxygen furnace secondary ventilation system baghouse	5%, 3 minute average
Number 4 basic oxygen furnace vacuum degassing material handling baghouse	5%, 3 minute average
Number 7 blast furnace casthouse	15%, 6 minute average

(Air Pollution Control Board; 326 IAC 6.8-3-2)

326 IAC 6.8-3-3 LTV Steel Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. LTV Steel Corporation in Lake County shall meet the following opacity limits:

Source	Opacity
Basic oxygen furnace ladle metallurgical station baghouse	5%, 3 minute average
Basic oxygen furnace main stack	20%, 6 minute average
Basic oxygen furnace reladling and desulfurization baghouse	5%, 3 minute average
Basic oxygen furnace shop roof monitor	20%, 3 minute average

(Air Pollution Control Board; 326 IAC 6.8-3-3)

326 IAC 6.8-3-4 USS-Gary Works

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. USS-Gary Works in Lake County shall meet the following opacity limits:

Source	Opacity
Number 1 basic oxygen furnace iron desulfurization baghouse	5%, 3 minute average
Number 1 basic oxygen furnace roof monitor	20%, 3 minute average
Number 1 basic oxygen process gas cleaning (2 units)	20%, 6 minute average
Number 2 QBOP hot metal desulfurization baghouse	5%, 3 minute average
Number 2 QBOP gas cleaning	20%, 6 minute average
Number 2 QBOP roof monitor	20%, 3 minute average
Number 2 QBOP flue handling line baghouse	5%, 3 minute average
New 2 QBOP secondary baghouse	5%, 3 minute average
Number 2 QBOP ladle metallurgy baghouse number 1	5%, 3 minute average
Number 2 QBOP ladle metallurgy baghouse number 2	5 %, 3 minute average

(Air Pollution Control Board; 326 IAC 6.8-3-4)

Rule 4. Lake County: Opacity Limits; Test Methods

326 IAC 6.8-4-1 Test methods

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. Test methods for 326 IAC 6.8-2 through 326 IAC 6.8-8 shall be as follows:

(1) Emissions of PM₁₀ shall be measured by any of the following:

- (A) 40 CFR 51, Appendix M, Method 201*.
- (B) 40 CFR 51, Appendix M, Method 201A*.
- (C) The volumetric flow rate and gas velocity shall be determined in accordance with 40 CFR 60, Appendix A, Method 1, 1A, 2, 2A, 2C, 2D, 3, or 4*.

(2) Emissions for TSP matter shall be measured by the following methods:

- (A) 40 CFR 60, Appendix A, Methods 5, 5A, 5D, 5E, or 17*. Method 17 may not be used when the stack gas temperature exceeds two hundred forty-eight (248) degrees Fahrenheit. ($\pm 25^{\circ}\text{F}$).
- (B) The volumetric flow rate and gas velocity shall be determined in accordance with 40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 3, or 4*.

(3) Measurements of opacity shall be conducted in accordance with the following:

- (A) 40 CFR 60, Appendix A, Method 9*, except for those sources where a three (3) minute averaging time is required.
- (B) Sources requiring a three (3) minute averaging time are subject to all parts of Method 9* except the six (6) minute averaging provision. In these cases, the opacity shall be determined as an average of twelve (12) consecutive observations recorded at fifteen (15) second intervals.

(4) Emissions of sulfuric acid mist shall be measured in accordance with 40 CFR 60, Appendix A, Method 8*.

(5) Compliance with the mass emission limits for the sinter plant windbox stacks at USS-Gary Works in 326 IAC 6.8-2 shall be determined by the following:

- (A) The simultaneous sampling and analysis of both noncondensibles (front half) and condensibles (back half) particulate matter.
- (B) The quantity of noncondensibles particulate matter in the gas stream shall be determined in accordance with the procedures specified in 40 CFR 60, Appendix A, Method 5*.
- (C) The quantity of condensible particulate matter in the gas stream shall be determined in accordance with 40 CFR 51, Appendix M, Method 202*, with the following modifications:
 - (i) A heated Method 5 out of stack filter shall be used instead of an in-stack filter.

(ii) The impinger system shall consist of five (5) impingers. The first three (3) impingers shall contain one hundred (100) milliliters of deionized water, the fourth shall be empty, and the fifth shall contain silica gel.

(iii) The first four (4) impingers shall be used to determine the quantity of condensible particulate emissions.

(D) Compliance shall be achieved if the sum of the front half and the back half is less than or equal to the mass emission limit of one hundred (100) lbs/hr per stack, and the front half catch is less than or equal to the mass concentration limit of twenty-thousandths (0.020) gr/dscf in 326 IAC 6.8-2.

*These documents are incorporated by reference and are available from the Government Printing Office, 732 North Capitol Avenue 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 6.8-4-1*)

Rule 5. Lake County: Opacity Continuous Emissions Monitors

326 IAC 6.8-5-1 Installation and operation of continuous emissions monitors

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, facilities, and operations located in Lake County and listed in this article.

(b) The installation and operation of opacity continuous emissions monitors shall be conducted according to procedures specified in 326 IAC 3. Before December 10, 1993, the following facilities shall have a continuous emission monitor for opacity installed and operating:

- (1) Coke battery underfire stacks at USS.
- (2) LTV basic oxygen furnace precipitator main stack.
- (3) Numbers 2 and 3 precarbon building preheating and drying line exhaust gas precipitators (six (6) units). One (1) opacity continuous emission monitor shall be installed before December 10, 1993. The remaining five (5) opacity continuous emission monitors shall be installed before December 31, 1994. Based on an evaluation of the technical feasibility of operation of the first monitor on one (1) line, US Steel may petition for a:
 - (A) one (1) year extension of the requirement to install the remaining five (5) monitors; or
 - (B) waiver for installation and operation of the six (6) opacity continuous emission monitors.

US Steel shall include information on the moisture content

Proposed Rules

of the gases and their effect on accurate opacity measurements as part of any such petition.

(Air Pollution Control Board; 326 IAC 6.8-5-1)

Rule 6. Lake County: Combustion Sources; Natural Gas

326 IAC 6.8-6-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. Combustion sources located in Lake County and listed in sections 2 through 20 of this rule shall fire natural gas only. (Air Pollution Control Board; 326 IAC 6.8-6-1)

326 IAC 6.8-6-2 American Steel Foundry-Hammond

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. American Steel Foundry-Hammond in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler number 4-5509	0.003 lbs/MMBtu	0.030
Furnaces	0.003 lbs/MMBtu	0.16

(Air Pollution Control Board; 326 IAC 6.8-6-2)

326 IAC 6.8-6-3 BP Products North America Inc.

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. BP Products North America Inc. in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
F-100 marine docks distillate heater	0.003 lbs/MMBtu	0.020

(Air Pollution Control Board; 326 IAC 6.8-6-3)

326 IAC 6.8-6-4 Cerestar USA, Incorporated

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Cerestar USA, Incorporated in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler number 1	0.003 lbs/MMBtu	0.288
Boiler number 2	0.003 lbs/MMBtu	0.468
South dextrin furnace number 1	0.003 lbs/MMBtu	0.023
North dextrin furnace number 2	0.003 lbs/MMBtu	0.023

(Air Pollution Control Board; 326 IAC 6.8-6-4)

326 IAC 6.8-6-5 E.I. Dupont

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. E.I. Dupont in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Power house (1 unit)	0.003 lbs/MMBtu	0.100

(Air Pollution Control Board; 326 IAC 6.8-6-5)

326 IAC 6.8-6-6 Gatz-Gen Amer Trans

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. Gatz-Gen Amer Trans in Lake County shall meet the following emission limits:

Proposed Rules

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stress relief furnace	0.003 lbs/MMBtu	0.120
<i>(Air Pollution Control Board; 326 IAC 6.8-6-6)</i>		

326 IAC 6.8-6-7 General Refractory

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. General Refractory in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Tunnel kiln	0.003 lbs/MMBtu	0.040
<i>(Air Pollution Control Board; 326 IAC 6.8-6-7)</i>		

326 IAC 6.8-6-8 Hammond Group, Inc. (HGI)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. Hammond Group, Inc. (HGI) in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack 18-S-24	0.003 lbs/MMBtu	0.025
Stack 18-S-49	0.003 lbs/MMBtu	0.025
<i>(Air Pollution Control Board; 326 IAC 6.8-6-8)</i>		

326 IAC 6.8-6-9 Hammond Group, Inc.-Halstab Division

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. Hammond Group, Inc.-Halstab Division in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack S-18	0.003 lbs/MMBtu	0.008
Stack S-19	0.003 lbs/MMBtu	0.008
<i>(Air Pollution Control Board; 326 IAC 6.8-6-9)</i>		

326 IAC 6.8-6-10 Inland Steel

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 10. Inland Steel in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
12 inch bar mill reheat furnace	0.003 lbs/MMBtu	1.090
Stack serving 21 inch bar mill reheat furnace numbers 1 and 2	0.003 lbs/MMBtu	1.31
Stack serving 76 inch hot strip mill reheat furnace numbers 1, 2, and 3	0.003 lbs/MMBtu	1.310
Stack serving 80 inch hot strip mill furnace numbers 3 and 4	0.003 lbs/MMBtu	3.980
Number 3 cold strip and numbers 5 and 6 annealing furnaces	0.003 lbs/MMBtu	0.987
Number 5 galvanizing line	0.003 lbs/MMBtu	0.44
Number 3 continuous anneal line	0.003 lbs/MMBtu	0.25
Open coil anneal	0.003 lbs/MMBtu	0.25

Proposed Rules

Plant 1 galvanizing lines	0.003 lbs/MMBtu	0.51
Normalizing line	0.003 lbs/MMBtu	0.13

(Air Pollution Control Board; 326 IAC 6.8-6-10)

326 IAC 6.8-6-11 Jupiter Aluminum Corporation (Advanced Aluminum Products)

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. Jupiter Aluminum Corporation (Advanced Aluminum Products) in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Number 2 annealer	0.003 lbs/MMBtu	0.048
Number 3 annealer	0.003 lbs/MMBtu	0.048
Annealing furnace	0.003 lbs/MMBtu	0.040
Boiler	0.003 lbs/MMBtu	0.010

(Air Pollution Control Board; 326 IAC 6.8-6-11)

326 IAC 6.8-6-12 LTV Steel Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. LTV Steel Corporation in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Hot strip space heater numbers 1 through 28	0.003 lbs/MMBtu	0.250 TSP
Sheet mill number 2 portable annealing furnace numbers 1 through 23	0.003 lbs/MMBtu	1.100 TSP
Sheet mill number 2 space heater numbers 1 through 7	0.003 lbs/MMBtu	0.050 TSP
Sheet mill number 3 open coil annealing furnace numbers 1 through 3	0.003 lbs/MMBtu	0.031 TSP
Number 3 sheet mill annealing furnace numbers 1 through 7	0.003 lbs/MMBtu	0.071 TSP
Number 3 sheet mill annealing furnace numbers 1 through 11	0.003 lbs/MMBtu	0.520 TSP
Sheet mill number 2, annealing and galvanizing furnace numbers 2 through 5	0.003 lbs/MMBtu	1.280 TSP
Sheet mill number 2, CRSM boiler numbers 7 and 8	0.003 lbs/MMBtu	0.290 TSP
Number 2 cold reduced strip mill, number 2 galvanizing line, numbers 1 and 2 flame furnaces	0.003 lbs/MMBtu	0.500
Number 2 sheet mill galvanizers 1 and 2	0.003 lbs/MMBtu	0.265 TSP

(Air Pollution Control Board; 326 IAC 6.8-6-12)

326 IAC 6.8-6-13 NIPSCo-Mitchell

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. NIPSCo-Mitchell in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Number 9A gas turbine	0.003 lbs/MMBtu	0.660

(Air Pollution Control Board; 326 IAC 6.8-6-13)

326 IAC 6.8-6-14 Praxair

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 14. Praxair in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Package boilers (2 units)	0.003 lbs/MMBtu	0.618
Plants numbers 6, 7, and 8 regenerator heaters (Air Pollution Control Board; 326 IAC 6.8-6-14)	0.003 lbs/MMBtu	0.097

326 IAC 6.8-6-15 Silgan Containers Manufacturing Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 15. Silgan Containers Manufacturing Corporation in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving basecoat ovens (6 units)	0.003 lbs/MMBtu	0.210
Boiler number 4	0.003 lbs/MMBtu	0.010
Stack serving boiler numbers 1, 2, and 3	0.003 lbs/MMBtu	0.170
Stack serving Johnson space heater numbers 1 through 4	0.003 lbs/MMBtu	0.060
Stack serving litho ovens (5 units) (Air Pollution Control Board; 326 IAC 6.8-6-15)	0.003 lbs/MMBtu	0.150

326 IAC 6.8-6-16 Smith Ready Mix

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 16. Smith Ready Mix in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving 2 boiler units (Air Pollution Control Board; 326 IAC 6.8-6-16)	0.003 lbs/MMBtu	0.035

326 IAC 6.8-6-17 State Line Energy, LLC

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 17. State Line Energy, LLC in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Stack serving emergency backup boiler numbers 2-1 and 2-2 (Air Pollution Control Board; 326 IAC 6.8-6-17)	0.003 lbs/MMBtu	0.900

326 IAC 6.8-6-18 Unilever HPC, USA

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 18. Unilever HPC, USA in Lake County shall meet the following emission limits:

Proposed Rules

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
American hydrotherm boiler number 1 <i>(Air Pollution Control Board; 326 IAC 6.8-6-18)</i>	0.003 lbs/MMBtu	0.040

326 IAC 6.8-6-19 Union Tank Car Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 19. Union Tank Car Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Boiler house, north	0.003 lbs/MMBtu	0.110
Boiler house, south	0.003 lbs/MMBtu	0.110
Number 4 boiler	0.003 lbs/MMBtu	0.020
Number 8 boiler	0.003 lbs/MMBtu	0.010
North stress furnace	0.003 lbs/MMBtu	0.160
Stack serving paint oven unit numbers 1 through 5	0.003 lbs/MMBtu	0.060
South stress furnace	0.003 lbs/MMBtu	0.160

(Air Pollution Control Board; 326 IAC 6.8-6-19)

326 IAC 6.8-6-20 U.S. Gypsum Company

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 20. U.S. Gypsum Company in Lake County shall meet the following emission limits:

Source	Emission Limits (Units)	Emission Limits (lbs/hr)
Each stack serving wallboard drying furnace, stacks B4, B5, and B6 <i>(Air Pollution Control Board; 326 IAC 6.8-6-20)</i>	0.003 lbs/MMBtu	0.068

Rule 7. Lake County: Site-Specific Control Requirements

326 IAC 6.8-7-1 General provisions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. This rule lists site-specific control requirements for sources in Lake County. For any facility with a compliance date after December 10, 1993, the company shall submit a schedule for meeting the final compliance date containing milestones for purchase and installation of the equipment and for the operational changes required to assure compliance with the applicable standard before the final compliance date. The schedule shall be submitted to the department and to the U.S. EPA before December 10, 1993. A violation of any milestone in the submitted schedule constitutes a violation of this article. The sources listed in sections 2 through 8 of this rule shall meet the requirements in this rule. *(Air Pollution Control Board; 326 IAC 6.8-7-1)*

326 IAC 6.8-7-2 American Steel Foundry-Hammond

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. American Steel Foundry-Hammond in Lake County shall comply with the PM₁₀ mass emission limit in 326 IAC 6.8-2 for coil spring grinder numbers 3-0244, 3-0386, 3-0389, 3-0247, 3-0385, 3-0295, and 3-0233 shall be complied with no later than December 31, 1993, and shall be maintained thereafter. The source shall either improve the efficiency of the existing control equipment or replace the existing control equipment with higher efficiency control equipment to comply with emission limits specified in 326 IAC 6.8-2. *(Air Pollution Control Board; 326 IAC 6.8-7-2)*

326 IAC 6.8-7-3 Cerestar USA, Incorporated

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. The following site-specific control requirements apply to Cerestar USA, Incorporated in Lake County:

- (1) Starch dryer number 1 shall be permanently shut down by December 31, 1993.
- (2) Starch dryer number 2 stack height shall be increased from eighteen and three-tenths (18.3) meters to thirty (30) meters by December 10, 1993.
- (3) Dextrin manufacturing systems 1 through 7 shall be

permanently shut down by December 31, 1993.

(4) After December 10, 1993, Cerestar USA, Incorporated shall achieve compliance with the respective limits in 326 IAC 6.8-2. The following mass emission limits shall be applicable until December 10, 1993:

Process	Emission Units	Emission Limits
Each stack serving dextrin manufacturing equipment systems numbers 1 through 7	1.000 lbs/ton	0.50 lbs/hr
Starch flash feed dryer number 1 scrubber	0.086 lbs/ton	8.69 TSP

(Air Pollution Control Board; 326 IAC 6.8-7-3)

326 IAC 6.8-7-4 Hammond Group, Inc. (HGI)-Halox Plant

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Hammond Group, Inc. (HGI)—Halox Plant in Lake County shall raise the stack heights of stacks 17-S-25 and 17-S-40 to twenty-one and three-tenths (21.3) meters abovegrade by December 10, 1993. *(Air Pollution Control Board; 326 IAC 6.8-7-4)*

326 IAC 6.8-7-5 Inland Steel

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. The following site-specific control requirements apply to Inland Steel in Lake County:

(1) Number 2 BOF facility roof monitor. The twenty percent (20%), three (3) minute average opacity standard in 326 IAC 6.8-3 shall be achieved no later than December 31, 1994, and shall be maintained thereafter. Before December 31, 1994, the opacity standard shall be the thirty percent (30%), six (6) minute average. Compliance with this limitation shall be determined by 40 CFR 60, Appendix A, Method 9*, except that the three (3) minute, twenty percent (20%) opacity standard shall be determined as an average of twelve (12) consecutive observations recorded at fifteen (15) second intervals.

(2) Numbers 8 and 11 coke batteries. Operation of the number 8 coke battery and its underfire stack and number 11 coke battery and its associated quench tower, underfire stack, and preheater stacks shall be permanently discontinued before December 31, 1992.

(3) Number 10 coke battery. After the shutdown of the number 8 coke battery, the electrostatic precipitator associated with the number 8 coke battery shall be connected to the number 10 coke battery before December 31, 1992.

(4) Numbers 6, 7, 9, and 10 coke batteries. These coke batteries and associated quench towers and underfire stacks shall not operate after December 31, 1994. Before December 31, 1994, these coke batteries shall meet the requirement of 326 IAC 6.8-9 with the following exceptions:

(A) There shall be no visible emissions from more than ten percent (10%) of the standpipes on operating ovens

on a battery.

(B) Visible emissions shall not exceed twenty percent (20%) averaged over six (6) consecutive observations during any pushing operation.

(C) Mass emissions from the coke battery underfire stacks shall not exceed fifty-thousandths (0.050) gr/dscf.

(5) Number 4 BOF facility roof monitor. The twenty percent (20%), three (3) minute average opacity standard in 326 IAC 6.8-3 shall be achieved no later than December 31, 1994, and shall be maintained thereafter. Before December 31, 1994, the opacity standard shall be the twenty-five percent (25%), six (6) minute average.

(6) Number 7 blast furnace casthouse. Tapping emissions from the number 7 blast furnace casthouse shall be controlled by a hood vented to a baghouse on and after December 1, 1992. Canopy hoods shall be installed above each of the four (4) furnace tap holes. The hoods shall be ducted to a new three hundred seventy thousand (370,000) actual cubic feet per minute minimum design flow rate baghouse. Each hood shall be located just above the casthouse crane and extend via vertical sheeting to the casthouse roof. The system shall provide a minimum of one hundred eighty-five thousand (185,000) actual cubic feet per minute of air flow (fume capture) to each hood, when the corresponding tap hole is being drilled or plugged.

(7) Number 2 bloom mill soaking pits. The soaking pits shall not operate after December 31, 1992.

(8) Before December 31, 1994, Inland Steel shall comply with a thirty percent (30%), six (6) minute average opacity limit for the electric arc furnace roof monitor. On and after December 31, 1994, Inland Steel shall comply with the roof monitor opacity limit specified in 326 IAC 6.8-3. Before December 31, 1994, Inland Steel shall do the following:

(A) Perform tests according to procedures developed in consultation with the department to establish process and control equipment operating procedures and to establish control system fan motor ampere and damper position or volumetric flow rates through each separately ducted hood or duct, or both, used to capture emissions during the electric arc furnace charging, tapping, and refining process.

(B) Install the required monitoring equipment in consultation with the department regarding its accuracy

Proposed Rules

and precision position.

(C) Record the start time and duration of charging, tapping, and refining of each heat.

(9) After December 31, 1994, the sources shall comply with the respective limits contained in 326 IAC 6.8-2. The following mass emission limits will be applicable until December 31, 1994:

Processes	Emission Limits (Units)	Emission Limits (lbs/hr)
Number 6 coke battery underfire stack	0.271 lbs/ton coal	9.840
Number 7 coke battery underfire stack	0.267 lbs/ton coal	15.580
Number 9 coke battery underfire stack	0.406 lbs/ton coal	19.180
Number 10 coke battery underfire stack	0.371 lbs/ton coal	27.81
Stack serving 21 inch bar mill reheat furnace numbers 1 and 2	0.29 lbs/MMBtu	12.95
Number 4 slabber soaking pit numbers 1 through 18 collective	0.0 lbs/MMBtu	0.0
Number 4 slabber soaking pit numbers 19 through 45 collective	0.031 lbs/MMBtu	9.190
Number 3AC station boiler numbers 301 through 304	0.023 lbs/MMBtu	20.45
Number 3AC station boiler number 305	0.023 lbs/MMBtu	6.82

*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is available for review and copying at the 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 6.8-7-5*)

326 IAC 6.8-7-6 LTV Steel Corporation

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 6. The following site-specific control requirements apply to LTV Steel Corporation in Lake County:

(1) Basic oxygen furnace facility roof monitor. The twenty percent (20%), three (3) minute average opacity (20%) except for standard in 326 IAC 6.8-3 shall be achieved no later than December 10, 1993, and shall be maintained thereafter. Before December 10, 1993, the opacity standard shall be twenty percent one (1) three (3) minute average per hour.

(2) Number 4 blast furnace. Compliance with the opacity limit shall be achieved no later than February 1, 1994, and shall be maintained thereafter. In addition, control equipment capable of capturing and collecting emissions generated at the east and west tilting runner spouts and tap holes shall be installed and operational by February 1, 1994.

(*Air Pollution Control Board; 326 IAC 6.8-7-6*)

326 IAC 6.8-7-7 NIPSCO-Mitchell

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 7. NIPSCO-Mitchell Units 5 and 6 in Lake County shall comply with the following opacity limits:

(1) A thirty percent (30%), six (6) minute average opacity limit until December 31, 1992.

(2) A twenty-five percent (25%), six (6) minute average opacity limit from January 1, 1993, to December 10, 1993.

(3) A twenty percent (20%), six (6) minute average opacity limit after December 10, 1993.

(*Air Pollution Control Board; 326 IAC 6.8-7-7*)

326 IAC 6.8-7-8 State Line Energy LLC

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 8. State Line Energy LLC, Units 3 and 4 in Lake County shall comply with the following:

(1) A thirty percent (30%), six (6) minute average opacity limit until December 31, 1992.

(2) A twenty-five percent (25%), six (6) minute average opacity limit from January 1, 1993, to December 31, 1993.

(3) A twenty percent (20%), six (6) minute average opacity limit after December 31, 1993.

(*Air Pollution Control Board; 326 IAC 6.8-7-8*)

Rule 8. Lake County: Continuous Compliance Plan

326 IAC 6.8-8-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. The continuous compliance plan (CCP) for sources listed in subdivisions (1) through (21) shall contain information on the facilities included in 326 IAC 6.8-2 and 326 IAC 6.8-3. The following sources shall submit a CCP to the department by December 10, 1993:

(1) American Steel Foundries-East Chicago.

(2) American Steel Foundry-Hammond.

(3) BP Products North America Inc.

(4) Buckco Construction.

- (5) Cerestar USA, Incorporated.
- (6) Globe Industries.
- (7) Hammond Group, Inc. (HGI).
- (8) Harbison Walker Refractories, Hammond Works.
- (9) Inland Steel.
- (10) LTV Steel Corporation.
- (11) Marblehead Lime Company.
- (12) Marport Smelting.
- (13) National Recovery Systems.
- (14) NIPSCO-Mitchell.
- (15) Reed Minerals.
- (16) Rhodia, Inc.
- (17) State Line Energy LLC.
- (18) Unilever HPC, USA.
- (19) U.S. Gypsum Company.
- (20) USS-Gary Works.
- (21) A CCP shall also be submitted by any source in Lake County for facilities that meet the following conditions:

(A) Boilers with heat input capacity equal to or greater than twenty-five million (25,000,000) British thermal units per hour, singly or in combination, that vent through a single stack. Facilities, including boilers and reheat furnaces, configured to burn only natural gas, blast furnace gas, or coke oven gas, or a combination of these gases, are exempt.

(B) Facilities that perform manufacturing operations in a building or structure such that the total uncontrolled PM₁₀ emissions from all such operations amount to ten (10) tons per year or more and that could potentially escape into the atmosphere through roof vents and other openings. The uncontrolled PM₁₀ emissions shall be estimated with "Compilation of Air Pollutant Emission Factors" Volume 1, Stationary Point and Area Sources, AP-42, Fifth Edition, January 1995*, Supplements A through G, December 2000* emission factors or other documentable emission factors acceptable to the commissioner and U.S. EPA.

(C) Each facility, not otherwise required to submit a CCP in accordance with this section with uncontrolled PM₁₀ or TSP emissions that may exceed one hundred (100) tons per year based on eight thousand seven hundred sixty (8,760) hours of operation and AP-42 emission factors or other documentable emission factors acceptable to the commissioner and U.S. EPA.

*These documents are incorporated by reference and are available for purchase from the Government Printing Office, 732 North Capitol Avenue 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 6.8-8-1*)

326 IAC 6.8-8-2 Documentation; operation and maintenance procedures

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 2. The continuous compliance plan CCP shall contain, for the facilities specified in section 1 of this rule, documentation of operation and maintenance practices of process operations and any particulate matter control equipment existing or required to be installed, replaced, or improved by 326 IAC 6.8-7 that are essential to maintaining compliance with the mass and opacity limits specified in 326 IAC 5-1, 326 IAC 6.8-2, and 326 IAC 6.8-3. (*Air Pollution Control Board; 326 IAC 6.8-8-2*)

326 IAC 6.8-8-3 Plan requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. The continuous compliance plan (CCP) shall include the following:

- (1) A list of the processes and facilities at the source.
- (2) A list of the particulate matter control equipment associated with the processes and facilities listed in section 1 of this rule.
- (3) The process operating parameters critical to continuous compliance with the applicable PM₁₀ or TSP mass and opacity limits, including applicable specific requirements listed in section 5 of this rule.
- (4) The particulate matter control equipment operating parameters critical to continuous compliance with the applicable PM₁₀ or TSP mass and opacity including applicable requirements listed in section 6 of this rule.
- (5) The specific monitoring, recording, and record keeping procedures for process and control equipment for each facility in the CCP specified in subdivisions (1) and (2).
- (6) The procedure used to assure that adequate exhaust ventilation is maintained through each duct at facilities where emissions are captured by a collection hood and transported to a control device.

(*Air Pollution Control Board; 326 IAC 6.8-8-3*)

326 IAC 6.8-8-4 Plan; schedule for complying with 326 IAC 6.8-7

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 4. A continuous compliance plan for a source to which 326 IAC 6.8-7 applies shall contain a schedule for complying with the requirements of 326 IAC 6.8-7. The schedule shall list specific compliance dates for the following actions:

- (1) Submittal of plans.
- (2) Start of construction.
- (3) Completion of construction.
- (4) Achieving compliance.
- (5) Performing compliance tests.
- (6) Submitting compliance test results.

(*Air Pollution Control Board; 326 IAC 6.8-8-4*)

326 IAC 6.8-8-5 Plan; source categories

Proposed Rules

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. A source or facility to which section 1 of this rule applies, which belongs to any source category listed in this section, shall include the following information, applicable procedures, or commit to the following actions in its continuous compliance plan (CCP):

(1) For lime plants, monitor opacity at the kilns and control system vents during normal operation of the kiln with a continuous emission monitor or through self-monitoring of opacity. 40 CFR 60, Appendix A, Method 9* should be used to determine opacity if the facility is controlled by a positive pressure fabric filter.

(2) For petroleum refineries, continuously monitor opacity of exhaust gases and monitor the coke burn-off rate in pounds per hour from fluid catalytic cracking unit catalyst regenerators.

(3) Steel mill CCPs shall include, at a minimum, the following:

(A) Basic oxygen process (BOP, BOF, QBOP), including the following:

(i) Describe the capture and control devices to control particulate emissions from each phase of the steel production cycle, including the furnace, hot metal transfer, hot metal desulfurization, and kish removal. The description shall include the locations within the facility of these operations in relation to capture hoods, control devices, roof vents, and other building openings.

(ii) Describe any fume suppression system, including the process or emission point being controlled, the location within the facility, the inert gas or steam application rate, and the monitoring method. As used in this item, "fume suppression system" means the equipment comprising any system used to inhibit the generation of emissions from steelmaking facilities with an inert gas, flame, or steam blanket applied to the surface of molten iron or steel.

(iii) Describe the procedure for recording furnace charging and tapping time, amount of throughput, and amount of steel produced.

(iv) Describe the off-gas system leak detection and repair record keeping practices.

(v) Describe the procedures used to minimize dirt and debris accumulation on the facility floor.

(vi) Describe practices that reduce PM₁₀ and TSP emissions escaping the primary or secondary hood during scrap charging and hot metal charging tapping steel and dumping slag.

(vii) At least monthly, inspect the operational status of the following elements of the capture system:

(AA) Pressure sensors.

(BB) Dampers.

(CC) Damper switches.

(DD) The hood and ductwork for the presence of

holes.

(EE) Ductwork for accumulation of dust.

(FF) Fans for erosion.

Maintain records of the inspections and any repairs.

(B) Electric arc furnace, including the following:

(i) List the furnace operating sequences to be followed in case of multivessel operation. Describe the capture and control devices used to control particulate emissions in each phase of the steel production cycle, including exhaust rate and dampers, blast gates, instrumentation operation, and control. Include a drawing that shows the location of the following:

(AA) The furnace within the facility in relation to capture hoods and control devices, roof vents, and other building openings.

(BB) Other processes within the facility that have potential to generate emissions, including casting and ladle repair.

(ii) Describe the procedure for recording the following:

(AA) Time of furnace charging, furnace melting, and furnace refining.

(BB) Tapping start and stop times.

(CC) Charge weight for each heat.

(DD) Tap weight for each heat.

(iii) At least monthly, inspect the operational status of the following elements of the capture:

(AA) Pressure sensors.

(BB) Dampers.

(CC) Damper switches.

(DD) Hood and ductwork for the presence of holes.

(EE) Ductwork for accumulation of dust.

(FF) Fans for erosion.

Maintain records of the inspections and any repairs.

(iv) Describe procedures used to minimize dirt and debris accumulation on the facility floor.

(v) Once per heat, either check and record the control system fan motor ampere and damper position or monitor flow rate through each separately ducted hood or duct, or both, used to capture emissions from the electric arc furnace operation.

(vi) Take visible emission readings of the direct shell evacuation system and the roof monitor at least once a day. The readings shall be taken during one (1) single steel production cycle and will be concurrent with the observations in 326 IAC 6.8-7-5(8)(C). The opacity observations shall be taken according to 40 CFR 60, Appendix A, Method 9* and consist of at least one (1) six (6) minute observation each during charging and tapping and three (3) six (6) minute observations during melting and refining.

(vii) Report to the department on a quarterly basis control system fan motor amperage values that exceed fifteen percent (15%) of the value or operation at volumetric flow rates lower than those established during the performance test in 326 IAC 6.8-7-5(8)(A).

Operation above these values may be considered as unacceptable operation of the electric arc furnace equipment and the emissions capture and control system by the commissioner. Unless alternative values are established according to the procedures prescribed in section 1 of this rule.

(viii) Keep a record of any process and control equipment upsets, malfunctions, or activities within the electric arc furnace facility that may have resulted in excessive emissions. The records shall consist of the nature of event, time, and duration.

(C) Iron production that includes a blast furnace shall comply with the following:

(i) Describe procedures, including frequency, for inspection of the following elements of a capture system:

(AA) Pressure sensors.

(BB) Dampers.

(CC) Damper switches.

(DD) Hood and ductwork for the presence of holes.

Maintain records of the maintenance and any repairs made.

(ii) Describe procedures used to minimize dirt and debris accumulation on the facility floor.

(iii) Describe any fume suppression system, including the process or emission point being controlled, the location, and the inert gas or steam application rate and the monitoring method. As used in this item "fume suppression system" means the equipment comprising any system used to inhibit the generation of emissions from steelmaking facilities with an inert gas, flame, or steam blanket applied to the surface of molten iron or steel.

(iv) Describe the record keeping for the following elements of the iron production cycle:

(AA) Time of hole drilling.

(BB) Time of tapping.

(CC) Time of hole plugging.

(v) Describe the blast furnace inspection, repair, and maintenance schedule for the following elements:

(AA) Tuyres.

(BB) Bleeder valves.

(CC) Large and small bells.

(DD) Uptakes and downcomers (to minimize backdrafting).

(EE) Standby devices.

(vi) Describe the procedures used to inspect and operate the blast furnace gas cleaning equipment, such as dust catchers and scrubbing equipment, to assure operation within design parameters.

(D) Sinter production shall comply with the following:

(i) Describe routine startup and shutdown procedures and other work practices that are followed to reduce emissions and equipment malfunctions.

(ii) Describe procedures for inspection of equipment to identify areas that may affect particulate emissions,

including the following:

(AA) Points of wear.

(BB) Distorted grate bars.

(CC) Leaking machine seals.

(DD) Holes in ducts.

(EE) Holes in flapper valves.

(iii) Describe procedures for monitoring mechanical and electrical inspection records.

(iv) Describe procedures used to minimize dirt and debris accumulation on the facility floor.

(v) Describe procedures for monitoring burden parameters, including base to acid ratio and hydrocarbon content.

(vi) Describe the routine for plant operation during equipment failure, such as screening station failure.

(vii) At least monthly, inspect the operational status of the following elements of the capture system:

(AA) Pressure sensors.

(BB) Dampers.

(CC) Damper switches.

(DD) Hood and ductwork for the presence of holes.

(EE) Ductwork for accumulation of dust.

(FF) Fans for erosion.

Maintain records of the inspections and any repairs.

(E) Coke production shall comply with the following:

(i) Describe operating and maintenance practices used to minimize emissions from charging doors, charge port lids, oftakes, standpipes, gooseneck caps and gas collector mains, pushing, underfire stacks, and quenching, including quench water dissolved solids control. The documentation shall include the following operating practices:

(AA) Use of jumper pipe during charging.

(BB) Procedure for worker's coordination, training, and communication.

(CC) Luting material used.

(DD) Periodic engineering evaluations to determine improvements needed.

(EE) Aspiration practices during charging, including aspiration rate and adjustment.

(ii) Describe the routinely available inventory of spare parts and equipment, including luting compounds, doors, and mobile scrubber cars.

(F) Waste disposal and recycling practices of iron and steel scrap and other metallic scrap shall comply with the following:

(i) Provide a description of the routine activities involving disposal and reclamation of iron and steel. The visible emissions from such activities shall not exceed twenty percent (20%) opacity on a three (3) minute average as measured by 40 CFR 60, Appendix A, Method 9*. The opacity shall be determined as an average of twelve (12) consecutive observations recorded at fifteen (15) second intervals.

(ii) Maintenance of process vessels, for example, pugh ladles, shall be performed in enclosed structures. The

visible emissions from such structures shall not exceed twenty percent (20%) opacity on a three (3) minute average as measured by 40 CFR 60, Appendix A, Method 9*. The opacity shall be determined as an average of twelve (12) consecutive observations recorded at fifteen (15) second intervals.

(iii) Emissions from all steel scrap burning or cutting and oxygen lancing operations shall not exceed twenty percent (20%) opacity on a three (3) minute average as measured by 40 CFR 60, Appendix A, Method 9*. The opacity shall be determined as an average of twelve (12) consecutive observations recorded at fifteen (15) second intervals.

(G) Visible emission evaluation plans shall comply with the following:

(i) Within sixty (60) days of June 11, 1993, each steel mill shall submit a plan to conduct visible emissions evaluations per the approved test method or procedures to determine compliance with the applicable opacity standard. The plan shall specify the frequency of visible emissions evaluations at the operations included in clauses (A) through (F). The plan shall include charging, pushing, lids and offtakes, doors, standpipes, and gas collector mains at coke production operations and lime plants.

(ii) If the plan specifies that the duration of readings is less than one (1) hour per day at each facility, the plan shall include the basis for less frequent evaluations.

(iii) The department shall disapprove the plan if:

(AA) it does not include all facilities; or

(BB) the proposed duration and frequency will not provide for a reasonable assessment of compliance.

(iv) Upon approval of a steel mill's plan by the department, the visible emissions evaluations shall commence and the data submitted to the department within one (1) month of the end of the calendar quarter.

(v) The plan may be revised with department approval at any time.

(4) Fuel combustion boilers, as described in section 1(21)(A) of this rule shall comply as follows:

(A) The requirements of this subdivision shall not relax the fuel monitoring and reporting requirements of 326 IAC 7-1.1-1 for the sources to which 326 IAC 6.8-2 through 326 IAC 6.8-7 and this rule apply.

(B) Affected sources shall maintain records of the following information:

(i) Operational status of each facility for each day.

(ii) The daily measurements for each facility of the type of fuel used, amount of each type of fuel used, and heat content of each type of fuel used.

(iii) The TSP or PM₁₀ emission factors for each type of fuel to be used as estimated by the AP-42 or stack test method.

(iv) The method used to monitor the fuel amount and heat content in addition to the frequency.

(v) The control efficiency of the particulate control

device and the method of determination.

(vi) Average daily PM₁₀ emissions (or TSP if applicable) for each facility, expressed in pounds per million British thermal units.

(C) The following guidance may be used to estimate emissions:

(i) For heat content AP-42, Volume 1, Appendix A, Table A-3, "Typical Parameters of Various Fuels", Fifth Edition, January 1995**, Supplements A through G, December 2000**.

(ii) For emission factors (TSP or PM₁₀), EPA 450/4-90-003, "AIRS Facility Subsystem Source Classification Codes and Emission Factors Listing for Criteria Air Pollutants"*.

(iii) For control equipment efficiency, manufacturer's warranty or as determined by source.

(iv) Sources may substitute other site-specific values for the values as indicated if they can be shown to be acceptable to the department.

*These documents are incorporated by reference and are available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**This document is incorporated by reference and is available from U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 or 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 6.8-8-5*)

326 IAC 6.8-8-6 Plan; particulate matter control equipment; operation and maintenance

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. This section concerns particulate matter control equipment operation and maintenance requirements. A continuous compliance plan shall provide that the following control equipment related information will be maintained at the source's property and will be available for inspection by department personnel:

(1) Startup, shutdown, and emergency shutdown procedures.

(2) Sources shall notify the department fifteen (15) days in advance of startup of either new control equipment or control equipment to which major modifications have been made.

(3) Manufacturer's recommended inspection procedures, preventive and corrective maintenance procedures, and safety devices and procedures, such as sensors, alarm systems, and bypass systems. If manufacturer's recom-

mendations are not available, procedures shall be developed by the source.

(4) Contents of the operator's training program and the frequency with which the training is held.

(5) A list of spare parts available at the facility.

(6) A list of control equipment safety devices, for example:

(A) high temperature sensors and alarm systems;

(B) exhaust gas stream bypass system; or

(C) safety interlock system.

(7) Monitoring and recording devices or instruments, or both, to monitor and record control equipment operating parameters specified in section 3(4) of this rule.

(Air Pollution Control Board; 326 IAC 6.8-8-6)

326 IAC 6.8-8-7 Plan; particulate matter control equipment; recording; operation; inspection

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 7. Particulate matter control equipment operation, recording, and inspection procedure requirements shall be as follows:

(1) A continuous compliance plan (CCP) for a facility controlled with a baghouse shall include the recording, inspection, and maintenance procedures to be consistent with the requirements of section 2 of this rule, such as the following:

(A) Operating parameters, such as the following:

(i) Pressure drop across the baghouse.

(ii) Gas flow rate at baghouse inlet.

(iii) Gas temperatures at inlet.

A CCP shall identify the monitors and instrumentation and their location, accuracy, precision, and calibration frequency. A CCP shall also include a description of any visible emission evaluation program.

(B) Baghouse cleaning system. A complete description of the cleaning system, including such information as the following:

(i) Intensity.

(ii) Duration.

(iii) Frequency.

(iv) Method of activation.

(C) Baghouse inspection and maintenance schedule. The inspection schedule logs or records shall be available for inspection by the department for up to one (1) year after the date of inspection. The inspection shall include the activities and frequency of the activities. A source may request an alternative schedule based on manufacturer's recommendations or alternatives documented by the company. The revised schedule must be approved by the department. Inspections shall include the following:

(i) Daily inspections shall include the following:

(AA) Pressure drop.

(BB) Fan amperage.

(CC) Cleaning cycle.

(DD) Compressed air on pulse jet baghouses for values outside of the operating ranges.

(EE) Dust discharge equipment for proper operation.

(FF) General check for abnormal audible and visual conditions.

(ii) Weekly inspections of the following:

(AA) Moving parts on discharge system.

(BB) Bypass and isolation damper operation.

(CC) Bag tension.

(DD) Compressed air lines, oilers, and filters.

(EE) Manometer lines.

(FF) Temperature indicating equipment.

(GG) Bag cleaning sequence.

(HH) Drive components on fans.

(iii) Monthly inspections of the following:

(AA) Bag seating condition.

(BB) Moving parts on shaker baghouses.

(CC) Fan corrosion and blade wear.

(DD) Hoses and clamps.

(EE) Bags for leaks and holes.

(FF) Bag housing for corrosion.

(iv) Quarterly inspections of the following:

(AA) Bags.

(BB) Ducts for dust build-up.

(CC) Damper valves for proper setting.

(DD) Door gaskets.

(EE) Baffle plate for wear.

(v) Annual inspection of the following:

(AA) Welds and bolts.

(BB) Hoppers for wear.

(CC) Cleaning parts for wear.

(2) A CCP for a facility controlled by an electrostatic precipitator (ESP) shall include recording, inspection, and maintenance procedures to be consistent with the requirements of section 2 of this rule, such as the following:

(A) Operating parameters, such as the following:

(i) Gas flow rate.

(ii) Temperature.

(iii) Type and rate of gas conditioning agents used for resistivity control or resistivity measurements.

(iv) Power input at each section of the ESP. A CCP shall identify monitors and instrumentation and specify location, accuracy, precision, and calibration frequency. A continuous compliance plan shall also include a description of any visible emissions evaluation program.

(B) ESP inspection and maintenance schedule. The inspection schedule logs or records shall be available for inspection by the department for up to one (1) year after the date of inspection. The inspection shall include the activities and frequency of the activities. A source may request an alternative schedule based on manufacturer's recommendations or alternatives documented by the company. The revised schedule must be approved by the department. Inspections shall include the following:

(i) Daily inspection of the following:

- (AA) Fan amperage.
- (BB) Temperature.
- (CC) Gas conditioning agent flow rate or resistivity.
- (DD) Electrical readings for values outside the operating range.
- (EE) Hoppers and dust discharge system for proper operation.
- (FF) Transformer-rectifier enclosures and bus ducts for abnormal arcing.

Corrective actions taken, if any, shall be recorded.

(ii) Weekly inspection of the following or as per manufacturer's recommendations:

- (AA) Rapper operation.
- (BB) Control set interiors.

(iii) Monthly inspection of the following:

- (AA) Fans for noise and vibration.
- (BB) Hopper heaters.
- (CC) Hopper level alarm operation.

(iv) Quarterly inspection of the following:

- (AA) Check rapper and vibrator switch contacts.
- (BB) Access door dog bolt and hinges.
- (CC) Interlock covers.
- (DD) Test connectors.
- (EE) Exterior for visual signs of deterioration.
- (FF) Abnormal vibration, noise, and leaks.

(v) Semiannual inspection of the following or as per manufacturer's recommendations:

- (AA) T-R liquid and surge arrestor spark gap.
- (BB) Conduct internal inspection.
- (CC) Top housing or insulator compartment and all electrical insulating surfaces and correct any defective alignment.

(vi) Annual inspection of the following:

- (AA) Tightness of all electrical connections.
- (BB) Operation of switchgear.
- (CC) Rapper insulator connections.
- (DD) Observe and record areas of corrosion.

(3) A CCP for a facility controlled by a scrubber shall include the recording, inspection, and maintenance procedures to be consistent with the objectives of section 2 of this rule such as the following:

(A) Operating parameters, such as the following:

- (i) Gas flow rate.
- (ii) Inlet and outlet temperatures of gas to and from scrubber.
- (iii) Liquid flow rate to scrubber.
- (iv) Pressure drop across scrubber.
- (v) pH of liquid to scrubber.
- (vi) Fan and pump currents.

A CCP shall specify the location, accuracy, precision, and calibration frequency of monitors and instrumentation.

(B) Scrubber inspection and maintenance schedule. The inspection schedule logs or records shall be available for inspection by the department for up to one (1) year after

the date of inspection. The inspection shall include the activities and frequency of the activities. A source may request an alternative schedule based on manufacturer's recommendations or alternatives documented by the company. The revised schedule must be approved by the department. Inspections shall include the following:

(i) Daily inspection of the following:

- (AA) Scrubbing liquid flow rates to scrubber.
- (BB) Pressure drop across scrubber.
- (CC) Fan and pump amperages for values outside the operating range.

Corrective actions taken shall be recorded.

(ii) Monthly inspection of the following:

- (AA) Seals for abrasion.
- (BB) Corrosion and leaks.
- (CC) Fans for abrasion, corrosion, and solids build-up.
- (DD) Pipes for abrasion, corrosion, and plugging.
- (EE) Throat wear in the venturi scrubber.
- (FF) Sensors, alarm systems, and bypass devices for proper operation.
- (GG) Entrainment separator for blockage.
- (HH) Spray nozzles for plugging or excessive wear.

(Air Pollution Control Board; 326 IAC 6.8-8-7)

326 IAC 6.8-8-8 Plan; department review

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. (a) The department shall review the continuous compliance plan (CCP). The department may at any time request, in writing, any of the following:

(1) A CCP to be revised to include additional documentation or practices as needed to allow the department to verify that operation and maintenance practices critical to continuous compliance with the applicable mass and opacity limits are being followed.

(2) A compliance test to be conducted with the compliance test methods specified in this 326 IAC 6.8-2 through 326 IAC 6.8-7 and this rule if the department determines that the procedures specified in the CCP are not being followed or are inadequate to assure continuous compliance. The compliance test may consist of a series of opacity measurements of frequency and duration specified by the department or a stack test. The department may request that information be collected during the test to determine proper operation and maintenance procedures needed to assure continuous compliance with applicable mass and opacity limits.

(b) The source shall respond, in writing, within thirty (30) days of a request per subsection (a). The source shall either provide an expeditious schedule, not to exceed sixty (60) days, for providing the information requested by the department or petition the department for an alternative to the request. A schedule for completion of an opacity compliance test shall not exceed thirty (30) days from the depart-

ment's request. A source may petition the department for an alternative schedule based on practical problems in meeting the request.

(c) The source shall:

- (1) update the CCP, as needed;
- (2) retain a copy of any changes and updates to the CCP on the property;
- (3) make the updated CCP available for inspection by the department; and
- (4) submit the updated CCP, if required, to the department within thirty (30) days of the update.

(d) Failure to submit a CCP, maintain all information required by the continuous compliance plan on plant property, or submit a required update to a continuous compliance plan is a violation of 326 IAC 6.8-2 through 326 IAC 6.8-7 and this rule. Failure to respond to a request by the department under subsection (a) is a violation of 326 IAC 6.8-2 through 326 IAC 6.8-7 and this rule. The department may notify a source in writing of noncompliance with an action or procedure specified within a CCP and require that the source conduct a compliance test. If the compliance test demonstrates noncompliance with the applicable particulate matter or opacity limit, both the findings of noncompliance of the CCP and the compliance test shall be considered as violations of the applicable mass or opacity limit. A violation of an applicable particulate matter or opacity limit of 326 IAC 6.8-2 through 326 IAC 6.8-7 and this rule based either on a compliance test performed by the source or by observations or tests conducted by the department, is a violation of 326 IAC 6.8-2 through 326 IAC 6.8-7 and this rule. (*Air Pollution Control Board; 326 IAC 6.8-8-8*)

Rule 9. Lake County: PM₁₀ Coke Battery Emission Requirements

326 IAC 6.8-9-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 1. The provisions of this rule shall apply to those sources located in Lake County that include a coke battery. (*Air Pollution Control Board; 326 IAC 6.8-9-1*)

326 IAC 6.8-9-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 2. The following definitions shall apply throughout this rule:

- (1) "Charging" has the meaning set forth in 326 IAC 1-2-10.
- (2) "Charge port" has the meaning set forth in 326 IAC 1-2-11.
- (3) "Coke oven battery" has the meaning set forth in 326 IAC 1-2-16.
- (4) "Coke oven topside" has the meaning set forth in 326

IAC 1-2-17.

- (5) "Coke-side" has the meaning set forth in 326 IAC 1-2-18.
- (6) "Gas collector main" has the meaning set forth in 326 IAC 1-2-31.
- (7) "Gooseneck cap" has the meaning set forth in 326 IAC 1-2-32.1.
- (8) "Jumper pipe" has the meaning set forth in 326 IAC 1-2-34.1.
- (9) "Larry car" has the meaning set forth in 326 IAC 1-2-35.
- (10) "Offtake piping" has the meaning set forth in 326 IAC 1-2-49.
- (11) "Oven door" has the meaning set forth in 326 IAC 1-2-50.
- (12) "Pushing" has the meaning set forth in 326 IAC 1-2-60.
- (13) "Push-side" has the meaning set forth in 326 IAC 1-2-61.
- (14) "Quench car" has the meaning set forth in 326 IAC 1-2-62.1.
- (15) "Quenching" has the meaning set forth in 326 IAC 1-2-63.
- (16) "Quench reservoir" has the meaning set forth in 326 IAC 1-2-63.1.
- (17) "Quench tower" has the meaning set forth in 326 IAC 1-2-63.2.
- (18) "Standpipe lid" has the meaning set forth in 326 IAC 1-2-77.
- (19) "Underfire" has the meaning set forth in 326 IAC 1-2-87.

(*Air Pollution Control Board; 326 IAC 6.8-9-2*)

326 IAC 6.8-9-3 Emission limitations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
 Affected: IC 13-15; IC 13-17

Sec. 3. (a) With the exceptions noted in this section, the coke batteries in Lake County shall comply with the following emission limits by December 10, 1993:

- (1) Single-pass cap for oven door emissions. No visible emissions shall be permitted from more than ten percent (10%) of the observed coke oven doors on any coke oven battery. The number of coke-side doors and push-side doors shall be counted in determining compliance with this emission limit. Doors of ovens that are out of service, either temporarily or permanently, shall not be counted. A push door and a chuck door shall be counted as one (1) door. Compliance with this emission limit shall be determined in accordance with the procedure described in 326 IAC 11-3-4(c).
- (2) Charging emissions. No visible emissions shall be permitted from the charging system for more than a cumulative total of one hundred twenty-five (125) seconds during five (5) consecutive charging periods. For the purpose of this subdivision, "charging system" means the equipment required to add coal to a coke battery. This

includes a larry car, charge ports, jumper pipe, and offtake pipe. Compliance with this emission limit shall be determined in accordance with the procedure contained in 326 IAC 11-3-4(a).

(3) Pushing emissions. The following emission limits shall apply during pushing operations:

(A) The opacity of emissions from the coke-side of an oven to be pushed, before the first movement of the coke from the oven to the coke car begins, shall not exceed twenty percent (20%). The opacity shall be determined on an instantaneous basis at the top of the battery. The observer shall be positioned outside of the quench car rails.

(B) The opacity of emissions during the pushing operation shall not exceed twenty percent (20%). The pushing operation shall be considered to begin with the first movement of coke from the oven into the coke car and to end when the quench car enters the quench tower. The opacity shall be determined using 40 CFR 60, Appendix A, Method 9*, except that the readings shall be taken at fifteen (15) second intervals. Six (6) consecutive readings shall be averaged to determine the opacity. The observer shall only use those backgrounds that are above the elevation of the battery surface. If this condition cannot be met for six (6) consecutive readings, then the opacity shall be determined using the lesser number of consecutive readings.

(C) The particulate emissions from the control device stack shall not exceed four-hundredths (0.04) pound per ton of coke pushed. Compliance with this emission limit shall be determined by 40 CFR 60, Appendix A, Method 5*.

(4) Charge port lid emissions. No visible emissions shall be permitted from more than three percent (3%) of the total charge port lids on operating ovens of a coke oven battery. Compliance with this emission limit shall be determined in accordance with 326 IAC 11-3-4(b).

(5) Offtake piping emissions. No visible emissions shall be permitted from more than five percent (5%) of the total offtake piping on any coke oven battery. At no time shall the visible emissions from any gooseneck cap opening exceed twenty percent (20%). An exclusion from this opacity limit shall be allowed for two (2) minutes after a gooseneck cap is opened. The opacity shall be determined on an instantaneous basis. Compliance with this emission limit shall be determined in accordance with 326 IAC 11-3-4(b).

(6) Gas collector main emissions. No visible emissions shall be permitted from the gas collector main. Compliance with this emission limit shall be determined in accordance with 326 IAC 11-3-4(e). Caps on the main shall be exempt from this requirement during maintenance.

(7) Quenching emissions at USS. At a minimum, the following procedures and practices shall be followed:

(A) The quench water, as applied to the coke, shall not exceed one thousand five hundred (1,500) milligrams

per liter dissolved solids.

(B) A source shall submit the following information regarding its quenching operation in its CCP required to be submitted by 326 IAC 6.8-8-1:

(i) The source of quench water, for example, Lake Michigan water only, or a mixture of Lake Michigan water, spent quench water, process water, and miscellaneous sources of nonprocess water.

(ii) The volume of quench water and the proportion of each source of water.

(C) All coke oven towers shall be equipped with baffles. Baffles shall cover ninety-five percent (95%) or more of the cross-sectional area of the exhaust vent or stack for straight quench towers and must be maintained in operable condition. For offset quench towers numbers 2 and 3 at US Steel, the number and arrangement of baffles in the tower shall be maintained as designed. The source shall submit quench tower drawings showing baffle arrangement to the department and the U.S. EPA on or before December 10, 1993. Compliance with the quench tower baffle requirement shall be determined by comparison of the number and arrangement of baffles with the submitted plans.

(8) Underfire emissions requirements shall be as follows:

(A) Particulate emissions from underfire stacks shall be limited by the emission limitations contained in 326 IAC 6.8-2.

(B) Visible emissions from underfire stacks shall comply with the requirements set forth in 326 IAC 5-1-2.

(9) Precarbonization emissions requirements shall be as follows:

(A) Particulate emissions from precarbonization towers shall be limited by the emission limitations contained in 326 IAC 6.8-2.

(B) Visible emissions from precarbonization towers shall comply with the requirements set forth in 326 IAC 5.

(b) The coke batteries at Inland Steel, instead of subsection (a)(3), (a)(5), and (a)(8) shall comply with the requirements of 326 IAC 6.8-7-5(4).

*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 available for review and copying at the 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 6.8-9-3*)

Rule 10. Lake County: Fugitive Particulate Matter

326 IAC 6.8-10-1 Applicability

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 the following:

(1) The following facilities and operations at a source having the potential to emit five (5) tons per year fugitive particulate matter into the atmosphere in Lake County:

- (A) Paved roads and parking lots.
- (B) Unpaved roads and parking lots.
- (C) Material transfer.
- (D) Wind erosion from storage piles and exposed areas.
- (E) Material transportation activities.
- (F) Material processing facilities with capacity equal to or greater than ten (10) tons per hour. The mass and opacity limits for emissions in this rule are not applicable to such facilities specifically listed in 326 IAC 6.8-2 through 326 IAC 6.8-8. However, fugitive emissions from such facilities are subject to this rule.
- (G) Dust handling equipment.
- (H) Any other facility or operation with a potential to emit fugitive particulate matter and not included in this section.

(2) The following sources located in Lake County:

- (A) Amoco Oil, Whiting Refinery.
- (B) Beemsterboer Slag & Ballast Corporation.
- (C) Bucko Construction.
- (D) Dietrich Industries.
- (E) Equilon Enterprises, LLC.
- (F) General Transportation.
- (G) Great Lakes Industrial Center.
- (H) Industrial Scrap.
- (I) Inland Steel Corporation.
- (J) LTV Steel Corporation.
- (K) Marblehead Lime Company.
- (L) Matlack Bulk Intermodal Services.
- (M) Mid Continental Coal & Coke Company.
- (N) NIPSCO-Mitchell.
- (O) Ozinga Brothers.
- (P) Praxair, Linde SP Gas.
- (Q) Praxair, Oxygen Plant.
- (R) Reed Minerals.
- (S) Safety-Kleen Corporation.
- (T) State Line Energy, LLC.
- (U) Union Tank Car Co.
- (V) USS-Gary Works.
- (W) Wolf Lake Terminal.

(3) New sources required to be registered or permitted under 326 IAC 2-5.1 with total uncontrolled PM₁₀ fugitive particulate matter emissions equal to or greater than five (5) tons per year.

(4) The independent contractors, companies, and corporations performing byproduct processing recycling activities, waste disposal, or any other activities that may result in uncontrolled PM₁₀ emissions of five (5) tons per year or more.

(5) Any subsequent owner or operator of a source or facility covered by this section.

(b) The amount of uncontrolled PM₁₀ emissions emitted from a facility or source shall be determined by applying the

method contained in "Compilation of Air Pollutant Emission Factors", Volume 1: Stationary Point and Area Sources, AP-42 Fifth Edition, January 1995*, Supplements A through G, December 2000*.

*/**These documents are incorporated by reference and are available from the Government Printing Office, 732 Capitol Avenue 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 6.8-10-1*)

326 IAC 6.8-10-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. The following definitions apply throughout this rule:

(1) "Affected facilities" means the sources of fugitive emissions listed in section 1(a) of this rule.

(2) "Batch transfer" means transfer of material onto or out of storage piles by front end loaders, trucks, or cranes.

(3) "Capacity" means the sum of all throughputs to the first introduction point of all the processing lines on a plant property.

(4) "Capture system" means the equipment used to capture and transport particulate matter generated by one (1) or more process equipment to a control device, including the following:

- (A) Enclosures.
- (B) Hoods.
- (C) Ducts.
- (D) Fans.
- (E) Dampers.

(5) "Continuous transfer" means transfer of material onto or out of storage piles by conveyor.

(6) "Control device" means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere.

(7) "Dust handling equipment" means the equipment used to handle dust collected by control equipment, such as, but not limited to, a conveyor used to transfer dust from a control equipment hopper to a temporary storage container. A truck is an example of a temporary storage container. Both a conveyor and temporary storage container, in this case, are dust handling equipment.

(8) "Exposed areas" means unused areas on plant property that cannot be defined as a paved or unpaved road or parking lot, storage pile, or associated area that have the potential to emit particulate emissions by wind action.

(9) "Fugitive particulate matter" means any particulate matter emitted into the atmosphere other than through a stack.

(10) "Inplant transportation" means transportation of material on plant transportation routes, such as railroads

and plant roads, in equipment such as trucks, railroad cars, front end loaders, conveyors, and skip hoists. The inplant transportation might be from:

- (A) one (1) process to another;
- (B) process equipment to waste disposal and reclamation sites; or
- (C) one (1) storage pile to another.

This includes, for example, hauling of slag from slag pits to the slag processing facility on the plant property.

(11) "Material" means raw process material, byproduct, intermediate product, waste product, final product, and dust collected by control equipment, having proportion of loose, dry dust equal to or greater than five-tenths percent (0.5%) as measured by the ASTM C-136 method*, having potential to emit particulate emissions when disturbed by transfer, processing, and transportation activities defined in this rule. Material may include the following:

- (A) Sand.
- (B) Limestone.
- (C) Coal.
- (D) Gypsum.
- (E) Slag.
- (F) Gravel.
- (G) Clay.
- (H) Cement.
- (I) Ores.
- (J) Grain.

(12) "Material processing facilities" means the equipment, or the combination of different types of equipment, used to process material for use in the plant or for commercial sale. The following sources are examples of these types of facilities:

- (A) Power generation plants.
- (B) Portland cement manufacturing plants.
- (C) Asphalt concrete manufacturing plants.
- (D) Concrete manufacturing plants.
- (E) Lime manufacturing plants.
- (F) Iron and steel manufacturing plants, which include blast furnaces and basic oxygen furnaces.
- (G) Sinter plants.
- (H) Coal and coke preparation plants.
- (I) Slag processing plants.
- (J) Brick manufacturing plants.
- (K) Grain processing elevators.
- (L) Food and feed manufacturing plants.

Equipment includes initial crusher, screen, grinder, mixer, dryer, belt conveyor, bucket elevator, bagging operation, storage bin, and truck or railroad car loading station.

(13) "Material transfer" means the transfer of material:

- (A) from process equipment onto the ground;
- (B) from the ground into hauling equipment;
- (C) from hauling equipment onto a storage pile;
- (D) from a storage pile into hauling equipment for transport; or
- (E) into an initial hopper for further processing.

Dumping of slag from blast furnaces or basic oxygen

furnaces into the slag pits and subsequent transfer to the hauling vehicle and initial hopper at the slag processing facility is an example of material transfer.

(14) "Paved road" means an asphalt or concrete surfaced thoroughfare or right-of-way designed or used for vehicular traffic.

(15) "Processing line" means material processing equipment connected by a conveying system. The term does not include transfer from a conveyor to a storage pile.

(16) "Silt content" means the mass of an aggregate sample smaller than seventy-five (75) microns in diameter as determined by dry sieving. Silt content may be determined by using the procedures in AP-42 "Silt Analysis" Appendix C.2.3, Fifth Edition, January 1995**, Supplements A through G, December 2000***.

(17) "Stack emissions" means the particulate matter that is released to the atmosphere from a confined opening like the exit of a control device or a chimney.

(18) "Storage pile" means any outdoor storage on a source's property of material as defined in subdivision (11).

(19) "Surface silt loading" means the mass of loose surface dust on a paved road, per length of road, as determined by dry vacuuming. Surface silt loading may be determined by using the procedures specified in the U.S. EPA guideline document Iron and Steel Plant Open Source Fugitive Emission Evaluation", U.S. EPA 600/2-79-103, Appendix B****.

(20) "Transfer point" means a point in a conveying operation where the material is transferred to or from a belt conveyor, except where the material is being transferred to a storage pile.

(21) "Unpaved road" means a thoroughfare or right-of-way other than a paved road designed or used for vehicular traffic.

(22) "Vent" means an opening through which there is mechanically induced airflow for the purpose of exhausting air carrying particulate matter emissions from one (1) or more items of material processing equipment from a building.

*These documents are incorporated by reference and are available for review and copying at the Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

/These documents are incorporated by reference and are available for purchase from the Government Printing Office, 732 North Capitol Avenue 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.

****These documents are incorporated by reference and

are available from U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 or are available for review and copying from 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 6.8-10-2*)

326 IAC 6.8-10-3 Particulate matter emission limitations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. The following are particulate matter emission limitations:

(1) For paved roads and parking lots, the average instantaneous opacity of fugitive particulate emissions from a paved road shall not exceed ten percent (10%). A source shall implement the control measures specified by section 4(3)(F) of this rule within twenty-four (24) hours after notification by the department or the U.S. EPA of violating the average instantaneous opacity limit. A violation of the instantaneous average opacity limits in this section is a violation of this article. In addition, when requested by the department or the U.S. EPA after an exceedance of the opacity limit is observed by a representative of either agency, the source shall initiate a compliance check with the surface silt loading limit. The department may require a revision of the control plan under section 4(8) of this rule if the test shows an exceedance of the surface silt loading limit. The average instantaneous opacity shall be the average of twelve (12) instantaneous opacity readings, taken for four (4) vehicle passes, consisting of three (3) opacity readings for each vehicle pass. The three (3) opacity readings for each vehicle pass shall be taken as follows:

(A) The first will be taken at the time of emission generation.

(B) The second will be taken five (5) seconds later.

(C) The third will be taken five (5) seconds later or ten (10) seconds after the first.

The three (3) readings shall be taken at the point of maximum opacity. The observer shall stand approximately fifteen (15) feet from the plume and at approximately right angles to the plume. Each reading shall be taken approximately four (4) feet above the surface of the roadway or parking area.

(2) Unpaved roads and parking lots. The average instantaneous opacity of fugitive particulate emissions from an unpaved road shall not exceed ten percent (10%). The department may request a revision of the control plan under section 4(8) of this rule if an observation shows an exceedance of the average instantaneous opacity limit. This revision may be instead of, or in addition to, pursuing an enforcement action for a violation of the limit. Average instantaneous opacity shall be determined according to the procedure described in subdivision (1).

The fugitive particulate emissions from unpaved roads shall be controlled by the implementation of a work program and work practice under the control plan required in section 4 of this rule.

(3) Material transfer limits shall be as follows:

(A) The average instantaneous opacity of fugitive particulate emissions from batch transfer shall not exceed ten percent (10%). The average instantaneous opacity shall consist of the average of three (3) opacity readings taken five (5) seconds, ten (10) seconds, and fifteen (15) seconds after the end of one (1) batch loading or unloading operation. The three (3) readings shall be taken at the point of maximum opacity. The observer shall stand approximately fifteen (15) feet from the plume and at approximately right angles to the plume.

(B) Where adequate wetting of the material for fugitive particulate emissions control is prohibitive to further processing or reuse of the material, the opacity shall not exceed ten percent (10%), three (3) minute average. This includes material transfer to the initial hopper of a material processing facility as defined in section 2 of this rule or material transfer for transportation within or outside the source property including, but not limited to, the following:

(i) Transfer of slag product for use by asphalt plants from a:

(AA) storage pile to a front end loader; and

(BB) front end loader to a truck.

(ii) Transfer of sinter blend for use at the sinter plant from a:

(AA) storage pile to a front end loader;

(BB) front end loader to a truck; and

(CC) truck to the initial processing point.

(iii) Transfer of coal for use at a coal processing line from a:

(AA) storage pile to a front end loader; and

(BB) front end loader to the initial hopper of a coal processing line.

Compliance with any operation lasting less than three (3) minutes shall be determined as an average of consecutive observations recorded at fifteen (15) second intervals for the duration of the operation.

(C) Slag and kish handling activities at integrated iron and steel plants shall comply with the following particulate emissions limits:

(i) The opacity of fugitive particulate emissions from transfer from pots and trucks into pits shall not exceed twenty percent (20%) on a six (6) minute average.

(ii) The opacity of fugitive particulate emissions from transfer from pits into front end loaders and from transfer from front end loaders into trucks shall comply with the fugitive particulate emission limits in subdivision (9).

(4) The opacity of fugitive particulate emissions from continuous transfer of material onto and out of storage

piles shall not exceed ten percent (10%) on a three (3) minute average. The opacity shall be determined using 40 CFR 60, Appendix A, Method 9*. The opacity readings shall be taken at least four (4) feet from the point of origin.

(5) Wind erosion from storage piles and exposed areas. The opacity of fugitive particulate emissions from storage piles shall not exceed ten percent (10%) on a six (6) minute average. These limitations may not apply during periods when application of fugitive particulate control measures are either ineffective or unreasonable due to sustained very high wind speeds. During such periods, the company must continue to implement all reasonable fugitive particulate control measures and maintain records documenting the application of measures and the basis for a claim that meeting the opacity limitation was not reasonable given prevailing wind conditions. The opacity shall be determined using 40 CFR 60, Appendix A, Method 9*, except that the opacity shall be observed at approximately four (4) feet from the surface at the point of maximum opacity. The observer shall stand approximately fifteen (15) feet from the plume and at approximately right angles to the plume. The opacity of fugitive particulate emissions from exposed areas shall not exceed ten percent (10%) on a six (6) minute average. The opacity shall be determined using 40 CFR 60, Appendix A, Method 9*.

(6) Material transportation activities shall include the following:

(A) There shall be a zero percent (0%) frequency of visible emission observations of a material during the inplant transportation of material by truck or rail at any time. Material transported by truck or rail that is enclosed and covered shall be considered in compliance with the inplant transportation requirement. Compliance with this limitation shall be determined by 40 CFR 60, Appendix A, Method 22*, except that the observation shall be taken at approximately right angles to the prevailing wind from the leeward side of the truck or railroad car.

(B) The opacity of fugitive particulate emissions from the inplant transportation of material by front end loaders and skip hoists shall not exceed ten percent (10%). Compliance with this limitation shall be determined by the average of three (3) opacity readings taken at five (5) second intervals. The three (3) opacity readings shall be taken as follows:

- (i) The first will be taken at the time of emission generation.
- (ii) The second will be taken five (5) seconds later.
- (iii) The third will be taken five (5) seconds later or ten (10) seconds after the first.

The three (3) readings shall be taken at the point of maximum opacity. The observer shall stand at least fifteen (15) feet from the plume approximately and at right angles to the plume. Each reading shall be taken

approximately four (4) feet above the surface of the roadway or parking area.

(7) Material processing facilities shall include the following:

(A) The PM₁₀ stack emissions from a material processing facility shall not exceed twenty-two thousandths (0.022) grain per dry standard cubic foot and ten percent (10%) opacity. Compliance with the concentration limitation shall be determined using the test methods found in 326 IAC 6.8-4. Compliance with the opacity limitation shall be determined by 40 CFR 60, Appendix A, Method 9*.

(B) The opacity of fugitive particulate emissions from a material processing facility, except crusher at which a capture system is not used, shall not exceed ten percent (10%). Compliance with this limitation shall be determined by 40 CFR 60, Appendix A, Method 9*.

(C) The opacity of fugitive particulate emissions from a crusher at which a capture system is not used shall not exceed fifteen percent (15%). Compliance with this limitation shall be determined by 40 CFR 60, Appendix A, Method 9*.

(D) There shall be a zero percent (0%) frequency of visible emission observations from a building enclosing all or a part of the material processing equipment except from a vent in the building. Compliance with this standard shall be determined by 40 CFR 60, Appendix A, Method 22*.

(E) The PM₁₀ emissions from building vents shall not exceed twenty-two thousandths (0.022) grains per dry standard cubic foot and ten percent (10%) opacity. Compliance with the concentration standard shall be determined by 40 CFR 60, Appendix A, Method 5 or 17, and with the opacity standard by 40 CFR 60, Appendix A, Method 9*.

(8) Dust handling equipment. The opacity of particulate emissions from dust handling equipment shall not exceed ten percent (10%). Compliance with this standard shall be determined by 40 CFR 60, Appendix A, Method 9*.

(9) Any facility or operation not specified in this section shall meet a twenty percent (20%), three (3) minute opacity standard. Compliance with this limitation shall be determined by 40 CFR 60, Appendix A, Method 9*, except that the opacity standard shall be determined as an average of twelve (12) consecutive observations recorded at fifteen (15) second intervals. Compliance of any operation lasting less than three (3) minutes shall be determined as an average of consecutive observations recorded at fifteen (15) second intervals for the duration of the operation.

*These documents are incorporated by reference and are available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the 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 6.8-10-3*)

326 IAC 6.8-10-4 Compliance requirements; control plans

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. Control plans shall include the following:

(1) Within six (6) months of June 11, 1993, a source to which this rule applies shall submit a control plan that, when fully implemented, will achieve compliance with the applicable emission limitations stated in section 3 of this rule. Failure to submit a control plan in accordance with this rule shall be considered a violation of this article. A control plan shall also be included as part of a construction permit application under 326 IAC 2-5.1.

(2) A control plan, upon submittal to the department, shall become part of a source's operating permit or registration conditions.

(3) The following information:

(A) The name and address of the following:

- (i) The source and location, if the source is located on another source's property.
- (ii) If different from that of the source, the owner or operator responsible for the execution of the plan.

(B) Identification of the facilities or operations listed in section 1(a)(1) of this rule and those affected by 326 IAC 6.8-2 through 326 IAC 6.8-7 that exist at the source.

(C) A map showing the location of all of the following:

- (i) Unpaved roads.
- (ii) Paved roads.
- (iii) Parking lots.
- (iv) Storage piles.
- (v) Material processing facilities.
- (vi) Dust handling equipment.
- (vii) Material transfer points.
- (viii) Waste disposal and reclamation sites.

(D) A full description of the facilities on the map, including the following information, where applicable:

- (i) The road lengths and widths, average daily traffic, surface silt loading, classification of vehicle traffic, and other data necessary to estimate PM₁₀ emissions from paved and unpaved roads and parking lots.
- (ii) A description of each storage pile, including the following:
 - (AA) The type of material in the pile.
 - (BB) Its moisture content.
 - (CC) The silt content.
 - (DD) The throughput.
 - (EE) The equipment used to load onto and load out of the storage piles.
- (iii) A complete description of the material processing facilities on the plant property, including the following:
 - (AA) A material flow diagram of the processing

lines.

(BB) The rated capacity of each piece of equipment.

(CC) The existing control equipment and their efficiencies, including the process equipment served.

(iv) A complete description of the material transfer, implant transportation, and dust handling equipment. Material transfer operations shall include, at a minimum, those operations contained in section 2(13) of this rule.

(v) A complete description of all other fugitive particulate matter emitting facilities not covered in this clause.

(E) The description of the proposed control measures and practices that the source will employ to achieve compliance with the emission limitations and data that prove its effectiveness.

(F) A list of the conditions that will prevent control measures and practices from being applied and alternative control practices and measures that will achieve compliance with the emission limitations.

(G) A schedule for achieving compliance with the provisions of the control plan. The schedule shall specify the time required to:

- (i) award necessary contracts; and
- (ii) begin and complete construction and installation.

Final compliance shall be achieved no later than December 10, 1993.

(4) The source shall keep the following documentation to show compliance with each of its control measures and control practices:

(A) A map or diagram showing the location of all emission sources controlled, including the:

- (i) location;
- (ii) identification;
- (iii) length; and
- (iv) width;

of roadways.

(B) For each application of water or chemical solution to roadways, the following shall be recorded:

- (i) The name and location of the roadway controlled.
- (ii) Application rate.
- (iii) The time of each application.
- (iv) The width of each application.
- (v) The identification of each method of application.
- (vi) The total quantity of water or chemical used for each application.
- (vii) For each application of chemical solution, the concentration and identity of the chemical.
- (viii) The material data safety sheets for each chemical.

(C) For application of physical or chemical control agents not covered by clause (B), the following:

- (i) The name of the agent.
- (ii) The location of application.
- (iii) The application rate.
- (iv) The total quantity of agent used.

(v) If diluted, the percent of concentration.

(vi) The material data safety sheets for each chemical.

(D) A log recording incidents when control measures were not used and a statement of explanation.

(E) Copies of all records required by this rule shall be submitted to the department within twenty (20) working days of a written request by the department.

(F) The records required under this subdivision shall be:

(i) kept and maintained for at least three (3) years; and

(ii) available for inspection and copying by department representatives during working hours.

(G) A quarterly report shall be submitted to the department stating the following:

(i) The dates any required control measures were not implemented.

(ii) A listing of those control measures.

(iii) The reasons that the control measures were not implemented.

(iv) Any corrective action taken.

This report shall be submitted to the department thirty (30) calendar days from the end of a quarter. Quarters end March 31, June 30, September 30, and December 31.

(5) A source shall consult "Compilation of Air Pollutant Emission Factors", Volume 1: Stationary Point and Area Sources, AP-42 Fifth Edition, January 1995*, Supplements A through G, December 2000** and Control of Open Sources of Fugitive Dust, U.S. EPA, September 1988** to determine the following:

(A) The information needed.

(B) The effectiveness of the applicable control practices and measures.

(6) A source listed under section 1(a)(2) of this rule shall be exempt from this rule if it can demonstrate to the department that its uncontrolled PM₁₀ emissions are less than five (5) tons per year. An exemption must be approved by both the department and by the U.S. EPA as a revision to the state implementation plan.

(7) The evaluation of a control plan by the department and U.S. EPA or a request for exemption from the requirement to submit a control plan shall be based on the following criteria:

(A) The completeness of the description of the affected facilities located on the plant property.

(B) The accuracy of the methods and procedures used to determine the applicability of the rule.

(C) The completeness of the description of control measures and practices proposed by the source and any alternative control measures, and the accuracy of the data and calculations that document compliance with the emission limitations.

(D) The completeness of the data recording protocol for determining compliance with the control measures and practices.

(8) The department may require that a source revise its control plan if either of the following apply:

(A) A test of surface silt loading on a paved road shows that the loading is greater than one hundred (100) pounds per mile averaged over five (5) roads or five (5) road sections. The surface silt loading shall be determined using the sampling and analysis procedures in the U.S. EPA guidance document EPA 600/2-79-103, "Iron and Steel Plant Open Source Fugitive Emission Evaluation", Appendix B***.

(B) The department's evaluation under subdivision (7) determines that the requirements of the control plan have not been met.

*/***These documents are incorporated by reference and are available for purchase from the Government Printing Office, 732 North Capitol Avenue 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.

***This document is incorporated by reference and is available from U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 or is available for review and copying at the 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 6.8-10-4*)

Rule 11. Lake County: Particulate Matter Contingency Measures

326 IAC 6.8-11-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 4-21.5; IC 13-12

Sec. 1. This rule shall apply to the following sources of PM₁₀ emissions located in Lake County:

(1) Any source listed in 326 IAC 6.8-2.

(2) All sources of fugitive particulate emissions to which 326 IAC 6.8-10-1(a) applies.

(3) Any source that is identified by the department in a culpability study as causing or contributing to an exceedance or violation of the PM₁₀ standard.

(4) Any other source with potential PM₁₀ emissions equal to or greater than ten (10) tons per year.

(*Air Pollution Control Board; 326 IAC 6.8-11-1*)

326 IAC 6.8-11-2 "Ambient monitoring data" defined

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. As used in this rule, "ambient monitoring data" means data that has been:

(1) collected in accordance with 40 CFR 58*; and

(2) verified by the department as quality assured in

accordance with quality assurance procedures.

*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is available for review and copying at the 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 6.8-11-2*)

326 IAC 6.8-11-3 Exceedances

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. (a) If the department's review of ambient monitoring data from Lake County by the department reveals an exceedance of the twenty-four (24) hour ambient air quality standard for PM₁₀, the department shall undertake a culpability study to determine the source or sources causing or contributing to the exceedance. An exceedance means a daily value that is above the level of the twenty-four (24) hour standard after rounding to the nearest ten (10) micrograms per cubic meter. In determining whether a source has caused or contributed to an exceedance of the twenty-four (24) hour ambient air quality standard for PM₁₀, the department shall take whatever steps as are necessary to determine which source or sources are culpable for the exceedance, including, but not limited to, the following:

- (1) Evaluating whether the exceedance should be classified as an exceptional event under "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events, EPA 450/4-88-007*".
- (2) Reviewing operating records of the source or sources identified under subdivisions (3) and (4) to determine whether any source or sources so identified experienced a malfunction or breakdown or violated any term or condition of its operating permit or applicable rule that contributed to the exceedance.
- (3) Evaluating the monitoring equipment filter evidencing the exceedance to determine the type of source or sources that contributed to the exceedance.
- (4) Evaluating meteorological data and conducting dispersion analyses under the "Guideline on Air Quality Models, Appendix W of 40 CFR Part 51", EPA 450/2-78-027R* to determine which source or sources caused or contributed to the exceedance, as needed.

(b) If the department determines that an exceedance can be classified as an exceptional event, the department shall make no request upon any source for voluntary controls.

(c) If the department determines that an exceedance would not have occurred except for a malfunction or violation of:

- (1) any term or condition of a source's operating permit; or

(2) a rule adopted by the board;
the department shall pursue enforcement or other appropriate action and shall make no request upon any source under the provisions of this article.

(d) Following any exceedance of the twenty-four (24) hour ambient air quality standard for PM₁₀ and upon completion of the culpability study described in section 3 of this rule, the department shall notify the source or sources that the department has identified as likely to have caused or contributed to the exceedance and request that the source or sources voluntarily implement controls that will reduce the source's PM₁₀ emissions by fifteen percent (15%). The department's notification shall include the results of the culpability study. The department shall request a reduction less than fifteen percent (15%) if the culpability study demonstrates that a lesser percent reduction would ensure that no further exceedance will occur under the same circumstances. If the department determines that a single facility at a source caused or significantly contributed to the exceedance, then the department will request that voluntary reductions be implemented only at the specific facility.

*These documents are incorporated by reference and are available from U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 or are available for review and copying at the 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 6.8-11-3*)

326 IAC 6.8-11-4 Violation of 24-hour standard

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 4-21.5; IC 13-15; IC 13-17

Sec. 4. (a) If there is a violation of the twenty-four (24) hour ambient air quality standard for PM₁₀, as determined in accordance with 40 CFR 50, Appendix K*, and before a finding of failure to attain by the administrator of U.S. EPA, the department shall conduct a comprehensive culpability study as described in section 3(a) of this rule for each occurrence that contributed to the violation. Upon completion of the culpability study, the department shall notify the following sources:

- (1) Any source whose total source-wide PM₁₀ emissions contributed more than twenty-five (25) micrograms per cubic meter to the total concentration at the sampling site on any of the sampling days that contributed to the violation.
- (2) Any source where a specific facility at the source contributed more than five (5) micrograms per cubic meter to the total concentration at the sampling site on any of the sampling days that contributed to the violation. The department's notification shall include the results of the culpability study.

(b) Within forty-five (45) days of receipt of the notification under subsection (a), the source or sources shall submit to the department the following information:

(1) Any source whose total source-wide PM₁₀ emissions contributed more than twenty-five (25) micrograms per cubic meter to the total concentration at the sampling site on any of the sampling days that contributed to the violation shall submit reduction measures that will reduce the source's actual source-wide PM₁₀ emissions by twenty-five percent (25%). A source may substitute other proposed actual emission reductions upon a demonstration that the ambient air quality impact will be equivalent or greater than a source-wide twenty-five percent (25%) reduction.

(2) Any source where a specific facility at the source contributed more than five (5) micrograms per cubic meter to the total concentration at the sampling site on any of the sampling days that contributed to the violation shall submit reduction measures that will reduce the facility's actual emissions by twenty-five percent (25%). A source may substitute other proposed actual emission reductions upon a demonstration that the ambient air quality impact will be equivalent or greater than a facility-wide twenty-five percent (25%) reduction.

If the culpability study demonstrates that a percent less than twenty-five percent (25%) would ensure that no further violation of the twenty-four (24) hour PM₁₀ standard will occur, under the same circumstances, the department will specify what percent reduction will be required to ensure that no further violations occur.

(c) A source may, instead of the information required in subsection (b), submit an analysis that determines that the source's contribution to the violation twenty-five (25) micrograms per cubic meter or less or, in the case of a facility, five (5) micrograms per cubic meter or less. After reviewing this information, the department shall determine whether the source shall comply with the emission reduction required in subsection (b). The department's decision is subject to IC 4-21.5.

*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol NW, Washington, D.C. 20401 or is available for review and copying at the 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 6.8-11-4*)

326 IAC 6.8-11-5 Violation of annual standard

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. If there is a violation of the annual ambient air quality standard for PM₁₀ as determined in accordance with 40 CFR 50, Appendix K*, and before a finding of failure to

attain by the administrator of the U.S. EPA, the department shall conduct a comprehensive culpability study as described in section 3 of this rule for each occurrence that caused or contributed to the violation. Upon completion of the culpability study, the department shall notify the following sources:

(1) Any source whose total source-wide PM₁₀ emissions contributed more than five (5) micrograms per cubic meter to the total concentration at the sampling site on any of the sampling days that contributed to the violation.

(2) Any source where a specific facility at the source contributed more than one (1) microgram per cubic meter to the total concentration at the sampling site on any of the sampling days that contributed to the violation.

The department's notification shall include the results of the culpability study.

*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is available for review and copying at the 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 6.8-11-5*)

326 IAC 6.8-11-6 Reduction measures

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 4-21.5; IC 13-15; IC 13-17

Sec. 6. (a) Within forty-five (45) days of receipt of the notification under section 5 of this rule, the source or sources shall submit to the department the following information:

(1) Any source whose total source-wide PM₁₀ emissions contributed more than five (5) micrograms per cubic meter to the total concentrations at the sampling site on any of the sampling days that contributed to the violation shall submit reduction measures that will reduce the source's actual source-wide PM₁₀ emissions by twenty-five percent (25%). A source may substitute other proposed actual PM₁₀ emission reductions upon a demonstration that the ambient air quality impact will be equivalent or greater than source-wide reductions.

(2) Any source where a specific facility at the source contributed more than one (1) microgram per cubic meter at the sampling site on any of the sampling days that contributed to the violation shall submit reduction measures that will reduce the facility's actual emissions by twenty-five percent (25%). A source may substitute other proposed actual PM₁₀ emission reductions upon a demonstration that the ambient air quality impact will be equivalent or greater than facility-wide reductions. If the culpability study demonstrates that a percent less than twenty-five percent (25%) would ensure that no further violation of the annual PM₁₀ standard will occur, under the same circumstances, the department will specify what

percent reduction will be required to ensure that no further violations occur.

(b) A source may, instead of the information required in subsection (a), submit an analysis that demonstrates that the source's contribution to the violation is five (5) micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) or less or, in the case of a facility, less than one (1) microgram per cubic meter. After reviewing this information, the department shall determine whether the source shall comply with the emission reductions required in section 4(c) of this rule. The department's decision is subject to IC 4-21.5.

(c) At the time of the submittal of the reduction measures, the source shall request that the department immediately incorporate the reduction measures into the source's Title V permit as described in 326 IAC 2-7 or its federally enforceable state operating permit (FESOP) as described in 326 IAC 2-8. If the source does not have a Title V operating permit or a FESOP, the source shall request that the department submit the reduction measure to U.S. EPA as an SIP revision.

(d) The department may commence rulemaking to incorporate the approved reduction measures into 326 IAC 6.8-2 through 326 IAC 6.8-8 and 326 IAC 6.8-10 as appropriate.

(e) The source shall implement the reduction measures within one hundred eighty (180) days of the department's initial notification or such sooner time as may be feasible given the nature of the reduction measures, regardless of the department's approval, disapproval, or request for additional information unless a petition under subsection (b) or section 4(c) of this rule has been submitted. Upon a showing by a source that one hundred eighty (180) days is infeasible for implementation of the reduction measures, the commissioner may extend the deadline, provided that the source implements interim reduction measures for the period of time necessary to implement the permanent measures. Such interim measures shall be put in place within thirty (30) days of the commissioner's approval of the requested extension.

(f) If, after review of the reduction measures, the department does not agree that the measures will achieve the required reduction, the department will notify the source. The source will have forty-five (45) days from receipt of the notice in which to resubmit a plan that adequately addresses the deficiencies. Failure to resubmit a plan that ensures reductions in PM_{10} emissions constitutes a violation of this article.

(g) A source that is required to resubmit reduction measures shall implement the approved measures within ninety (90) days of the department's approval. (*Air Pollution Control Board*; 326 IAC 6.8-11-6)

SECTION 3. THE FOLLOWING ARE REPEALED: 326 IAC 6-1-1; 326 IAC 6-1-1.5; 326 IAC 6-1-2; 326 IAC 6-1-3; 326 IAC 6-1-4; 326 IAC 6-1-5; 326 IAC 6-1-6; 326 IAC 6-1-7; 326 IAC 6-1-8.1; 326 IAC 6-1-9; 326 IAC 6-1-10.1; 326 IAC 6-1-10.2; 326 IAC 6-1-11.1; 326 IAC 6-1-11.2; 326 IAC 6-1-12; 326 IAC 6-1-13; 326 IAC 6-1-14; 326 IAC 6-1-15; 326 IAC 6-1-16; 326 IAC 6-1-17; 326 IAC 6-1-18.

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 May 4, 2005 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 proposed new articles 326 IAC 6.5 and 326 IAC 6.8.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new articles and 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 Suzanne Whitmer, Rule Development Section, Office of Air Quality, (317) 232-8229 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

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #04-234

Proposed Rules

DIGEST

Amends 326 IAC 6.5-7-13 so rule language is consistent with permit specifications. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: September 1, 2004, Indiana Register (27 IR 4144).

Second Notice of Comment Period: November 1, 2004, Indiana Register (28 IR 680).

Notice of First Hearing: November 1, 2004, Indiana Register (28 IR 680).

Date of First Hearing: February 2, 2005.

Notice of Second Hearing: March 1, 2005.

Date of Second Hearing: May 4, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on November 1, 2004, at 28 IR 680, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Saint Mary's natural gas fired with fuel oil No. 2 as a backup	01	54P	Boiler No. 2 Coal 1 gas fired	12.90	0.110	
natural gas fired with fuel oil No. 2 as a backup	02	55P	Boiler No. 3 Coal 2 gas fired	12.90	0.110	
100% natural gas	03	56P	Boiler No. 4 gas fired			

(b) Boiler No. 4 at Saint Mary's, identified in subsection (a) as one hundred percent (100%) natural gas burner, shall burn only natural gas. (*Air Pollution Control Board; 326 IAC 6.5-7-13*)

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 May 4, 2005 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 proposed amendments to 326 IAC 6.5-7-13.

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

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from December 1, 2004, through January 4, 2005, on IDEM's draft rule language. No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On February 2, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 6.5-7-13. No comments were made at the first hearing.

326 IAC 6.5-7-13

SECTION 1. 326 IAC 6.5-7-13, PROPOSED TO BE ADDED AT 28 IR 1749, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6.5-7-13 Saint Mary's

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. (a) Saint Mary's in St. Joseph County shall meet the following emission limits:

from Sky Schelle, Rules Section, Office of Air Quality, (317) 234-3533 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

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief

Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #04-299

DIGEST

Amends 326 IAC 1-1-3 to update any references to the Code of Federal Regulations (CFR) in Title 326 to mean the July 1, 2004, edition. Amends 326 IAC 1-1-3.5 to update Compilation of Air Pollution Factors AP-42 and Supplements (AP-42) to the year 2004. Effective 30 days after filing with the secretary of state.

HISTORY

IC 13-14-9-8 Notice and Notice of First Hearing: December 1, 2004, Indiana Register (28 IR 1075).

Date of First Hearing: February 2, 2005.

Notice of Second Hearing: March 1, 2005.

Date of Second Hearing: May 4, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on December 1, 2004, at 28 IR 1075, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On February 2, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 1-1-3 and 326 IAC 1-1-3.5. No comments were made at the first hearing.

326 IAC 1-1-3

326 IAC 1-1-3.5

SECTION 1. 326 IAC 1-1-3, AS AMENDED AT 28 IR 17, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-1-3 References to the Code of Federal Regulations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. Unless otherwise indicated, any reference to a provision of the Code of Federal Regulations (CFR) shall mean the July 1, ~~2002~~, **2004**, edition*.

*This body of documents 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 1-1-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2369; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1102; filed Dec 14, 1989, 9:35 a.m.: 13 IR 868; filed Aug 9, 1991, 11:00 a.m.: 14 IR 2218; filed May 25, 1994, 11:00 a.m.: 17 IR 2237; filed Jul 25, 1995, 5:00 p.m.: 18 IR 3381; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3298; filed Oct 30, 2000, 2:13 p.m.: 24 IR 667; filed May 21, 2002, 10:20 a.m.: 25 IR 3054; filed Aug 26, 2004, 11:30 a.m.: 28 IR 17)

SECTION 2. 326 IAC 1-1-3.5, AS AMENDED AT 28 IR 18, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-1-3.5 References to the Compilation of Air Pollution Emission Factors AP-42 and Supplements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3.5. Unless otherwise indicated, any reference to the Compilation of Air Pollution Emission Factors AP-42 (AP-42) means the January 1995, Fifth Edition, Volume I*, including the following AP-42, Fifth Edition, Volume I supplements:

- (1) Supplement A, February 1996*.
- (2) Supplement B, November 1996*.
- (3) Supplement C, November 1997*.
- (4) Supplement D, August 1998*.
- (5) Supplement E, September 1999*.
- (6) Supplement F, September 2000*.
- (7) Update 2001*.
- (8) Update 2002*.
- (9) **Update 2003*.**
- (10) **Update 2004*.**

*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 1-1-3.5; filed May 21, 2002, 10:20 a.m.: 25 IR 3055; filed Aug 26, 2004, 11:30 a.m.: 28 IR 18)

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 May 4, 2005 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 proposed amendments to 326 IAC 1-1-3 and 326 IAC 1-1-3.5.

Proposed Rules

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 Gayl Killough, Rule Development 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

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #04-300

DIGEST

Adds 326 IAC 20-90 through 326 IAC 20-94 concerning stationary combustion engines, lime manufacturing plants, iron and steel foundries, integrated iron and steel manufacturing, and mercury cell chlor-alkali plants, respectively. Effective 30 days after filing with the secretary of state.

HISTORY

IC 13-14-9-8 Notice and Notice of First Hearing: December 1, 2004, Indiana Register (28 IR 1077).

Date of First Hearing: February 2, 2005.

Notice of Second Hearing: March 1, 2005.

Date of Second Hearing: May 4, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period

that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on December 1, 2004, at 28 IR 1077, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On February 2, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of new rules 326 IAC 20-90 through 326 IAC 20-94. No comments were made at the first hearing.

326 IAC 20-90

326 IAC 20-91

326 IAC 20-92

326 IAC 20-93

326 IAC 20-94

SECTION 1. 326 IAC 20-90 IS ADDED TO READ AS FOLLOWS:

Rule 90. Stationary Combustion Turbines

326 IAC 20-90-1 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 63.6085* (69 FR 10537, March 5, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart YYYY* (69 FR 10537, March 5, 2004, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines).

*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 20-90-1*)

SECTION 2. 326 IAC 20-91 IS ADDED TO READ AS FOLLOWS:

Rule 91. Lime Manufacturing Plants

326 IAC 20-91-1 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 63.7081* (69 FR 416, January 5, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart AAAA* (69 FR 416,

January 5, 2004, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants).

*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 20-91-1*)

SECTION 3. 326 IAC 20-92 IS ADDED TO READ AS FOLLOWS:

Rule 92. Iron and Steel Foundries

326 IAC 20-92-1 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 63.7681* (69 FR 21924, April 22, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart EEEEE* (69 FR 21923, April 22, 2004, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries).

*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 20-92-1*)

SECTION 4. 326 IAC 20-93 IS ADDED TO READ AS FOLLOWS:

Rule 93. Integrated Iron and Steel Manufacturing

326 IAC 20-93-1 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 63.7781* (68 FR 27663, May 20, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart FFFFF* (68 FR 27663, May 20, 2003, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel 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 20-93-1*)

SECTION 5. 326 IAC 20-94 IS ADDED TO READ AS FOLLOWS:

Rule 94. Mercury Cell Chlor-Alkali Plants

326 IAC 20-94-1 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 63.8182* (68 FR 70928, December 19, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart IIIII* (68 FR 70928, December 19, 2003, National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants).

*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 20-94-1*)

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 May 4, 2005 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 proposed new rules 326 IAC 20-90 through 326 IAC 20-94.

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 Gayl Killough, Rule Development 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, Office of Air Quality, at (317) 233-8628.

Proposed Rules

ment of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

Proposed Rule LSA Document #04-248

DIGEST

Adds 345 IAC 1-2.5 to establish a state system allocating premises identification numbers for premises associated with certain animals, animal related enterprises, and meat and poultry and dairy products production and to require that a person obtain a premises identification number before buying, selling, or exhibiting certain livestock. Adds 345 IAC 7-4.5 to require a person holding a livestock exhibition to register the event with the state veterinarian and keep records. Partially effective 30 days after filing with the secretary of state and partially effective September 1, 2006.

345 IAC 1-2.5

345 IAC 7-4.5

SECTION 1. 345 IAC 1-2.5 IS ADDED TO READ AS FOLLOWS:

Rule 2.5. Premises Identification

345 IAC 1-2.5-1 Purpose

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19

Affected: IC 15-2.1

Sec. 1. The board recognizes the expressed intent of the United States Department of Agriculture to work with states to create a system of animal and premises identification that will facilitate the tracing of animals. It is a board objective to plan for and respond to natural and intentional

disasters that affect animals and products produced from animals. The board intends to create a state system for premises and animal identification that facilitates the following:

- (1) Tracing animals in a manner that supports the national goal.
- (2) Emergency programs planning and response.
- (3) Board animal health and food safety programs.
- (4) Opportunities for animal owners in the state.

(Indiana State Board of Animal Health; 345 IAC 1-2.5-1)

345 IAC 1-2.5-2 Definitions

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19

Affected: IC 15-2.1-2-27; IC 15-2.1-3; IC 15-2.1-4

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

- (1) "Board" means the Indiana state board of animal health appointed under IC 15-2.1-3.
- (2) "Designated person" means a person designated by the state veterinarian, by virtue of their:

- (A) education;
- (B) training;
- (C) licensing;
- (D) experience; or
- (E) position;

as qualified to conduct specific activities under this rule.

- (3) "Livestock" has the meaning set forth in IC 15-2.1-2-27(a).

- (4) "Poultry" means domesticated fowl, including the following:

- (A) Chickens.
- (B) Turkeys.
- (C) Ostriches.
- (D) Emus.
- (E) Rheas.
- (F) Cassowaries.
- (G) Waterfowl.
- (H) Game birds.

The term does not include doves and pigeons.

- (5) "Premises" means an identifiable physical location that represents a unique and describable geographic entity where activity affecting the health or traceability of animals may occur.

- (6) "Premises identification number" means a unique number the state veterinarian assigns to a premises.

- (7) "State veterinarian" means the state veterinarian appointed by the board under IC 15-2.1-4 and any authorized agents.

- (8) "USDA" means the United States Department of Agriculture.

(Indiana State Board of Animal Health; 345 IAC 1-2.5-2)

345 IAC 1-2.5-3 Premises identification system

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-15-17

Sec. 3. (a) The board intends to participate in the national premises identification system. The state veterinarian shall establish a state system and protocols that are consistent with and that interface with the federal system. The state veterinarian shall assign premises identification numbers to premises that are registered with the board. The state veterinarian may utilize the USDA premises identification number system for the purpose of registering premises and assigning premises identification numbers. The premises identification system must link premises identification numbers to a contact person that is associated with activity affecting the health or traceability of animals at the premises.

(b) Premises identification numbers shall meet the parameters in this subsection. The number must be:

- (1)** at least seven (7) characters;
- (2)** an alphanumeric number;
- (3)** associated with an address or legal land description;
- (4)** unique to the assigned premises across all of the United States; and
- (5)** consistent with the national premises identification number system administered by the USDA.

(c) The state veterinarian may cooperate with, contract with, or award grants to other responsible designated persons to register premises and assign approved premises identification numbers and otherwise administer the provisions of this rule.

(d) The state veterinarian may register a premises and assign a premises identification number to any premises associated with a board program including, without limitation, a premises associated with an animal disease inquiry, investigation, or quarantine or any other board action.

(e) The state veterinarian may issue more than one (1) premises identification number to one (1) person if each number corresponds to a geographically distinct location. A person may not register a location more than one (1) time.

(f) Once a premises identification number is issued, the state veterinarian may transfer a premises identification number from one (1) person to another and modify information related to a registration to accommodate changes in real property or animal ownership, animal activity associated with the premises, and other changes.

(g) The state veterinarian may deny a request for a premises identification number for the following reasons:

- (1)** Issuing the number would create duplication, confusion, or otherwise frustrate the purposes of this rule.
- (2)** The requestor fails to provide information needed to register the premises.

(3) The requestor provides information that is misleading or inaccurate.

(h) Premises identification numbers do not automatically expire. The state veterinarian may rescind or inactivate an issued premises identification number for the following reasons:

- (1)** The state veterinarian finds that the:
 - (A)** assigned number creates duplication, confusion, or otherwise frustrates the purposes of this rule; or
 - (B)** requestor did not provide information needed to register the premises or the provided information is misleading or inaccurate.
- (2)** The person identified with the premises identification number is no longer associated with the registered premises or the animal activity connected to the premises.

(Indiana State Board of Animal Health; 345 IAC 1-2.5-3)

345 IAC 1-2.5-4 Voluntary premises identification

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-15-17

Sec. 4. (a) A person may obtain a premises identification number for a premises associated with the following animals:

- (1)** Livestock.
- (2)** Poultry.
- (3)** Aquatic animals that are the subject of aquaculture.

(b) A person that obtains a premises identification number under this section consents to be bound by the provisions of this rule and board policies that implement this rule.

(c) A person requesting a premises identification number shall register the premises with the board and provide complete and accurate information requested by the state veterinarian as a part of the registration process. A person registering a premises under this section shall notify the state veterinarian of changes to the information provided for the registration within thirty (30) days of the change.
(Indiana State Board of Animal Health; 345 IAC 1-2.5-4)

345 IAC 1-2.5-5 Required premises identification

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19

Affected: IC 15-2.1

Sec. 5. (a) Except as provided in subsection (b), beginning September 1, 2006, the following are required:

- (1)** A person that buys or sells livestock must obtain a premises identification number for each premises associated with livestock that they own, lease, or manage in the state.
- (2)** A person that exhibits livestock must obtain a premises identification number for each premises associated with livestock that they exhibit, own, lease, or manage in the state.

Proposed Rules

Premises identification numbers required under this subsection must be obtained before purchase, sale, or exhibition. Only one (1) premises identification number is required for each premises.

(b) The requirements in subsection (a) do not apply to a premises that is associated only with the following:

- (1) Animals of the family equidae (horses, donkeys, and zebras).
- (2) Animals of the family camelidae (camels, llamas, and alpacas).
- (3) Ostriches, rheas, and emus.

(c) Beginning September 1, 2006, a person obtaining the following shall obtain a premises identification number for a premises associated with their operation:

- (1) A registration of a cervidae premises under 345 IAC 2-7-3.
- (2) A livestock dealer license issued under IC 15-2.1-14. If the licensee does not handle or hold animals at any facility in the state, however, a premises identification number is not required.
- (3) A registration for an exhibition under 345 IAC 7-4.5.
- (4) A disposal plant license under IC 15-2.1-16.
- (5) A Grade A dairy farm, milk plant, or transfer station permit or a manufacturing grade dairy farm, milk plant, or transfer station permit issued under IC 15-2.1-23.
- (6) A slaughtering plant, including custom exempt operations, regulated under IC 15-2.1-24, 345 IAC 9, and 345 IAC 10.
- (7) A contagious equine metritis quarantine facility approved under 345 IAC 6-2.

(d) The denial, suspension, or revocation of a license, registration, or participation under another program shall not affect the premises identification number issued under this rule. Board action on an application for a premises identification number under this rule shall not affect a license, registration, or participation under another program.

(e) A person requesting a premises identification number shall register the premises with the board and provide complete and accurate information requested by the state veterinarian as a part of the registration process. A person registering a premises under this section shall notify the state veterinarian of changes to the information provided for the registration within thirty (30) days of the change. *(Indiana State Board of Animal Health; 345 IAC 1-2.5-5)*

SECTION 2. 345 IAC 7-4.5 IS ADDED TO READ AS FOLLOWS:

Rule 4.5. Exhibitions

345 IAC 7-4.5-1 Definitions and general provisions

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19
Affected: IC 15-2.1-2-27; IC 15-2.1-3; IC 15-2.1-4

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

- (1) "Board" means the Indiana state board of animal health appointed under IC 15-2.1-3.
- (2) "Exhibition" means a fair, show, or competition of limited duration that congregates animals from multiple sources on a premises.
- (3) "Livestock" has the meaning set forth in IC 15-2.1-2-27(a).
- (4) "State veterinarian" means the state veterinarian appointed by the board under IC 15-2.1-4 and any authorized agents.

(b) Notwithstanding any other provision of this rule, a person holding an exhibition that involves only the following animals is exempt from the requirements in this rule:

- (1) Animals of the family equidae (horses, asses, and donkeys).
- (2) Animals of the family camelidae (camels, llamas, and alpacas).
- (3) Ostriches, rheas, and emus.

(Indiana State Board of Animal Health; 345 IAC 7-4.5-1)

345 IAC 7-4.5-2 Registration required

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-15-14

Sec. 2. Except as provided in section 1(b) of this rule, a person holding an exhibition of livestock shall register the event with the board not less than ten (10) days before the opening of the exhibition by notifying the state veterinarian of the following information:

- (1) The opening date of the exhibition.
- (2) The duration of the exhibition.
- (3) The location of the event.
- (4) The nature of the event and the species of animals that are expected at the event.
- (5) The name, address, and phone number of the person organizing the event.
- (6) The name, address, and phone number of the person that will be keeping the records required under section 3 of this rule.
- (7) If there is a veterinarian for the exhibition, the name and address of the exhibition veterinarian.

(Indiana State Board of Animal Health; 345 IAC 7-4.5-2)

345 IAC 7-4.5-3 Record keeping

Authority: IC 15-2.1-3-12; IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-15

Sec. 3. (a) A person holding an exhibition of livestock shall keep the following records associated with each participant in the event:

- (1) The participant's name and address.

(2) The species of each animal exhibited by the participant.

(3) If an animal is sold through an auction or other sale as a part of the exhibition, the name and address of the purchaser of each animal.

(b) The records required under this section shall be kept for not less than two (2) years from the opening date of the exhibition.

(c) A person keeping records required under this section shall make the records available to board personnel for inspection and copying upon request during normal business hours. (*Indiana State Board of Animal Health; 345 IAC 7-4.5-3*)

SECTION 3. SECTION 2 of this document takes effect September 1, 2006.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 21, 2005 at 9:40 a.m., at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis, Indiana the Indiana State Board of Animal Health will hold a public hearing on proposed rules that establish a state system allocating premises identification numbers for premises associated with certain animals, animal related enterprises, and meat and poultry and dairy products production, require that a person obtain a premises identification number before buying, selling, or exhibiting certain livestock, and require a person holding a livestock exhibition to register the event with the state veterinarian and keep records. Copies of these rules are now on file at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bret D. Marsh, D.V.M.
Indiana State Veterinarian
Indiana State Board of Animal Health

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

Proposed Rule LSA Document #04-286

DIGEST

Amends 345 IAC 8-2-1.1, 345 IAC 8-2-1.5, 345 IAC 8-2-1.7, and 345 IAC 8-2-1.9 and adds 345 IAC 8-2-1.6 to add and amend definitions and general provisions that coordinate with the 2003 Grade A Pasteurized Milk Ordinance. Amends 345 IAC 8-2-4 to allow goat milk to be collected at least once every

seven days. Amends 345 IAC 8-3-1 to update matters incorporated by reference. Amends 345 IAC 8-3-2 and 345 IAC 8-4-1 and adds 345 IAC 8-3-12 to make other changes in the law of milk and milk products sanitation. Effective 30 days after filing with the secretary of state.

345 IAC 8-2-1.1	345 IAC 8-2-4
345 IAC 8-2-1.5	345 IAC 8-3-1
345 IAC 8-2-1.6	345 IAC 8-3-2
345 IAC 8-2-1.7	345 IAC 8-3-12
345 IAC 8-2-1.9	345 IAC 8-4-1

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

345 IAC 8-2-1.1 Definitions

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

Affected: IC 15-2.1-2-3.6; IC 15-2.1-4; IC 15-2.1-23; IC 16-42

Sec. 1.1. (a) In the interpretation and enforcement of this article, unless the context otherwise requires, the definitions in IC 15-2.1-2 and the following definitions apply:

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

(2) **"Automatic milking installation" or "AMI" means the entire installation of one (1) or more automatic milking units, including the hardware and software utilized in the operation of:**

- (A) individual automatic milking units;
- (B) the animal selection system;
- (C) the automatic milking machine;
- (D) the milk cooling system;
- (E) the system for cleaning and sanitizing the automatic milking unit;
- (F) the teat cleaning system; and
- (G) the alarm systems;

associated with the process of milking, cooling, cleaning, and sanitation.

(2) (3) "Bacterial counts" means:

- (A) bacterial plate counts;
- (B) direct microscopic counts; and
- (C) plate loop counts;

that, whenever mentioned in dairy product standards of identity, are made according to the methods outlined in the current edition of "Standard Methods for the Examination of Dairy Products", published by the American Public Health Association, and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists, or such methods that are approved by the board.

(3) (4) "Butter" means the food product usually known as butter and ~~which that~~ is made:

- (A) exclusively from milk or cream, or both; **and**
- (B) with or without:

- (i) common salt; and ~~with or without~~
- (ii) additional coloring matter;

and containing not less than eighty percent (80%) by weight

Proposed Rules

of milk fat, all tolerances having been allowed for.

~~(4)~~ **(5)** “Buttermilk” means a fluid product resulting from the manufacture of butter from milk or cream. ~~It~~ **Buttermilk** contains not less than eight and one-fourth percent (8¼%) of milk solids not fat.

~~(5)~~ **(6)** “Buyer of raw milk” means any:

- (A) milk producer marketing organization;
- (B) milk plant;
- (C) receiving station;
- (D) transfer station; or
- (E) bulk hauler;

that takes delivery of raw milk or raw cream and manages the sale of the raw milk or raw cream.

~~(6)~~ **(7)** “Cheese” means:

- (A) natural cheeses;
- (B) processed cheeses;
- (C) cheese foods;
- (D) cheese spreads; and
- (E) related foods;

described in the matters incorporated by reference in 345 IAC 8-3-1(e).

(8) “Clean” means product and contaminants have been thoroughly and effectively removed from direct product contact surfaces.

~~(7)~~ **(9)** “Concentrated milk” means ~~the~~ fluid product:

- (A) that is unsterilized and unsweetened; **and**
- (B) resulting from the removal of a considerable portion of the water from the milk;

which, when combined with potable water in accordance with instructions printed on the container, results in a product conforming with the milk fat and the milk solids not fat levels of milk defined in this rule.

~~(8)~~ **(10)** “Concentrated milk products” means:

- (A) homogenized concentrated milk;
- (B) concentrated nonfat milk;
- (C) concentrated reduced fat or low fat milk; and
- (D) similar concentrated products made from concentrated milk or concentrate nonfat milk; ~~and~~

which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding milk products in this section.

(11) “Cooling pond” means a manmade structure designed for the purpose of cooling lactating hooved mammals.

~~(9)~~ **(12)** “Cottage cheese” means the product defined in 21 CFR 133.128.

~~(10)~~ **(13)** “Dry curd cottage cheese” means the product defined in 21 CFR 133.129.

(14) “Dry milk products” means products resulting from the:

- (A) drying of milk or milk products; or
- (B) combination of dry milk products with other wholesome dry ingredients.

~~(11)~~ **(15)** “Eggnog” or “boiled custard” means the product

defined in 21 CFR 131.170.

~~(12)~~ **(16)** “Farm bulk tank” or “bulk tank” means the refrigerated tank located on a dairy farm in which raw milk is stored **prior to before** collection by a milk hauler.

~~(13)~~ **(17)** “Food allergens” means proteins in foods that are capable of inducing an allergic reaction or response in some individuals. There is scientific consensus that the following foods account for more than ninety percent (90%) of all food allergies:

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

~~(14)~~ **(18)** “Frozen desserts” means:

- (A) ice cream;
- (B) frozen custard;
- (C) ice milk;
- (D) goat’s milk ice cream;
- (E) sherbets;
- (F) mellorine; and
- (G) related foods;

described in the matters incorporated by reference in ~~345 IAC 8-3-1(g)~~ **345 IAC 8-3-1(f)**.

~~(15)~~ **(19)** “Frozen milk concentrate” means a frozen milk product with a composition of milk fat and milk solids that are not fat in such proportions that when a given volume of concentrate is mixed with a given volume of water the reconstituted product conforms to the milk fat and the milk solids not fat requirements of whole milk.

~~(16)~~ **(20)** “Goat milk” means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy goats.

~~(17)~~ **(21)** “Grade A dry milk and whey products” means products that have been:

- (A) produced for use in Grade A pasteurized or aseptically processed milk products; and
- (B) manufactured under the provisions of the “Grade A Condensed and Dry Milk Products and Condensed and Dry Whey—Supplement I to the Grade A Pasteurized Milk Ordinance” incorporated by reference in 345 IAC 8-3.

~~(18)~~ **(22)** “Grade A milk plant” means any place, premises, or establishment where Grade A milk products are:

- (A) collected;
- (B) handled;
- (C) processed;
- (D) stored;
- (E) pasteurized;
- (F) bottled;
- (G) prepared; or
- (H) stored for distribution.

~~(19)~~ **(23)** “Grade A producer” means a milk producer that is producing and selling Grade A raw milk under a Grade A permit issued by the board.

~~(20)~~ **(24)** “Grade A raw milk” means milk that has been produced:

- (A) for use in Grade A pasteurized milk products; and
- (B) under the provisions of the “Grade A Pasteurized Milk Ordinance—Current Recommendations of the United States Public Health Service”.

~~(21)~~ **(25)** “Health authority”, “board”, or “state board” means the Indiana state board of animal health or its authorized representative.

(26) “Hooved mammals milk” means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy hooved mammals.

~~(22)~~ **(27)** “Manufacturing grade milk plant” means any place, premises, or establishment where manufacturing grade milk products are:

- (A) collected;
- (B) handled;
- (C) processed;
- (D) stored;
- (E) pasteurized;
- (F) prepared; or
- (G) stored for distribution.

(28) “Industry plant sampler” means an employee of a milk plant, receiving station, or transfer station that is responsible for the collection of official samples for regulatory purposes at a milk plant, receiving station, or transfer station as outlined in the PMO, Appendix N.

~~(23)~~ **(29)** “Manufacturing grade milk products” means dairy products not considered Grade A under this rule including **the following:**

- (A) Cheese.
- (B) Frozen desserts. ~~and~~
- (C) Frozen desserts mixes. ~~and~~
- (D) Butter.

~~(24)~~ **(30)** “Manufacturing grade producer” means a milk producer that is producing and selling manufacturing grade raw milk.

~~(25)~~ **(31)** “Manufacturing grade raw milk” means raw milk produced on a dairy farm ~~which that~~ does not have a currently valid permit issued by the board to sell Grade A raw milk for pasteurization.

~~(26)~~ **(32)** “Milk” means the normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy:

- (A) cows;
- (B) sheep; ~~or~~
- (C) goats;
- (D) **water buffalo; or**
- (E) **hooved mammals.**

~~(27)~~ **(33)** “Milk plant” means a Grade A milk plant or a

manufacturing grade milk plant. ~~But,~~ For the purposes of the matters incorporated by reference at 345 IAC 8-3-1(a), ~~and 345 IAC 8-3-1(b); however,~~ “milk plant” means a Grade A milk plant only.

~~(28)~~ **(34)** “Milk tank truck driver” means a person who transports raw or pasteurized milk products to or from a:

- (A) milk plant;
- (B) receiving station; or
- (C) transfer station.

~~(29)~~ **(35)** “New producer” means any milk producer who has not sold raw milk within a period of ninety (90) days ~~prior to~~ **before** the delivery in question.

~~(30)~~ **(36)** “Producer” means milk producer.

~~(31)~~ **(37)** “Producer’s marketing organization” means a milk producer organization ~~which that~~ manages the marketing of a milk producer’s raw milk.

~~(32)~~ **(38)** “Reconstituted or recombined milk and milk products” means milk or milk products defined in this rule that result from ~~the~~ reconstituting or recombining ~~or of~~ milk constituents with potable water when appropriate.

~~(33)~~ **(39)** “Regulatory agency” means the board.

(40) “Sanitization” means the application of any effective method or substance to surfaces that are clean to destroy pathogens and other microorganisms as far as is practical without adversely affecting the following:

- (A) Equipment.**
- (B) Milk products.**
- (C) The health of consumers.**

~~(34)~~ **(41)** “Sheep milk” means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy sheep.

~~(35)~~ **(42)** “Standard methods” means the “Standard Methods for the Examination of Dairy Products”, published by the American Public Health Association.

~~(36)~~ **(43)** “State veterinarian” means the state veterinarian appointed under IC 15-2.1-4 or an official designee.

~~(37)~~ **(44)** “Uniform Indiana Food, Drug, and Cosmetic Act” means the Uniform Food, Drug, and Cosmetic Act at IC 16-42-1 through IC 16-42-4.

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

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

345 IAC 8-2-1.5 “Milk products” defined

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

Affected: IC 15-2.1-2; IC 15-2.1-23

Proposed Rules

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

- (1) Cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, and whipped light cream.
- (2) Sour cream, acidified sour cream, and cultured cream.
- (3) Half-and-half, sour half-and-half, acidified sour half-and-half, and cultured sour half-and-half.
- (4) Reconstituted or recombined milk and milk products.
- (5) Concentrated (**condensed**) milk and concentrated (**condensed**) milk products.
- (6) Nonfat (skim) milk and reduced fat or low fat milk.
- (7) Frozen milk concentrate.
- (8) Eggnog.
- (9) Buttermilk and buttermilk products.
- (10) Whey and whey products.
- ~~(10)~~ (11) Cultured milk, cultured reduced fat or low fat milk, and cultured nonfat (skim) milk.
- ~~(11)~~ (12) Yogurt, low fat yogurt, and nonfat yogurt.
- ~~(12)~~ (13) Acidified milk, acidified reduced fat or low fat milk, and acidified nonfat (skim) milk.
- ~~(13)~~ (14) Low-sodium milk, low-sodium reduced fat or low fat milk, and low-sodium nonfat (skim) milk.
- ~~(14)~~ (15) Lactose-reduced milk, lactose-reduced reduced fat or low fat milk, and lactose-reduced nonfat (skim) milk.
- ~~(15)~~ (16) Aseptically processed and packaged milk and milk products.
- ~~(16)~~ (17) Milk.
- ~~(17)~~ (18) Milk, reduced fat milk, low fat milk, and nonfat (skim) milk that have added microbial organisms.
- ~~(18)~~ (19) Any other milk product made by the addition or subtraction of milk fat or addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification of milk products defined herein.
- ~~(19)~~ (20) Dairy foods made by modifying the federally standardized product listed in this section in accordance with 21 CFR 130.10.
- ~~(20)~~ (21) Milk and milk products that have been retort processed after packaging or that have been concentrated, condensed, or dried if they are used as an ingredient to produce any milk or milk product defined in this section or are labeled as Grade A.
- ~~(21)~~ (22) Manufacturing grade milk products unless the context indicates Grade A milk products.

(23) Dry milk products.

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

SECTION 3. 345 IAC 8-2-1.6 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-2-1.6 Abnormalities of milk

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

Affected: IC 15-2.1-2; IC 15-2.1-23

Sec. 1.6. The following definitions apply throughout this article:

- (1) “Abnormal milk” means milk that is visibly changed in color, odor, or texture.
- (2) “Contaminated milk” means milk that is unsaleable or unfit for human consumption following treatment of the animal with either of the following:
 - (A) Veterinary products that have withhold requirements.
 - (B) Medicines or insecticides not approved for use on dairy animals by the United States Food and Drug Administration (FDA) and Environmental Protection Agency (EPA).
- (3) “Undesirable milk” means milk that, before milking the animal, is known to be unsuitable for sale, such as colostrum.

(Indiana State Board of Animal Health; 345 IAC 8-2-1.6)

SECTION 4. 345 IAC 8-2-1.7 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-2-1.7 “Pasteurization”, “pasteurized”, “ultra pasteurization”, and “aseptic processing” defined

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

Affected: IC 15-2.1-2; IC 15-2.1-23

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

(1) Table 1 as follows:

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

~~But,~~ If the fat content of the milk product is ten percent (10%) or more, **however**, or if it contains added sweeteners, the specified temperature in ~~the preceding~~ Table 1 shall be increased by three (3) degrees Celsius (five (5) degrees Fahrenheit).

(2) Table 2 as follows:

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

100 degrees Celsius (212 degrees Fahrenheit) .01 second

(3) Notwithstanding the preceding Tables 1 and 2, egg nog shall be heated to at least the following temperature and time specifications:

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

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

- (1) The process has been officially recognized by the United States Food and Drug Administration to be equally effective.
- (2) The state veterinarian approves the procedure as being equally effective.

(c) As used in this article, "ultra pasteurized" means dairy products that have been thermally processed at or above two hundred eighty (280) degrees Fahrenheit (**one hundred thirty-eight (138) degrees Celsius**) for at least two (2) seconds, either before or after packaging, so as to extend the shelf life of the product under refrigerated conditions.

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

SECTION 5. 345 IAC 8-2-1.9 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-2-1.9 General requirements; permits

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

Affected: IC 15-2.1-23-3

Sec. 1.9. (a) Milk and milk products, including hooved mammals milk, must be:

- (1) produced;
- (2) transported;
- (3) processed;
- (4) handled;
- (5) sampled;
- (6) examined;

- (7) graded;
- (8) labeled; and
- (9) sold;

in accordance with IC 15-2.1-23 and this article.

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

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

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

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

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

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

(e) The state veterinarian shall issue the following permits to persons meeting the appropriate requirements in IC 15-2.1-23 and this article:

- (1) A milk distributor permit for persons acting as a milk distributor.
- (2) A bulk milk hauler/sampler permit to persons acting as a bulk milk hauler/sampler.
- (3) Milk tank truck operator for persons operating milk tank trucks.
- (4) A permit to operate a milk tank truck cleaning facility.
- (5) A permit to manufacture containers for milk or milk products.

(f) All permits issued under this article are subject to the

Proposed Rules

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

SECTION 6. 345 IAC 8-2-4 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 15-2.1-23-4

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

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

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

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

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

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

(2) Sampling devices protected from contamination.

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

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

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

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

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

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

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

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

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

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

(8) Conditions of abnormality or sediment shall be noted on the producer's copy of the weight ticket.

(9) The date and time of milk collection, the temperature of the raw milk, and the milk hauler's signature and permit number shall be legibly entered on the weight ticket.

(10) After the milk has been removed from the farm bulk tank, the transfer hose shall be removed and recapped before the farm bulk tank is rinsed with water. After recapping, the transfer hose shall be rinsed free of exterior soil.

(11) A milk hauler shall not collect milk from any dairy farm

for delivery to a milk plant, receiving station, or transfer station for use in Grade A milk or milk products unless the farm holds a valid permit from the board authorizing the sale of Grade A raw milk for pasteurization.

(12) At the time of collection of milk from each dairy farm, the milk hauler shall collect:

(A) only that raw milk that has been stored continuously in the farm bulk tank from the time of milking until the time of milk collection; and ~~shall collect~~

(B) the entire volume of milk being stored in the farm bulk tank at the time of collection.

All precautions shall be taken to prevent the entrance of flies into the milkhouse.

(13) At least once each month, the milk hauler shall check the accuracy of the thermometer on each of his ~~or her~~ milk producer's bulk milk ~~tank tanks~~ against his ~~or her~~ pocket-type thermometer. The temperature obtained from both thermometers shall be entered on the weight ticket. If there is a difference between the readings on the two (2) thermometers, the reading of the bulk milk hauler's thermometer shall be reported as the official temperature on that day and on each succeeding day until the thermometer on the bulk milk tank is adjusted or repaired to be accurate.

(g) Every time a milk hauler collects milk from a dairy farm, he or she shall collect a sample of milk from each farm bulk tank after the milk has been thoroughly agitated and before opening the outlet valve. ~~Such~~ The sample shall be collected in the following manner:

(1) If a sample dipper is used, it shall be clean and transported between farms on the bulk milk route in a sanitizing solution equivalent to one hundred (100) parts per million chlorine. Other sampling devices shall be kept free of contamination.

(2) After removal from the sanitizing solution, all of the sanitizing solution shall be drained from the sample dipper.

(3) The sample dipper shall then:

(A) be rinsed twice in the milk in the farm bulk tank; and ~~then~~

(B) drained.

(4) A sample of not less than four (4) fluid ounces in volume or other sample sizes approved by the state board shall then be collected through the port opening in the cover of the bulk tank and placed in a sterile container.

(5) The sample container shall then be closed and immediately placed in melting ice water in the sample carrying case on the bulk milk pickup tanker in such a way that the top of the sample container is not submerged in the refrigerant. Producer raw milk samples shall be maintained at a temperature of thirty-two (32) to forty (40) degrees Fahrenheit until delivered to the milk plant, receiving station, or transfer station. ~~Such~~ The samples shall not be frozen.

(6) Each sample container shall be legibly marked with ~~the~~ following:

(A) The date the sample was collected.

(B) The temperature of the milk in the farm bulk tank.

(C) The route and patron number of the milk producer. ~~and;~~

(D) In the case of Grade A milk producers, the Indiana Grade A permit number of the dairy farm from which the sample was collected.

(7) ~~Prior to~~ Before or at the time of collecting raw milk from the first milk producer on the bulk milk route, the milk hauler shall collect a sample of milk for temperature determination. ~~Such~~ The sample shall be refrigerated in the sample carrying case on the bulk milk pickup tanker until it arrives at the milk plant, receiving station, or transfer station.

(8) Sampling equipment shall be rinsed in clean water immediately after each usage.

(9) If one (1) pint samples are used to conduct sediment tests of each milk producer's raw milk, the milk hauler shall collect and legibly identify ~~such the~~ full one (1) pint samples as requested by the milk plant, receiving station, transfer station, or board. A sample dipper of not less than one-half (½) pint capacity, which shall be cleaned and sanitized ~~prior to~~ before the collection of each sample, shall be used. ~~Such~~ The one (1) pint samples shall be collected and transported in such a manner as to not interfere with the proper conduct of sediment tests.

(h) ~~All~~ Bulk milk tank raw milk shall be collected within the following time frames:

(1) Manufacturing grade milk bulk tank raw milk shall be collected at least **one (1) time** every seventy-two (72) hours. ~~and all~~

(2) Manufacturing grade raw milk shipped in cans shall be collected at least **one (1) time** every forty-eight (48) hours. ~~These milk collection frequencies may be waived in the case of emergencies; all~~

(3) Grade A bulk tank raw milk shall be collected at least **one (1) time** every forty-eight (48) hours. ~~and all~~

(4) Grade A milk shipped in cans shall be collected at least **one (1) time** every twenty-four (24) hours. ~~except~~

(5) Grade A and manufacturing grade goat milk shall be collected at least **one (1) time** every seven (7) days.

(6) In the case of ~~emergencies; an~~ emergency, the state veterinarian or the state veterinarian's designee may permit milk to be collected after the time frames otherwise specified in this subsection.

Bulk milk tank raw milk that is not collected within these time frames may not be collected and used for Grade A or manufacturing grade milk or milk products.

(i) It shall be the responsibility of the milk plant, receiving station, or transfer station to:

(1) provide competent personnel to receive producer raw milk samples from each bulk milk pickup tanker; ~~to~~

(2) ascertain and record the temperature of the temperature sample; ~~and to~~

(3) see that the samples are properly identified and stored ~~prior to~~ before delivery to the laboratory; ~~The milk plant;~~

receiving station, or transfer station shall also be responsible for providing and

(4) **provide** facilities for the storage of producer raw milk samples at a temperature of thirty-two (32) to forty (40) degrees Fahrenheit at which temperature they shall be maintained until they are received by an official or officially designated laboratory for analysis.

Producer raw milk samples shall not be frozen, and samples to be used for bacteriological determinations shall not be transferred to another sample container after they have been collected by the milk hauler except under conditions and by personnel approved by the board. Required laboratory analysis should begin within forty-eight (48) hours after the time of sample collection. Results of ~~such~~ the analysis on the milk of Grade A producers shall be submitted to the board on forms and in a manner approved by the board. Milk producers and milk haulers shall not receive notice of which samples are to be used for bacteriological analysis.

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

SECTION 7. 345 IAC 8-3-1 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 15-2.1-2; IC 15-2.1-23

Sec. 1. (a) The Grade A Pasteurized Milk Ordinance, United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, Publication No. 229 (~~2001~~ (2003 revision), referred to as the PMO, including all footnoted language regarding cottage cheese and the appendixes, is hereby incorporated by reference as a rule of the board for regulation of the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all Grade A milk and milk products in the state provided, however, the following parts of the PMO are not incorporated:

- (1) Section (16) on penalties.
- (2) Section (17) on repeal and date of effect.

(3) Appendix K.

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

(1) Section (13) on penalties.

(2) Section (14) on repeal and date of effect.

(3) Appendix P, “Performance-Based Dairy Farm Inspection System”.

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

(d) (c) The board adopts by reference the general provisions relating to food standards set forth by the United States Food and Drug Administration in 21 CFR 130.8, 21 CFR 130.9, 21 CFR 130.10, and 21 CFR 130.11, in effect on April 1, ~~2001~~: 2004.

(e) (d) The board adopts by reference the definitions and standards of identity for milk and milk products set forth by the United States Food and Drug Administration in 21 CFR 131.3 et seq., titled “Part 131—Milk and Cream”, in effect on April 1, ~~2001~~: 2004. Milk and milk products must conform to these standards.

(f) (e) The board adopts by reference the definitions and standards of identity for cheeses and related cheese products set forth by the United States Food and Drug Administration in 21 CFR 133.3 et seq., titled “Part 133—Cheeses and Related Cheese Products”, in effect on April 1, ~~2001~~: 2004. Cheese and cheese products must conform to these standards.

(g) (f) The board adopts by reference the definitions and standards of identity for frozen desserts set forth by the United States Food and Drug Administration in 21 CFR 135.3 et seq., titled “Part 135—Frozen Desserts”, in effect on April 1, ~~2001~~: 2004. Frozen desserts must conform to these standards.

(h) (g) The board adopts by reference the current good manufacturing practices for manufacturing, packing, or holding human food set forth by the United States Food and Drug Administration in 21 CFR 110 and 21 CFR 113, in effect on April 1, ~~2001~~: 2004. The criteria and definitions in 21 CFR 110, 21 CFR 113, and this rule shall apply in determining whether a food is adulterated under IC 15-2.1-23 in that the food has been manufactured under such conditions that it is unfit for human food or the food has been prepared, packed, or held under ~~insanitary~~ **unsanitary** conditions under which the product may:

- (1) become contaminated with filth; or ~~under which the product may~~
- (2) have been made injurious to health.

(+) (h) The board adopts by reference as a rule of the board the food labeling requirements set forth by the United States Food and Drug Administration in 21 CFR 101, but not including Subpart C, in effect on June 1, ~~2001~~: **2004**.

(+) (i) The board incorporates by reference into this rule the definitions set forth in IC 15-2.1-2 and the matters set forth in IC 15-2.1-23.

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

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

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

345 IAC 8-3-2 Grade A milk production and storage

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

Affected: IC 15-2.1-23-7

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

- (1) Milk that is produced or processed must meet the chemical, bacteriological, and temperature standards in Section 7 and Table 1 of the PMO adopted by reference in section 1 of this rule.
- (2) The farm must meet the sanitation, construction, operation, and other standards in the provisions of the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule, including the following:
 - (A) Section 7, "Standards for Grade "A" Raw Milk For Pasteurization, Ultra-Pasteurization, or Aseptic Processing", Items 1r through 19r.
 - (B) Appendix C, "Dairy Farm Construction Standards; Milk Production".
 - (C) Appendix D, "Standards for Water Sources".
 - (D) Appendix F, "Sanitization".
 - (E) **A farm utilizing an automatic milking installation (AMI) must comply with Appendix Q.**
- (3) The animals on the farm must meet the animal health

requirements in IC 15-2.1-23-7 and Section 8 of the Pasteurized Milk Ordinance adopted by reference in section 1 of this rule.

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

(5) Before:

- (A) milkhouses;
- (B) milking barns;
- (C) stables; or
- (D) parlors;

regulated under this rule are constructed or extensively altered, construction plans shall be submitted to the state veterinarian for written approval before work is begun.

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

- (A) on a dairy farm for more than forty-eight (48) hours; and
- (B) outside a farm bulk milk tank.

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

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

SECTION 9. 345 IAC 8-3-12 IS ADDED TO READ AS FOLLOWS:

345 IAC 8-3-12 Components of Grade A dairy products

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

Affected: IC 15-2.1-23-10

Sec. 12. (a) Powdered dairy blends may be labeled Grade A and used as ingredients in Grade A dairy products only if they meet the requirements of this rule. If a powdered blend is to be used as an ingredient in the production of a

Grade A product, the following apply:

- (1) The blend must be labeled Grade A.
- (2) The plant where the Grade A powders are manufactured must meet the requirements in 345 IAC 8-2-1.9 or IC 15-2.1-23-10.
- (3) The plant where the powders are blended must meet the requirements in 345 IAC 8-2-1.9 or IC 15-2.1-23-10.

(b) Blends of dairy powders that are used as an ingredient in Grade A milk products must be blended under conditions that meet all of the requirements for production of Grade A milk products in this rule.

(c) Grade A powder blends must be made from Grade A powdered dairy products. Small amounts of functional ingredients that are not Grade A, however, are allowed in Grade A blends when the finished ingredient is not available in Grade A form, for example, sodium caseinate. For the purpose of this subsection, "small amounts" means the total amount of the ingredient may not exceed five percent (5%) by weight of the finished blend. (*Indiana State Board of Animal Health; 345 IAC 8-3-12*)

SECTION 10. 345 IAC 8-4-1 IS AMENDED TO READ AS FOLLOWS:

345 IAC 8-4-1 Drug residues

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

Affected: IC 15-2.1-2-2.3; IC 15-2.1-23-6.5; IC 15-2.1-23-17

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

(1) Any milk plant that accepts raw milk shall test each bulk milk pickup tanker for beta lactam drug residues. Each bulk milk pickup tanker shall be sampled after the last producer has been picked up and before any additional commingling of milk using a representative sample from the truck. Samples shall be tested **as follows**:

(A) Using a test that has been approved by the United States Food and Drug Administration for screening milk for drug residues. ~~Samples shall be tested~~

(B) In a laboratory that is certified by the state veterinarian by an analyst that is certified by the state veterinarian.

When a drug residue test is positive, another test shall be run to confirm the positive. When a drug residue test is confirmed positive, samples collected from each producer on the load shall be tested to determine the farm of origin.

(2) The state veterinarian may implement a testing program to test milk from bulk milk pickup tankers for other drug residues.

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

section.

(4) Milk plants shall keep records of all drug residue tests that are conducted on bulk milk pickup tankers and farm bulk milk tanks and ~~their results~~. **must include the information indicated in Appendix N of the PMO incorporated by reference in 345 IAC 8-3-1.** The records shall be kept for not less than six (6) months.

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

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

(2) The test must be conducted **as follows**:

(A) By an analyst approved by the state veterinarian **under the standards in Appendix N of the PMO incorporated by reference in 345 IAC 8-3-1.**

~~(3) The test must be conducted~~ (B) In a laboratory approved by the state veterinarian **under the standards in Appendix N of the PMO incorporated by reference in 345 IAC 8-3-1.**

~~(4) (3)~~ A test that is being run to confirm a positive drug residue test result must be the same test that was used to obtain the initial positive drug residue result. ~~But,~~ A person may use a different confirmatory test, **however**, if the state veterinarian approves the use of that confirmatory test. The state veterinarian may approve the use of a confirmatory test that is different from a prior test after:

(A) evaluating the circumstances surrounding the request; and

(B) determining that the use of the proposed confirmatory test is consistent with the purposes of this section.

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

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

(1) The milk that tests positive for drug residues is adulterated under IC 15-2.1-2-2.3 and must be disposed of in a manner that:

(A) removes it from the human and animal food chain; or ~~that~~

(B) acceptably reconditions the milk under United States Health and Human Services—Food and Drug Administration compliance policy guidelines.

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

(3) When a drug test shows the producer's milk is negative for drug residues, the state veterinarian may reinstate the farm

permit.

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

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

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

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

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

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

(B) The positive producer must, in conjunction with his or her veterinarian and an official of the board:

(i) complete the "Milk and Dairy Beef Residue Prevention Protocol"; and

(ii) provide proof of completion to the board, office of the state veterinarian within thirty (30) days of the drug residue violation.

Failure to complete the protocol and submit proof of completion within thirty (30) days will result in action to suspend the producer's permit.

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

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

(DP) (4 days) (\$3)

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

(B) The positive producer must, in conjunction with his or her veterinarian and an official of the board:

(i) complete the "Milk and Dairy Beef Residue Prevention Protocol"; and

(ii) provide proof of completion to the board, office of the state veterinarian within thirty (30) days of the drug residue violation.

Failure to complete the protocol and provide proof of completion will result in action to suspend the producer's permit.

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

completion of the program or meeting.

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

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

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

(C) The producer must submit to the state veterinarian a set of written procedures that he or she will follow to prevent future drug residue violations. The procedures must be:

(i) submitted with the proof of completion required in subdivision (2)(B); and ~~must be~~

(ii) specific, practical, and reasonably likely to lessen the possibility of a drug residue violation when followed by the producer.

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

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

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

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

(4) For each drug residue violation in a twelve (12) month period in excess of three (3), the producer is subject to the penalties for a third offense in subdivision (3), but for Grade A producers the revocation period will:

(A) begin on the date his or her permit is revoked; and

(B) run for a period equal to the length of the revocation period imposed after the producer's last drug residue violation times two (2).

For example, the revocation period for a fourth offense in a twelve (12) month period is sixty (60) days, and, for a fifth offense, the revocation period is one hundred twenty (120) days.

(g) The following definitions apply throughout this section:

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

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

Proposed Rules

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

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

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

(2) All monetary penalties must be:

(A) paid by the producer; and ~~must be~~

(B) received by the office of the state veterinarian within sixty (60) days of notice of the drug residue violation.

(3) The state veterinarian may, by special permit, allow a producer that objects to the imposition of a fine to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a monetary fine where payment of a fine would impose undue hardship on a producer. The state veterinarian may:

(A) set the conditions under which the milk is to be dumped; and ~~may~~

(B) require documentation from the producer showing the circumstances under which the milk was dumped.

(4) Proof that a producer reimbursement was in fact assessed must be submitted to the office of the state veterinarian within sixty (60) days of notice of the drug residue violation along with any monetary penalty due.

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

(i) The state veterinarian may suspend the permit of a producer that does not comply with the requirements of this rule within the designated time periods allowed under this rule until such time as the violation is remedied.

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

(1) First offense:

(A) total positive truck load CWT: 500

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

(C) producer's daily production CWT: 50

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

Penalty = (DP) (2 days) (\$3) - (PR).

= [50 (2) (\$3)] - [(500 - 100) (\$15)].

= [\$300 fine] - [\$6,000 reimbursement paid to other producers].

Because the reimbursement to other producers exceeded the fine, no money is payable to the state as long as proof of

the reimbursement assessment is provided to the board.

(2) First offense:

(A) total positive truck load CWT: 500

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

(C) producer's daily production CWT: 200

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

Penalty = (DP) (2 days) (\$3) - (PR).

= [200 (2) (\$3)] - [(500 - 400) (\$15)].

= [\$1,200 fine] - [\$1,500 reimbursement paid to other producers].

Because the reimbursement to other producers exceeded the fine, no money is payable to the state as long as proof of the reimbursement assessment is provided to the board.

(3) First offense:

(A) total positive truck load CWT: 500

(B) positive producer's CWT on positive tanker (two (2) days' production): 500

(C) producer's daily production CWT: 250

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

Penalty = (DP) (2 days) (\$3) - (PR).

= [250 (2) (\$3)] - [(500 - 500) (\$15)].

= [\$1,500 fine] - [\$0 reimbursement paid to other producers].

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

(4) First offense:

(A) Positive bulk tank on monthly quality check or otherwise.

(B) Producer's daily production (CWT): 50

Penalty = (DP) (2 days) (\$3) - (PR).

= [50 (2) (\$3)] - 0.

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

(5) Second offense:

(A) total positive truck load CWT: 500

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

(C) producer's daily production (CWT): 50

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

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

= 50 (4) (\$3).

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

(6) Fourth offense:

(A) total positive truck load CWT: 500

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

(C) producer's daily production (CWT): 50

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

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

= 50 (4) (\$3).

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

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

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 21, 2005 at 9:45 a.m., at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis, Indiana the Indiana State Board of Animal Health will hold a public hearing on proposed rules that will add and amend definitions and general provisions that coordinate with the 2003 Grade A Pasteurized Milk Ordinance, allow goat milk to be collected at least once every seven days, update matters incorporated by reference, and make other changes in the law of milk and milk products sanitation (345 IAC 8). Copies of these rules are now on file at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bret D. Marsh, D.V.M.
Indiana State Veterinarian
Indiana State Board of Animal Health

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

Proposed Rule

LSA Document #04-287

DIGEST

Amends 345 IAC 1-3-31 to allow a person to move carcasses or parts thereof of certain species of cervidae into the state if certain materials are not attached or included in the movement or the carcass and parts are moved to certain regulated businesses and to require businesses that accept the carcasses of certain species of cervidae that originate out of state to dispose of discarded tissue and parts in a specified manner. Effective 30 days after filing with the secretary of state.

345 IAC 1-3-31

SECTION 1. 345 IAC 1-3-31 IS AMENDED TO READ AS FOLLOWS:

345 IAC 1-3-31 Chronic wasting disease; carcasses

Authority: IC 15-2.1-3-19

Affected: IC 14-22-21; IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-24

Sec. 31. (a) The provisions in this section supersede any conflicting provisions in 345 IAC 7-7. Except as provided in subsection (b), a person may not move into the state a carcass or any part thereof of the following animals:

- (1) A member of the *Cervus elaphus* species (elk, wapiti, and red deer).
- (2) A member of the *Cervus nippon* species (Sika deer, Japanese deer, Japanese Sika deer, spotted deer, and Japanese spotted deer).
- (3) A member of the *Odocoileus hemionus* species (mule deer).
- (4) A member of the *Odocoileus virginianus* species (whitetail deer).
- (5) Hybrids of the species listed in this subsection.
- (6) An animal of the family cervidae, if any member of its species has been diagnosed with CWD.

~~But~~, Semen and embryos authorized for entry under section 30 of this rule, **however**, may be moved into the state.

(b) Notwithstanding the prohibition in subsection (a), the following apply:

- (1) A person may transport a carcass or parts directly through the state without stopping and unloading the carcass or parts in the state.
- (2) A person may move ~~into the following state carcasses or parts into of carcasses if no portion of the state:~~ **following materials are attached or otherwise included in the movement:**
 - ~~(A) Deboned meat.~~
 - (A) The head.**
 - (B) The spinal cord.**
 - (C) The small intestine.**

~~(B) (3) A person may move into the state carcasses or parts of carcasses with that include the head or spinal column attached materials listed in subdivision (2) if they are delivered within seventy-two (72) hours after entry to one (1) of the following:~~

- ~~(A) A meat processor inspected under IC 15-2.1-24 for processing.~~
- (B) A commercial deer processor registered with the Indiana department of natural resources under 312 IAC 9-3-10 for processing.**
- (C) A taxidermist licensed by the Indiana department of natural resources under IC 14-22-21.**
- (4) A person may move the following parts into the state:**
 - ~~(A) Antlers, including antlers attached to skull caps, if the skull cap is cleaned of all brain and muscle tissue.~~
 - ~~(B) Hides.~~

Proposed Rules

~~(E)~~ (C) Upper canine teeth, also known as “buglers”, “whistlers”, or “ivorries”.

~~(F)~~ Heads if they are delivered to a taxidermist licensed by the Indiana department of natural resources within seventy-two (72) hours after entry.

~~(G)~~ (D) Finished taxidermist mounts.

~~(3)~~ (5) A person licensed as a disposal plant or collection service under IC 15-2.1-16 may move carcasses and parts into the state if the carcasses and parts are moved directly to a licensed disposal plant.

~~(4)~~ (6) Samples taken for disease control purposes may be moved directly to a diagnostic laboratory.

~~(5)~~ (7) The state veterinarian may permit the movement of any carcass or part into the state for the purpose of research or to facilitate the:

(A) diagnosis;

(B) treatment;

(C) prevention; or

(D) control;

of disease.

(c) A meat plant accepting live animals for slaughter under section 30 of this rule ~~or carcasses under subsection (b)(2)(B)~~ and a taxidermist ~~any person~~ accepting carcasses under subsection ~~(b)(2)(F)~~ ~~(b)(3)~~ must dispose of discarded tissue and parts from the animals as follows:

(1) At a landfill ~~or commercial incinerator~~ permitted by the Indiana department of environmental management. ~~or~~

(2) Through a renderer or collection service licensed under IC 15-2.1-16.

(Indiana State Board of Animal Health; 345 IAC 1-3-31; filed Sep 5, 2003, 8:41 a.m.: 27 IR 89)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 21, 2005 at 9:50 a.m., at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis, Indiana the Indiana State Board of Animal Health will hold a public hearing on proposed rules that will allow a person to move carcasses or parts thereof of certain species of cervidae into the state if certain materials are not attached or included in the movement or the carcass and parts are moved to certain regulated businesses and to require businesses that accept the carcasses of certain species of cervidae that originate out of state to dispose of discarded tissue and parts in a specified manner. Copies of these rules are now on file at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bret D. Marsh, D.V.M.

Indiana State Veterinarian

Indiana State Board of Animal Health

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

Proposed Rule

LSA Document #04-309

DIGEST

Amends 355 IAC 4-2-2 and 355 IAC 4-2-8 to delete references to a turf pest control technician examination that no longer exists and to eliminate the requirement to have both an applicant's and his or her supervisor's signature on an application form to become a registered technician. Effective 30 days after filing with the secretary of state.

355 IAC 4-2-2

355 IAC 4-2-8

SECTION 1. 355 IAC 4-2-2 IS AMENDED TO READ AS FOLLOWS:

Rule 2. Site Awareness and Direct Supervision of Noncertified Applicators

355 IAC 4-2-2 Pesticide use by noncertified persons

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-7

Sec. 2. ~~Pesticide~~ **Pesticides** may be used by a noncertified person working under the direct supervision of a certified applicator. All persons conducting use of pesticides for hire by aerial application shall be certified. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

SECTION 2. 355 IAC 4-2-8 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-2-8 Technician registration requirements

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-12.1

Sec. 8. (a) To become a registered technician, an individual must do the following:

(1) Pass the commercial applicator core examination described in 355 IAC 4-1-2.1(b) ~~or, if a turf technician, pass either the core examination or the registered technician examination described in 355 IAC 4-6-4.~~ **355 IAC 4-1-2.1.**

(2) Submit an application on a form provided by the state chemist. ~~This form must be signed by both the applicant and the responsible certified applicator employed at the applicant's business location.~~

(3) Submit the thirty dollar (\$30) technician registration fee.

(b) Registration shall remain in force from the date of passing the examination through December 31 of the fourth year

following the year during which the examination was passed unless revoked or suspended.

(c) The registration period may be extended indefinitely for an additional five (5) years if the registered technician accumulates at least eight (8) continuing registration credits by attending at least two (2) state chemist approved continuing registration programs while the registration is in force.

(d) Annual registration credentials shall expire on December 31 unless renewed by a payment of a thirty dollar (\$30) renewal fee by that date. Renewal after December 31 shall include a late fee of thirty dollars (\$30) as established by IC 15-3-3.6-12.1 in addition to the thirty dollar (\$30) renewal fee.

(e) The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in section 1(4) of this rule. (*State Chemist of the State of Indiana; 355 IAC 4-2-8; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 12, 2005 at 9:00 a.m., at the Office of the Indiana State Chemist, 175 South University Street, Room A151, West Lafayette, Indiana the State Chemist of the State of Indiana will hold a public hearing on proposed amendments to delete references to a turf pest control technician examination that no longer exists and to eliminate the requirement to have both an applicant's and his or her supervisor's signature on an application form to become a registered technician. Copies of these rules are now on file at the State Chemist of the State of Indiana, 175 South University Street, West Lafayette, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David Scott
Pesticide Administrator
State Chemist of the State of Indiana

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

Proposed Rule LSA Document #04-310 DIGEST

Amends 355 IAC 4-5-1 through 355 IAC 4-5-3 to clarify activities authorized to be performed by individuals holding a category 7b for hire applicator license or technician registration, to add a definition of termiticide, to clarify the type and scope of information required to be kept as part of the termiticide

application records, and to add a requirement for applicators to file customer disclosure forms with the state chemist and deletes the one year experience and termiticide application record submission requirement for licensing, redundant technician registration procedures that are addressed more accurately in another rule, and redundant noncertified applicator supervision requirements that are addressed more accurately in another rule. Repeals 355 IAC 4-5-4, 355 IAC 4-5-5, 355 IAC 4-5-6, and 355 IAC 4-5-11. Effective 30 days after filing with the secretary of state.

355 IAC 4-5-1	355 IAC 4-5-5
355 IAC 4-5-2	355 IAC 4-5-6
355 IAC 4-5-3	355 IAC 4-5-11
355 IAC 4-5-4	

SECTION 1. 355 IAC 4-5-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-5-1 Definitions

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5
Affected: IC 15-3-3.6-6

Sec. 1. **The following definitions apply throughout this rule:**

~~(a) As used in this rule, (1) "Category 7b licensed applicator for hire" means any licensed, certified individual who is:~~

(A) employed by a licensed pesticide business to:

(i) use or to supervise the use of any pesticide; and

(ii) perform related activities, such as inspections by the firm; and

(B) for purposes of this rule, is certified in Category 7b.

~~(b) As used in this rule, (2) "Registered technician" means an uncertified employee of a licensed business who, having met the requirements stated in section 4 of this rule, 355 IAC 4-2-8, is registered by the state chemist and thereby authorized to carry out responsibilities in the business use pesticides and perform related activities, such as inspections, while working under the direct supervision of a licensed applicator for hire.~~

(3) "Termite control customer disclosure form" means a form approved by the state chemist and issued by a Category 7b licensed applicator for hire to a termite control customer for the purpose of disclosing to the customer all termiticide label directed procedures that were not performed as part of that termiticide application. This form is not:

(A) required if all label directed procedures are performed as part of the initial termiticide use;

(B) required if the termiticide is applied only as part of a reapplication to a structure previously treated by the applicator; and

(C) valid unless signed by the termite control customer or his or her agent.

(4) "Termiticide" means any pesticide product registered with the state chemist when used for control, suppression,

or prevention of termites. The term includes, but is not limited to, the following:

- (A) Liquid soil applied products.
- (B) Liquid wood applied products.
- (C) Bait products.
- (D) Foam products.
- (E) Granular products.

(State Chemist of the State of Indiana; 355 IAC 4-5-1; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 302; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

SECTION 2. 355 IAC 4-5-2 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-5-2 Record keeping and supervision requirements for licensed applicators for hire

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5
Affected: IC 15-3-3.6-16.1

Sec. 2. Licensed applicators for hire shall be required to do the following:

- (1) Develop records for all for hire termiticide applications performed by that licensed applicator or registered technician operating under that licensed applicator's direct supervision as described in 355 IAC 4-2.
- (2) Ensure that the records required under this section include the following:
 - (A) A copy of the contract, **service agreement, or other similar written documentation** for the treated structure. ~~The contract~~ **This written documentation as it relates to pricing** shall be declared confidential as provided for in IC 15-3-3.6-16.1.
 - (B) A graph or diagram of the treated structure.
 - (C) ~~Accurate structural~~ Dimensions of the treated structure. **This includes depth from grade to the top of the foundation footing if soil applied liquids are used.**
 - (D) Treatment specifications, **if soil applied liquids are used.**
 - (E) ~~The U.S. Environmental Protection Agency product registration number for the termiticide~~ **termiticides** used.
 - (F) ~~The dilution rate of the termiticide~~ **termiticides if soil applied or wood applied liquids are used.**
 - (G) ~~The total volume of termiticide use~~ **dilution dilutions if soil applied or wood applied liquids are used.**
 - ~~(H) Explanation for any label directed treatment procedures that were not performed.~~
 - (H) A copy of the termite control customer disclosure form signed by the customer.**
 - ~~(I) The name and registration number numbers of all of the technician.~~ **technicians participating in the treatment.**
 - (J) The name and license number of the applicator or supervisor if treatment was performed by a registered technician.**

(K) The day, month, and year of treatment.

- (3) Keep and maintain the records required under this section for a period of five (5) years from the date of treatment.
- (4) Provide the registered technicians under the licensed applicator's supervision with ~~written site-specific treatment instructions that include~~ the following:

~~(A) A copy of the labels of all products to be used:~~

(A) Direct supervision as required in 355 IAC 4-2.

~~(B) The information required in subdivision (2).~~

~~(5) Review and verify, by licensed applicators signature, the site-specific treatment instructions required in subdivision (4) prior to the treatment.~~

(5) Ensure that the termite control customer disclosure form, when required, is:

(A) issued to and signed by the customer or the customer's agent before making the termiticide application; and

(B) filed with the state chemist within thirty (30) days of the date the termiticide was applied.

(State Chemist of the State of Indiana; 355 IAC 4-5-2; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

SECTION 3. 355 IAC 4-5-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-5-3 Requirements for Category 7b applicator license for hire

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5
Affected: IC 15-3-3.6

Sec. 3. To become ~~eligible to take the a licensed applicator for hire in~~ Category 7b, ~~certification examination as described in 355 IAC 4-1;~~ an individual must ~~first complete one (1) of the~~ following:

- (1) An approved program at the Purdue University Structural Pest Control Training Center or other program the state chemist has reviewed and determined to be of comparable quality and scope.
- (2) ~~One (1) year of experience as an active~~ **The Category 7b certified applicator or registered technician in Indiana or another state having a comparable and verifiable program and completion of the record submission process described in section 5 of this rule: certification and licensing procedures established in 355 IAC 4-0.5 and 355 IAC 4-1.**

(State Chemist of the State of Indiana; 355 IAC 4-5-3; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

SECTION 4. THE FOLLOWING ARE REPEALED: 355 IAC 4-5-4; 355 IAC 4-5-5; 355 IAC 4-5-6; 355 IAC 4-5-11.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 12,

2005 at 10:00 a.m., at the Office of the Indiana State Chemist, 175 South University Street, Room A151, West Lafayette, Indiana the State Chemist of the State of Indiana will hold a public hearing on proposed amendments to clarify activities authorized to be performed by individuals holding a category 7b for hire applicator license or technician registration, to add a definition of termiticide, to clarify the type and scope of information required to be kept as part of the termiticide application records, to add a requirement for applicators to file customer disclosure forms with the state chemist, to delete the one year experience and termiticide application record submission requirement for licensing, to delete redundant technician registration procedures that are addressed more accurately in another rule, and to delete redundant noncertified applicator supervision requirements that are addressed more accurately in another rule. Copies of these rules are now on file at the State Chemist of the State of Indiana, 175 South University Street, West Lafayette, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David Scott
Pesticide Administrator
State Chemist of the State of Indiana

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

Proposed Rule LSA Document #04-311

DIGEST

Amends 355 IAC 4-6-1 and 355 IAC 4-6-3 to delete redundant licensed applicator for hire supervision requirements that are addressed more accurately in another rule, to delete redundant technician registration procedures that are addressed more accurately in another rule, and to delete redundant uncertified applicator supervision requirements that are addressed more accurately in another rule. Repeals 355 IAC 4-6-2, 355 IAC 4-6-4, 355 IAC 4-6-6, and 355 IAC 4-6-10. Effective 30 days after filing with the secretary of state.

355 IAC 4-6-1	355 IAC 4-6-4
355 IAC 4-6-2	355 IAC 4-6-6
355 IAC 4-6-3	355 IAC 4-6-10

SECTION 1. 355 IAC 4-6-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-6-1 Definitions

Authority: IC 15-3-3.6-5
Affected: IC 15-3-3.6

Sec. 1. The following definitions apply throughout this rule:

(1) **“Category 3b licensed applicator for hire”** means any licensed certified individual who is:

(A) employed by a licensed pesticide business to use or to supervise the use of any pesticide **intended to control turf pests** by the business; and

(B) for purposes of this rule, is certified in Category 3b.

(2) **“Registered technician”** means an uncertified person who having met the requirements of section 4 of this rule, is registered by the state chemist and thereby is authorized to engage in pesticide use and related activities for his or her employer while working under the direct supervision of a licensed applicator for hire.

(3) (2) **“Turf pest”** means any organism that inhabits or feeds upon the turf layer and root zone created by growing plants (usually grasses) and their matted roots and by so doing alters the vigor or appearance of the turf.

(State Chemist of the State of Indiana; 355 IAC 4-6-1; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1760; filed Jan 9, 1992, 3:00 p.m.: 15 IR 702; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1100; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

SECTION 2. 355 IAC 4-6-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-6-3 Requirements for Category 3b applicator license for hire

Authority: IC 15-3-3.6-5
Affected: IC 15-3-3.6

Sec. 3. To become a **Category 3b** licensed applicator for hire, an individual must ~~do~~ **complete** the following:

(1) ~~Complete~~ One (1) of the following:

(A) A practical hands-on training program reviewed and approved by the state chemist.

(B) Ninety (90) days of experience as an active Category 3b certified applicator or registered technician in Indiana or any state having a comparable and verifiable program as determined by the state chemist.

(C) ~~Completion of~~ A formal post high school two (2) year minimum turf program or a related program that includes turf production in its curriculum. An official transcript must be submitted to the state chemist for approval to qualify by this method.

(D) One (1) year of experience as an active licensed applicator **in any licensing category** in Indiana or in another state.

(2) ~~Complete~~ The ~~examination process for Category 3b certification as described in 355 IAC 4-1-2.1; and licensing procedures established in 355 IAC 4-0.5 and 355 IAC 4-1.~~

(State Chemist of the State of Indiana; 355 IAC 4-6-3; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1761; filed Jan 9, 1992, 3:00 p.m.: 15 IR 703; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1101; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

SECTION 3. THE FOLLOWING ARE REPEALED: 355

Proposed Rules

IAC 4-6-2; 355 IAC 4-6-4; 355 IAC 4-6-6; 355 IAC 4-6-10.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 12, 2005 at 11:00 a.m., at the Office of the Indiana State Chemist, 175 South University Street, Room A151, West Lafayette, Indiana the State Chemist of the State of Indiana will hold a public hearing on proposed amendments to delete redundant licensed applicator for hire supervision requirements that are addressed more accurately in another rule, to delete redundant technician registration procedures that are addressed more accurately in another rule, and to delete redundant uncertified applicator supervision requirements that are addressed more accurately in another rule. Copies of these rules are now on file at the State Chemist of the State of Indiana, 175 South University Street, West Lafayette, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David Scott
Pesticide Administrator
State Chemist of the State of Indiana

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

Proposed Rule LSA Document #04-312 DIGEST

Amends 355 IAC 2-1-1 to correct the spelling of “sieve”. Amends 355 IAC 2-1-6 to reduce the font size required on a label when a boron guarantee is made. Amends 355 IAC 2-2-1 to make an editorial change to the approving individual. Adds 355 IAC 2-2-1.5 to provide a definition of appurtenance not previously defined in the rule. Amends 355 IAC 2-2-6 to include dry with fluid in field operations. Amends 355 IAC 2-2-9 to make an editorial change for clarification by removing “and/or”. Amends 355 IAC 2-2-10 to make an editorial change to provide clarification. Amends 355 IAC 2-2-13 to make an editorial change that clarifies intent. Amends 355 IAC 2-2-14 to make an editorial change to remove a gender specific reference. Amends 355 IAC 2-2-15 to make an editorial change for clarification. Amends 355 IAC 2-2-17 to make an editorial change and indicate scope includes all storage locations and be more directly relevant to materials used for storage. Amends 355 IAC 2-3-4 and 355 IAC 2-3-6 to make editorial changes for clarification. Amends 355 IAC 2-3-8 to provide clarification for compliant piping and require containment and further specify requirements for underground piping. Amends 355 IAC 2-3-11 to make an editorial change to simplify requirements. Amends 355 IAC 2-3-12 to set the time frame for compliance. Amends

355 IAC 2-4-1 to make an editorial change for clarification. Amends 355 IAC 2-5-1 to make an editorial change for clarification and expand the state chemist authority to accept compliant alternative means as specified under IC 15-3-3-12(b). Amends 355 IAC 2-5-2, 355 IAC 2-5-3, 355 IAC 2-5-4, and 355 IAC 2-5-6 to make editorial changes for clarification. Amends 355 IAC 2-5-8 to clarify a specific cutoff date for exemption and make editorial changes. Amends 355 IAC 2-5-12 and 355 IAC 2-5-12.5 to make editorial changes for clarification. Amends 355 IAC 2-5-13 to make editorial changes that eliminate records keeping and required inspection. Amends 355 IAC 2-6-1.5 and 355 IAC 2-9-1 to make editorial changes for clarification. Repeals 355 IAC 2-4-4, 355 IAC 2-5-14, 355 IAC 2-6-2, and 355 IAC 2-8. Effective 30 days after filing with the secretary of state.

355 IAC 2-1-1	355 IAC 2-4-1
355 IAC 2-1-6	355 IAC 2-4-4
355 IAC 2-2-1	355 IAC 2-5-1
355 IAC 2-2-1.5	355 IAC 2-5-2
355 IAC 2-2-6	355 IAC 2-5-3
355 IAC 2-2-9	355 IAC 2-5-4
355 IAC 2-2-10	355 IAC 2-5-6
355 IAC 2-2-13	355 IAC 2-5-8
355 IAC 2-2-14	355 IAC 2-5-12
355 IAC 2-2-15	355 IAC 2-5-12.5
355 IAC 2-2-17	355 IAC 2-5-13
355 IAC 2-3-4	355 IAC 2-5-14
355 IAC 2-3-6	355 IAC 2-6-1.5
355 IAC 2-3-8	355 IAC 2-6-2
355 IAC 2-3-11	355 IAC 2-8
355 IAC 2-3-12	355 IAC 2-9-1

SECTION 1. 355 IAC 2-1-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-1-1 Degree of fineness of unacidulated phosphate materials; registration and labeling

Authority: IC 15-3-3-12

Affected: IC 15-3-3-4; IC 15-3-3-5

Sec. 1. Degree of fineness of unacidulated phosphatic materials. Rock phosphate, soft phosphate with colloidal clay, basic slag, and other materials, the availability of which is related to particle size, shall be registered and labeled as to the percentage that will pass U.S. Standard Sieve Series Number 100 (100 mesh, dry ~~sieve~~ sieve method). ~~Sec. 4a: IC 15-3-3-4(a).~~ (State Chemist of the State of Indiana; Fertilizer Law Rule 1; filed Sep 14, 1953, 7:00 a.m.; Rules and Regs. 1954, p. 6; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 2. 355 IAC 2-1-6 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-1-6 Boron-containing fertilizers; warning requirements

Authority: IC 15-3-3-12
Affected: IC 15-3-3-4; IC 15-3-3-5

Sec. 6. When any compound of boron is incorporated in a commercial fertilizer, a special warning tag or statement must be furnished to the purchaser and shall contain the following:

- (1) The word "WARNING" in letters at least ~~one (1)~~ **three-fourths (¾)** inch in height.
- (2) A statement describing the crops for which the fertilizer is to be used.
- (3) A statement declaring use of the fertilizer on any other crops or under conditions other than those recommended may result in serious injury to the crops.

The tag or statement must be attached to or printed on the bag or other container in which the fertilizer is sold. For bulk fertilizers, the statement must be placed on the invoice or other document that shall accompany delivery and be supplied to the purchaser at the time of delivery as provided in IC 15-3-3-5(b). (*State Chemist of the State of Indiana; Fertilizer Law Rule 6; filed Sep 14, 1953, 7:00 a.m.: Rules and Regs. 1954, p. 7; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3360, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 3. 355 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-1 "Approved" defined

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 1. As used in this article, "approved" means approval by the ~~Indiana~~ state chemist ~~or his agent~~ except where otherwise stated. (*State Chemist of the State of Indiana; 355 IAC 2-2-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1389, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 4. 355 IAC 2-2-1.5 IS ADDED TO READ AS FOLLOWS:

355 IAC 2-2-1.5 "Appurtenance" defined

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 1.5. As used in this article, "appurtenance" means any:

- (1) valve;
- (2) pump;
- (3) fitting;
- (4) pipe;
- (5) hose;
- (6) metering device; or
- (7) mechanical device;

that is connected to a storage container or is used to transfer a material into or out of such container. (*State Chemist*

of the State of Indiana; 355 IAC 2-2-1.5)

SECTION 5. 355 IAC 2-2-6 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-6 "Field operations" defined

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 6. As used in this article, "field operations" means the application of bulk (**dry or fluid**) fertilizer to soil or plants in the course of normal agricultural or horticultural practice. (*State Chemist of the State of Indiana; 355 IAC 2-2-6; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1389, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 6. 355 IAC 2-2-9 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-9 "Low pressure nitrogen solutions" defined

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 9. As used in this article, "low pressure nitrogen solutions" means an aqueous solution of ammonium nitrate, ~~and/or~~ urea, ~~and/or or~~ other nitrogen carriers containing various quantities of free ammonia exceeding two percent (2%) by weight. Aqua ammonia and nonpressure nitrogen solutions, commonly referred to as:

- (1) twenty-eight percent (28%);
- (2) thirty percent (30%); or
- (3) thirty-two percent (32%);

nitrogen solutions, are excluded from this definition. (*State Chemist of the State of Indiana; 355 IAC 2-2-9; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1390, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 7. 355 IAC 2-2-10 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-10 "Operational area" defined

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 10. As used in this article, "operational area" means an area or areas at a ~~fluid bulk~~ fertilizer storage facility where fertilizers are:

- (1) transferred, loaded, unloaded, ~~or~~ mixed; or ~~where~~ fertilizers are
- (2) cleaned or washed from containers or application, storage, or transportation equipment.

(*State Chemist of the State of Indiana; 355 IAC 2-2-10; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1390, eff one hundred twenty (120) days after filing with secretary of state; readopted filed*

Proposed Rules

Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 8. 355 IAC 2-2-13 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-13 “Secondary containment” defined

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 13. As used in this article, “secondary containment” means any structure, ~~including dikes such as a dike~~, used to contain ~~product spills~~ **fertilizer discharges** from bulk storage containers and prevent run-off or leaching. *(State Chemist of the State of Indiana; 355 IAC 2-2-13; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1390, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)*

SECTION 9. 355 IAC 2-2-14 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-14 “State chemist” defined

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 14. As used in this article, “state chemist” means the Indiana state chemist or ~~his~~ **an** appointed agent. *(State Chemist of the State of Indiana; 355 IAC 2-2-14; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1390, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)*

SECTION 10. 355 IAC 2-2-15 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-15 “Storage container” defined

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 15. (a) As used in this article, “storage container” means: ~~the following:~~

- (1) a container; ~~used for the storage of fluid bulk fertilizer.~~
 - (2) a rail car;
 - (3) ~~a~~ nurse tank; or
 - (4) **any** other mobile container;
- used for the storage of fluid bulk fertilizer.

(b) ~~“Storage container”~~ **The term** does not include the following:

- (1) A mobile container storing fluid bulk fertilizer at a storage facility for less than fifteen (15) days, if this storage is incidental to the loading or unloading of a storage container at the storage facility.
- (2) A mobile container located other than on property owned, operated, or controlled by an owner or operator of a storage facility.
- (3) A container used solely for emergency storage of leaking

fertilizer containers. ~~that are fifty-five (55) gallons or smaller.~~
(State Chemist of the State of Indiana; 355 IAC 2-2-15; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1390, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 11. 355 IAC 2-2-17 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-2-17 “Storage facility location registry” defined

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 17. As used in this article, “storage facility location registry” means the annual listing of all ~~fluid bulk fertilizer and/or dry bulk fertilizer~~ storage facilities **at any location** in Indiana by the state chemist as derived from written notification ~~of such from the storage facility. location by the facility’s owner, operator, or person in charge.~~ *(State Chemist of the State of Indiana; 355 IAC 2-2-17; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1391, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)*

SECTION 12. 355 IAC 2-3-4 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-3-4 Prohibited materials

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 4. (a) Storage containers and appurtenances ~~may~~ **shall** not be constructed of copper, brass, zinc, or copper base alloys.

(b) Storage containers and appurtenances used for the storage of fluid fertilizers containing phosphates or chlorides ~~may~~ **shall** not be constructed of aluminum or aluminum alloys.

(c) Storage containers and appurtenances used for the storage of low (less than five (5)) pH fluid fertilizers ~~may~~ **shall** not be constructed of ferrous materials other than “316” or “317” stainless steel unless the materials are coated or treated with protective substances ~~which that~~ are adequate to inhibit corrosion.

(d) Storage containers and appurtenances used for the storage of low pressure nitrogen solutions ~~may~~ **shall** not be constructed of mild steel, fiberglass, polyolefins, or plastic. This prohibition does not extend to nonpressure solutions, commonly referred to as:

- (1) twenty-eight percent (28%);
- (2) thirty percent (30%); or
- (3) thirty-two percent (32%);

nitrogen solutions. This prohibition against the use of mild steel does not extend to aqua ammonia.

(e) Storage containers and appurtenances used for the storage

of phosphoric acid ~~may~~ **shall** not be constructed of ferrous materials other than "316" or "317" stainless steel unless the container is lined with a suitable substance to prevent corrosion.

(f) Storage containers and appurtenances used for the storage of fluid fertilizers containing potassium chloride (muriate of potash) shall not be constructed of ferrous materials other than stainless steel unless ~~one (1) of the following shall occur: the containers and appurtenances are:~~

- (1) ~~The containers and appurtenances are~~ coated or treated with protective substances ~~which that~~ are adequate to inhibit corrosion; **or**
- (2) ~~The containers and appurtenances are~~ used for storage periods of not more than six (6) months each and are completely emptied between storage periods, cleaned, and inspected for leaks ~~prior to before~~ being refilled for any subsequent period.

(State Chemist of the State of Indiana; 355 IAC 2-3-4; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1392, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 13. 355 IAC 2-3-6 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-3-6 Security

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 6. (a) Storage containers and appurtenances shall be secured to provide reasonable protection from wildlife, vandalism, and unauthorized access. ~~which may result in damage and a subsequent discharge. Such~~ The security shall be provided by fencing, lighting, or other approved means.

(b) Valves on storage containers shall be locked or otherwise secured except when persons responsible for facility security are present at the facility.

(c) Valves on mobile fertilizer containers ~~containing fertilizer product and parked overnight~~ at a storage facility shall be locked or secured except when persons responsible for facility security are present. ~~at the facility.~~

(d) Valves on empty containers need not be secured. *(State Chemist of the State of Indiana; 355 IAC 2-3-6; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1392, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)*

SECTION 14. 355 IAC 2-3-8 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-3-8 Pipes and fittings

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 8. Pipes and fittings shall be adequately supported to prevent sagging and possible breakage because of gravity and other forces ~~which that~~ may be encountered in the ordinary course of operations. **All hoses and piping less than schedule 80 shall be located in a contained area or double sleeved. Underground piping is permitted providing the piping is:**

- (1) **made of stainless steel;**
- (2) **enclosed in secondary containment (a pipe within a pipe); or**
- (3) **hydrostatically tested annually.**

(State Chemist of the State of Indiana; 355 IAC 2-3-8; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1392, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 15. 355 IAC 2-3-11 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-3-11 Inspection and maintenance

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 11. (a) ~~The operator of a storage facility shall routinely inspect and maintain storage facilities;~~ Storage containers and appurtenances **shall be maintained** to minimize the risk of a discharge or spill.

(b) ~~The operator shall inspect valves and other appurtenances for leakage at least weekly whenever facilities are in use for storage.~~

(c) ~~A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance.~~

(d) ~~Inspection and maintenance records shall be kept at the storage site or at the nearest local office from which the storage site is administered.~~ *(State Chemist of the State of Indiana; 355 IAC 2-3-11; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1393, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3361, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)*

SECTION 16. 355 IAC 2-3-12 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-3-12 Compliance with effective date of rule

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 12. (a) ~~This rule shall become effective upon the date of adoption.~~

(b) ~~(a)~~ Full compliance **with this rule** by newly established storage facilities shall be required immediately **upon the effectiveness of this rule.**

Proposed Rules

(e) (b) Full compliance by existing storage facilities shall be required no later than ~~twelve (12) months~~ **two (2) years** from the date of adoption: effectiveness of this rule. (*State Chemist of the State of Indiana; 355 IAC 2-3-12; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1393, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 17. 355 IAC 2-4-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-4-1 Loadout and unloading pads

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 1. (a) Areas used for the loading of fluid fertilizer into storage containers or for unloading fluid fertilizer from storage containers into mobile containers shall be curbed and paved with reinforced concrete or other suitable material that provides an impervious surface and is approved by the state chemist. ~~Operational area~~ All activities at the fluid fertilizer storage facility shall be carried out within this area. ~~Such activities include the loadout and unloading of fluid fertilizer to and from:~~

- ~~(1) storage containers;~~
- ~~(2) application equipment;~~
- ~~(3) mobile containers;~~
- ~~(4) equipment;~~
- ~~(5) container washing; and~~
- ~~(6) other similar activities.~~

(b) The operational area containment shall be constructed and reinforced to ~~handle support~~ at least the foreseeable maximum gross load, including the following:

- (1) The product.**
- (2) Equipment that ~~utilize~~ utilizes the operational area.**
- (3) The mobile container. and**
- (4) The motor vehicle.**

The curbed and paved area shall have a minimum width of ten (10) feet, ~~and~~ a minimum length of twenty (20) feet, ~~and~~ a minimum capacity of at least seven hundred fifty (750) gallons of discharged fluids. Any fill or unloading point of the mobile container shall be positioned over the paved area during loading or unloading. ~~to assure retention of any discharge.~~

(c) With the exception of secondary containment areas lined with synthetic or soil liners, and wherever sufficient capacity required in 355 IAC 2-5-1(c) and ~~provisions of~~ this rule are complied with, the ~~diked~~ secondary containment area described in 355 IAC 2-5 may be designed for and jointly used ~~in lieu~~ **instead** of a separate operational area containment.

(d) The operational area containment shall ~~form or drain into a liquid-tight catch basin. If operational area containment drains to a sump, the catch basin may include the sump and an aboveground container; provided a pump is installed that automatically transfers the contents of the sump into an above-~~

~~ground container. Such containers used for the temporary storage of liquids collected from the operational area containment shall be located within secondary containment.~~

(d) Operational areas shall not have a relief outlet or valve. The base shall slope to a collecting spot where liquid can be discharged, by a manually activated pump, for use in the blending process or for proper disposal in accordance with all applicable regulations.

(e) The curbed surface and catch basin shall be of adequate design and size to contain a combined total of at least seven hundred fifty (750) gallons of discharged fluid:

~~(f) (e)~~ All liquids shall be promptly removed or recovered from the operational area containment such that the capacity required in subsection ~~(e) (b)~~ is available at all times when operations, as referenced in 355 IAC 2-2-10, are taking place.

~~(g) (f)~~ Storage containers and appurtenances ~~including pipes,~~ shall be protected against reasonably foreseeable risks of damage by ~~trucks and other moving vehicles engaged in the loading or unloading of fluid bulk fertilizer. operating in the area.~~

~~(h) (g)~~ This section does not apply to mobile containers used to nurse field operations when at a field unloading site.

~~(i) (h)~~ Alternative means, including portable operational area containment systems ~~that meet meeting~~ the capacity requirement, ~~of subsection (e) shall be permitted to serve as operational area containment systems if recommended by the manufacturer and approved for this use by the state chemist. with prior approval.~~

~~(j) The operator of a storage facility shall routinely inspect and maintain the (i) Operational area containment system. Such inspections shall be conducted at least weekly during operational periods. maintained as necessary to assure compliance with this rule.~~

~~(k) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance. Inspection and maintenance records shall be kept at the storage site or at the nearest local office from which the storage site and operational area is administered. (State Chemist of the State of Indiana; 355 IAC 2-4-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1393, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3361, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)~~

SECTION 18. 355 IAC 2-5-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-1 General requirements

Authority: IC 15-3-12
Affected: IC 15-3-2; IC 15-3-7

Sec. 1. (a) ~~Primary storage of Fluid bulk fertilizer storage containers~~ shall be located within a ~~diked area~~ **secondary containment** constructed with a base, perimeter wall, and sloped floor. ~~drain; except as noted in sections 9 through 12 of this rule~~ An exception for a sloped floor ~~drain~~ may be granted prior existing ~~diked areas~~ providing other requirements of this rule are met: **by the state chemist.**

(b) The ~~diked containment~~ area shall be separate from a secondary containment area for other materials and used only for containment of ~~primary storage of fluid bulk fertilizer containers~~ or other ~~fertilizer related~~ equipment. ~~used in the operational area provided the minimum containment requirement noted in subsection (c) is maintained at all times.~~ This subsection shall not prohibit the storage within the diked area of anhydrous ammonia when stored in compliance with rules adopted under IC 15-3-2. Adjoining secondary containment areas may share common walls.

(c) ~~The diked area for Secondary containment of storage facilities not protected from rainfall shall contain at all times have a minimum capacity of one hundred percent (100%) of the volume of the largest storage container within the diked contained area plus the volume occupied displaced by all the other tanks, equipment, and appurtenances in the area up to the safe design level of the dike containment structure plus a freeboard of six (6) inches.~~

(d) ~~Diked~~ Secondary containment ~~areas~~ protected from rainfall ~~are is~~ not required to ~~provide have~~ the freeboard noted in subsection (c) but shall comply with all other requirements. ~~therein.~~

(e) ~~Diked~~ Secondary containment ~~areas~~ constructed ~~prior to enactment of this rule before July 6, 1991, and which have having~~ a capacity of a minimum of one hundred ten percent (110%) of the volume of the largest storage container within the ~~diked contained~~ area plus the volume ~~occupied displaced~~ by all the other tanks in the area up to the safe design level of the ~~dike containment structure~~ shall be deemed to be in compliance with this rule. Any such storage facility, ~~shall~~, upon alteration of the secondary containment area or increases in storage container volume, ~~shall~~ be brought into full compliance within ninety (90) days of alteration or increase.

(f) Tile drainage ~~shall not be permitted~~ within or ~~underlying the area to be diked shall be eliminated: under secondary containment.~~

(g) **Alternative means, with prior approval, shall be permitted.** (*State Chemist of the State of Indiana; 355 IAC 2-5-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1394, eff one hundred twenty (120) days after filing with secretary of state; readopted*

filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 19. 355 IAC 2-5-2 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-2 Walls

Authority: IC 15-3-3-12
Affected: IC 15-3-3-7

Sec. 2. (a) The walls of a secondary containment facility shall be:

- (1) constructed of earth, steel, concrete (precasted modules or poured), or solid masonry; and ~~be~~
- (2) designed to withstand a full hydrostatic head of any discharged liquid and weight load of material used in construction.

(b) Cracks and seams shall be sealed to prevent leakage.

(c) Walls constructed of earth or other permeable materials shall be lined as provided under sections 3 through 7 of this rule.

(d) Earthen walls shall have a horizontal-to-vertical slope ~~of at least three (3) to one (1); unless a steeper slope is consistent with good engineering practice. and shall be packed and protected from erosion. An exterior slope of thirty (30) degrees~~ and All interior slopes shall be protected with:

- (1) flat road stone or a similar crushed stone material; or
- (2) a minimum of six (6) inches of vegetative soils planted and maintained with shallow rooted grasses.

(e) The top of earthen walls shall be no less than two and one-half (2.5) feet wide.

(f) Walls may not exceed six (6) feet in height above interior grade unless provisions are made for:

- (1) normal access and necessary emergency access to ~~tanks, storage containers,~~ valves, and other equipment; and ~~for~~
- (2) safe exit from ~~the~~ secondary containment. ~~facility.~~

(g) Walls constructed of concrete or solid masonry shall rest upon:

- (1) a floating base of concrete prepared as in section 4 of this rule; or ~~upon~~
- (2) suitable concrete footings ~~which that~~ extend below the average frost depth. ~~to provide structural integrity.~~

Joints between walls and base ~~must shall~~ be made watertight. (*State Chemist of the State of Indiana; 355 IAC 2-5-2; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1395, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3362, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)*

SECTION 20. 355 IAC 2-5-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-3 Lining; general**Authority:** IC 15-3-3-12**Affected:** IC 15-3-3-7

Sec. 3. The base of a secondary containment facility and any earthen walls of the facility shall be lined with:

- (1) concrete;
- (2) steel;
- (3) an approved synthetic liner; or
- (4) a clay soil liner.

~~designed to limit permeability of the base and walls. Liners shall meet the requirements of this rule.~~ (State Chemist of the State of Indiana; 355 IAC 2-5-3; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1395, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 21. 355 IAC 2-5-4 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-4 Concrete liners**Authority:** IC 15-3-3-12**Affected:** IC 15-3-3-7

Sec. 4. Concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of discharged fluid and static loads of storage containers, including appurtenances, equipment, and contents. Cracks and seams shall be sealed. ~~to prevent leakage.~~ (State Chemist of the State of Indiana; 355 IAC 2-5-4; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1395, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 22. 355 IAC 2-5-6 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-6 Synthetic liners**Authority:** IC 15-3-3-12**Affected:** IC 15-3-3-7

Sec. 6. (a) Synthetic liners and installation plans shall be approved by the state chemist. The installation plan shall address proposed protection of the synthetic liner from mechanical damage, **vandalism, wildlife**, and deterioration from exposure to the sun **according to** ~~meet~~ the manufacturer's recommendations. A synthetic liner ~~may~~ **shall** not be approved by the state chemist until the manufacturer of the liner provides ~~the state chemist with~~ a written confirmation of compatibility and ~~a written~~ estimate of the life of the liner.

(b) Synthetic liners shall have a minimum thickness of thirty (30) mils (eight-tenths (0.8) millimeters) and be chemically compatible with the materials being stored within the containment ~~and operational~~ areas.

(c) Synthetic liners shall be installed under the supervision of

a qualified representative of the manufacturer, and all field constructed seams shall be tested and repaired ~~if necessary~~; in accordance with the manufacturer's recommendations. (State Chemist of the State of Indiana; 355 IAC 2-5-6; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1395, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3363, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 23. 355 IAC 2-5-8 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-8 Exemptions**Authority:** IC 15-3-3-12**Affected:** IC 15-3-3-7

Sec. 8. (a) A liner need not be installed directly under a storage container having a capacity of one hundred thousand (100,000) gallons or more that has been constructed on-site and put into use ~~prior to the effective date of this rule before July 6, 1991~~, provided that one (1) of the following alternative procedures are complied with, certified to in writing by an official of the company who owns the container, and the certificate is filed with the state chemist:

(1) Alternative 1 shall be as follows:

(A) A second bottom made of steel shall be constructed for the storage container ~~The second bottom shall be and~~ placed over the original bottom and a layer of smooth, fine gravel or coarse sand having a minimum thickness of six (6) inches.

(B) The original bottom of the storage container shall be tested for leaks before the sand layer or second bottom is installed. A record of the test shall be kept on file at the storage facility.

(C) The newly constructed bottom shall be tested for leaks before any fluid fertilizer is stored on the newly constructed bottom. A record of the test shall be kept on file at the storage facility or at the nearest local office from which the storage facility is administered.

(D) There shall be a method by which leaks from the newly constructed bottom into the sand layer may readily be detected.

(E) The newly constructed bottom shall be tested at least once every five (5) years for leaks. A record of the tests shall be kept at the storage facility.

(2) Alternative 2 shall be as follows:

(A) The container shall be emptied, cleaned, and tested for leaks. The walls and floor of the container shall be tested to assure that welds and thickness of steel plates are sound and adequate to contain the fertilizers. A record of the inspection, test results, and ~~of~~ any repairs made shall be submitted to the state chemist and maintained by the owner or operator.

(B) The interior floor and at least twelve (12) inches of the wall areas of the container above the floor shall be coated

with an approved liner to inhibit corrosion. A record of this procedure shall be submitted to the state chemist and maintained by the owner or operator.

(C) An approved test for leaks shall be conducted every five (5) years thereafter. A record of the test findings and of indicated repairs and maintenance shall be maintained by the owner or operator.

(3) Alternative 3 shall be as follows:

(A) Monitoring devices shall be installed in angled borings in the unsaturated earth materials under each tank. These monitoring devices shall constitute a leak detection system for each tank in advance of the point at which any leak would reach ground water.

(B) The number, length, and depth of each boring shall be determined on the basis of site characteristics. The array of monitoring devices under each tank shall constitute the best practical early warning detection system for tank leakage.

(C) Each monitoring plan under this alternative shall be implemented only upon review and approval of the state chemist.

(b) The secondary containment requirements under this rule do not apply to rail cars ~~which that~~ are periodically moved to and from the storage facility.

(c) The state chemist may recognize other methods that provide equivalent protection. (*State Chemist of the State of Indiana; 355 IAC 2-5-8; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1396, eff one hundred twenty (120) days after filing with secretary of state; errata filed May 10, 1991, 2:30 p.m.: 14 IR 1730; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3363, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 24. 355 IAC 2-5-12 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-12 Drainage from contained areas within dikes; elephant rings instead of a diked containment area

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 12. (a) Individual storage containers not exceeding three thousand (3,000) gallons may be contained within a secondary storage container (elephant ring) ~~in lieu instead~~ of a diked containment area. ~~The elephant ring serves as a second containment wall in the event that the primary storage container develops a leak.~~

(b) Both the primary storage container and the elephant ring shall be fabricated of material compatible with:

- (1) each other; and ~~with~~
- (2) the fertilizer being stored.

~~Dissimilar metals between the primary storage container and the elephant ring contribute to electrolytic corrosion and such use~~

~~is prohibited.~~

(c) The height of the elephant ring wall shall not exceed four (4) feet. The volume contained within the secondary storage walls up to the working height of the elephant ring shall be sufficient to contain a volume equal to the volume contained in the primary storage container plus the volume displaced by any equipment, that is, pumps or meters, placed within the secondary containment vessel up to the safe storage level of the elephant ring, plus a freeboard of six (6) inches, which freeboard is exempted if the containment system is protected from rainfall.

(d) The elephant ring shall be free of leaks and structural defects. The base shall be:

- (1) protected from corrosion, both from inside and outside; ~~and shall be underlain by a concrete pad or with eight (8) inches of compacted gravel beneath four (4) inches of compacted sand or as recommended by the manufacturer of the elephant ring and approved by the state chemist.~~
- (2) **designed according to good engineering practices.**

(e) All piping connections to the primary storage container shall be:

- (1) made over the wall of the elephant ring; ~~and shall be~~
- (2) adequately supported and braced.

Pumps and other fixtures, if located within the elephant ring containment structure, shall be placed on an elevated platform.

(f) Accumulations of liquids shall be drained from the elephant ring over the wall of the container by means of a manually operated pump ~~and disposed of for use in the blending process or for proper disposal~~ in accordance with all applicable regulations.

(g) ~~Inspection and maintenance of the primary storage container and of the Elephant ring rings shall be conducted and records of inspections and maintenance maintained as established in section 13 of necessary to assure compliance with this rule. (State Chemist of the State of Indiana; 355 IAC 2-5-12; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1397, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3364, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)~~

SECTION 25. 355 IAC 2-5-12.5 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-12.5 Drainage from contained areas within dikes

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 12.5. (a) ~~Diked~~ **Secondary containment** areas shall not have a relief outlet or valve. The base shall slope to a collecting

Proposed Rules

spot where liquid can be discharged, by a manually activated pump, for use in the blending process or for proper disposal in accordance with all applicable regulations.

(b) ~~Any~~ Accumulated liquids shall be promptly removed from the ~~lined~~ **secondary containment** area. (*State Chemist of the State of Indiana; 355 IAC 2-5-12.5; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3364, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 26. 355 IAC 2-5-13 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-13 Inspection and maintenance

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 13. (a) ~~Every~~ Secondary containment shall be ~~inspected by the operator of the storage facility at intervals of not greater than six (6) months and~~ be maintained as necessary to assure compliance with this rule.

(b) ~~A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance and kept at the storage facility or at the nearest local office from which the storage facility is administered.~~

(c) ~~(b)~~ All secondary containment areas shall be maintained free of debris and foreign matter. (*State Chemist of the State of Indiana; 355 IAC 2-5-13; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1398, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 27. 355 IAC 2-6-1.5 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-6-1.5 Storage and handling

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 1.5. (a) Dry bulk fertilizer, stored indoors, shall be in a sound structure having a cover or roof top, sidewalls, and ~~a an~~ **impervious** base sufficient to prevent contact with precipitation and surface waters. Temporary outdoor storage shall be allowed for a maximum of thirty (30) days providing material be covered with a tarpaulin, or other suitable covering, to prevent seepage of run-off.

(b) All loading, unloading, mixing, and handling of dry bulk fertilizer shall be performed over an impervious surface that allows for recovery of discharged product unless performed ~~in the at a field of application.~~ **unloading site**. Fertilizer that is discharged shall be promptly recovered. (*State Chemist of the State of Indiana; 355 IAC 2-6-1.5; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3365, eff one hundred twenty (120) days after filing*

with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822)

SECTION 28. 355 IAC 2-9-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-9-1 Facility registry

Authority: IC 15-3-3-12

Affected: IC 15-3-3-7

Sec. 1. The ~~owner, operator, or person in charge of a bulk fertilizer~~ storage facility shall notify the state chemist each year of the facility's location and status. Notice shall include the following:

(1) The facility's mailing address.

(2) The owner or manager.

(3) The type of facility.

(4) The rated or calculated capacity of all bulk tanks and dry storage units. ~~and their~~

(5) ~~The~~ facility's physical location.

Notice shall be made upon forms furnished by the state ~~chemist's office.~~ **chemist**. (*State Chemist of the State of Indiana; 355 IAC 2-9-1; filed Mar 8, 1991, 2:45 p.m.: 14 IR 1400, eff one hundred twenty (120) days after filing with secretary of state; filed Apr 23, 1998, 9:20 a.m.: 21 IR 3365, eff one hundred twenty (120) days after filing with secretary of state; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822*)

SECTION 29. THE FOLLOWING ARE REPEALED: 355 IAC 2-4-4; 355 IAC 2-5-14; 355 IAC 2-6-2; 355 IAC 2-8.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 29, 2005 at 10:00 a.m., at the Office of Indiana State Chemist, Room A151, 175 South University Street, Purdue University, West Lafayette, Indiana the Office of Indiana State Chemist will hold a public hearing on proposed amendments of rules and regulations under the Indiana Commercial Fertilizer Law IC 15-3-3-12. Copies of these rules are now on file at the Office of Indiana State Chemist, 175 South University Street, Purdue University, West Lafayette, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael R. Hancock
Fertilizer Administrator
State Chemist of the State of Indiana

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule

LSA Document #04-319

DIGEST

Amends 405 IAC 2-2-3 to require that a person have a disabling condition that has lasted or is expected to last for at least 12 months in order to qualify for Medicaid under the disabled category. Amends 405 IAC 2-9-5 to require that an individual have earned income that exceeds the \$65 per month earned income disregard in order to be considered employed for purposes of the Medicaid for Employees with Disabilities program. Effective 30 days after filing with the secretary of state.

405 IAC 2-2-3

405 IAC 2-9-5

SECTION 1. 405 IAC 2-2-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-2-3 Disability determination

Authority: IC 12-8-6-5; IC 12-15-1-10

Affected: IC 12-13-7-3; IC 12-14-15-1; IC 12-15

Sec. 3. (a) The determination of whether an applicant or recipient is disabled according to the definition of disability prescribed in IC 12-14-15-1(2) is made by the Medicaid medical review team (MMRT) based upon the following principles:

(1) The determination of whether a condition appears reasonably certain to result in death or that has lasted or appears reasonably certain to last for a continuous period of at least ~~four (4) years~~ **twelve (12) months** without significant improvement is made on the basis of the expected duration of the condition. A condition ~~which that~~ is temporary (less than ~~four (4) years~~ **twelve (12) months**) or transient does not fulfill this requirement. The expected duration of the condition does not preclude the possibility of future medical advances, changed diagnosis or prognosis, unforeseen recovery, or successful treatment subsequent to the initial prognosis.

(2) The determination of whether a condition substantially impairs the applicant's ability to perform labor or services or to engage in a useful occupation will be made based upon a consideration of the following:

(A) The applicant's functional limitations, as follows:

(i) Consideration is given to the applicant's significant physical functions and capacity ~~which that~~ affect vocational capacity, such as standing, walking, lifting, range of motion, strength, agility, and stamina.

(ii) Consideration is given to the individual's intellectual and sensory functions ~~which that~~ affect vocational capacity, such as sight, speech, hearing, reasoning, and following directions.

(iii) Consideration is given to the applicant's capacity for sustained activity on a regular basis.

(B) The applicant's age, as follows:

(i) An individual who is not engaged in a useful occupation solely because of age cannot be found disabled if the

individual's impairment, education, and work experience would enable the individual to function in a useful capacity.

(ii) If the applicant is over fifty-five (55) years of age, the applicant's age may be considered a significant factor in the applicant's ability to engage in or adapt to a useful occupation.

(iii) If the applicant is under eighteen (18) years of age, the applicant's condition is evaluated in terms of how it affects the applicant's activities and restricts the applicant's physical, mental, emotional, and social growth, learning, and development.

(iv) A condition ~~which that~~ is likely to substantially impair a child's ability to become an independent and self-supporting adult is a basis for a finding of disability.

(C) The applicant's education and training, as follows:

(i) Consideration is given to the applicant's formal schooling and other training that contributes to the applicant's ability to meet vocational requirements.

(ii) Past work experience, daily activities, and hobbies are considered in determining and evaluating skills not acquired in a formal setting.

(iii) In determining whether these factors are vocationally significant, consideration is given to the time elapsed since the completion of education, training, or the exercise of acquired skills.

(iv) Lack of education and training is not of itself a basis for a finding of disability.

(D) The applicant's work experience, as follows:

(i) The applicant's inability to engage in the applicant's former occupation is not, in itself, a basis for a finding of disability.

(ii) Work performed fifteen (15) or more years ~~prior to~~ **before** an application is not considered vocationally relevant. Similarly, an individual who has no work experience or only sporadic work experience in the previous fifteen (15) years is considered to have no work experience relevant to the determination of disability.

(iii) The absence of work experience is not in itself a basis for a finding of disability.

(iv) If an applicant is physically or mentally unable to engage in any previous occupation but the applicant's remaining functional capacity and vocational capabilities are sufficient to meet the demands and adjustments required by a different occupation, the applicant is not considered disabled.

(b) Except as provided below, a redetermination of disability is required annually of each recipient at the time the county office does its complete redetermination of all factors of eligibility. Redeterminations of disability may be required more frequently or may be waived at the discretion of the MMRT based upon the condition of the recipient. (*Office of the Secretary of Family and Social Services; 405 IAC 2-2-3; filed Mar 1, 1984, 2:31 p.m.; 7 IR 1015, eff Apr 1, 1984; errata, 7 IR 1254;*

Proposed Rules

filed Dec 21, 2000, 2:06 p.m.: 24 IR 1342; errata filed Apr 30, 2001, 3:27 p.m.: 24 IR 2709; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822) NOTE: Transferred from the Division of Family and Children (470 IAC 9.1-2-3) to the Office of the Secretary of Family and Social Services (405 IAC 2-2-3) by P.L.9-1991, SECTION 131, effective January 1, 1992.

SECTION 2. 405 IAC 2-9-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-9-5 Employment requirements; continuing eligibility when employment ends

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-41-15

Affected: IC 12-15-2-6.5; IC 12-15-41

Sec. 5. (a) In order for an individual to be eligible for Medicaid for employees with disabilities, the individual must be engaged in a substantial and reasonable work effort. This means that the person must be either employed or self-employed, with the intent of such work activity being ongoing. **The individual's monthly earned income must exceed the sixty-five dollar (\$65) earned income disregard described in section 2 of this rule.** Employment must be verifiable by pay stubs or other verification from an employer documenting that the income is subject to income tax and FICA withholding. Self-employment must be verified by the individual's income tax return or, in the case of a new business for which a tax return has not yet been filed, the personal business records of the individual.

(b) In order for a recipient of Medicaid for employees with disabilities to remain eligible when the definition of medically improved disability in section 7 of this rule is met, the recipient must be employed as defined in subsection (a) and must have monthly earnings as calculated under 405 IAC 2-5-1 that are equal to or greater than the federal minimum wage times forty (40), unless the provisions in subsection (c) are met.

(c) A recipient who is involuntarily not working can remain eligible for the Medicaid for employees with disabilities program for up to twelve (12) months if he or she meets all other program requirements and ~~is~~ either:

- (1) ~~is~~ on temporary medical leave from his or her employment as defined in subsection (d); or
- (2) maintains a connection to the workforce by participating in at least one (1) of the following activities:
 - (A) Enrollment in a vocational rehabilitation program.
 - (B) Enrollment or registration with the department of workforce development.
 - (C) Participation in a transition from school to work program.
 - (D) Participation with an approved provider of employment services.

(d) As used in this section, "temporary medical leave" means a leave from the place of employment due to health reasons

when the employer is keeping a position open for the individual to return. If the employer is no longer holding a position open, the recipient must maintain a connection to the workforce as defined in subsection (c)(2) in order for coverage to continue under Medicaid for employees with disabilities.

(e) In order to remain eligible upon becoming unemployed, the recipient or his or her authorized representative must submit a written request for continued coverage to the local office of family and children no later than sixty (60) days after termination of employment. Attached to this written request must be verification that the recipient meets the requirements in subsection (c). On a quarterly basis thereafter, as long as the recipient continues to be unemployed and wishes coverage to continue, verification of his or her medical leave or workforce connection status must be provided to the local office of family and children. The quarterly verification must consist of a statement from the agency or service provider that documents the recipient's continued participation in an activity that constitutes connection to the workforce, or from the recipient's employer stating he or she remains on a temporary involuntary medical leave.

(f) A recipient who voluntarily terminates his or her employment for any reason is not eligible for Medicaid for employees with disabilities. Eligibility for the other Medicaid categories will be pursued.

(g) A recipient who fails to submit the initial request for coverage continuation within the required sixty (60) day period or who fails to submit the quarterly verification report is no longer eligible for Medicaid for employees with disabilities. Eligibility for other Medicaid categories will be pursued. (*Office of the Secretary of Family and Social Services; 405 IAC 2-9-5; filed Jun 10, 2002, 2:21 p.m.: 25 IR 3119; errata filed Jun 28, 2002, 10:17 a.m.: 25 IR 3769; errata filed Aug 22, 2002, 3:14 p.m.: 26 IR 35*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on March 29, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments concerning eligibility for Medicaid for employees with disabilities and Medicaid for persons with disabilities. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

E. Mitchell Roob, Jr.
Secretary
Office of the Secretary of Family and Social Services

**TITLE 511 INDIANA STATE BOARD OF
EDUCATION****Proposed Rule**
LSA Document #04-276**DIGEST**

Adds 511 IAC 6-7.1-4.5 to make the Core 40 diploma the required high school curriculum, effective with students who enter high school in the 2007-2008 school year and subsequent school years, and to provide an opt-out provision for students who will complete minimum graduation requirements rather than the Core 40 requirements. Effective 30 days after filing with the secretary of state.

511 IAC 6-7.1-4.5

SECTION 1. 511 IAC 6-7.1, PROPOSED TO BE ADDED AT 28 IR 1303, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

**511 IAC 6-7.1-4.5 Students who enter high school in the
2007-2008 school year and subse-
quent school years; Core 40 di-
ploma expected**

Authority: IC 20-1-1-6; IC 20-10.1-4; IC 20-10.1-5.7-2

Affected: IC 20-10.1-4-5; IC 20-10.1-4.5-2; IC 20-10.1-16-13

Sec. 4.5. (a) Subject to the provisions of subsection (b), a student who enters high school in the 2007-2008 school year or a subsequent school year must complete the Core 40 diploma requirements under section 5 of this rule to be eligible to graduate.

(b) A student who enters high school in the 2007-2008 school year or a subsequent school year may graduate without completing the Core 40 diploma requirements under section 5 of this rule if the student completes the following:

- (1) The minimum diploma requirements under section 4 of this rule.**
- (2) The informed consent process described in subsection (c).**

(c) For a student to graduate without completing the Core 40 diploma requirements, the following steps must be completed:

- (1) A meeting must be conducted and personally attended by the following:**
 - (A) The student's parent or guardian.**
 - (B) The student.**
 - (C) The student's school counselor.**
 - (D) The student's principal.**
- (2) At the meeting, the participants will discuss the following:**
 - (A) The student's career and course plan.**

(B) The likely consequences if the student graduates without completing the Core 40 diploma requirements.

(C) The career academic sequence the student will pursue.

(3) The participants must all agree that the student will graduate without completing the Core 40 diploma requirements.

(4) The student must provide written acknowledgement that the student will graduate without completing the Core 40 diploma requirements, and the student's parent or guardian and the school principal each must provide written consent for the student to graduate without completing the Core 40 diploma requirements.

(Indiana State Board of Education; 511 IAC 6-7.1-4.5)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 6, 2005 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana the Indiana State Board of Education will hold a public hearing on a proposed new rule to make the Core 40 diploma the required high school curriculum, effective with students who enter high school in the 2007-2008 school year and subsequent school years, and to provide an opt-out provision for students who will complete minimum graduation requirements rather than the Core 40 requirements. 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

**TITLE 675 FIRE PREVENTION AND BUILDING
SAFETY COMMISSION****Proposed Rule**
LSA Document #04-273**DIGEST**

Amends 675 IAC 14-4.3, the 2005 Indiana Residential Code, so as not to be in conflict with provisions of the 2005 Indiana Electrical Code, 675 IAC 17-1.7. Adds 675 IAC 17-1.7, which adopts by reference and amends the 2005 National Electrical Code as the Indiana Electrical Code, 2005 Edition. Repeals 675 IAC 14-4.3-213, 675 IAC 14-4.3-216, 675 IAC 14-4.3-244, 675 IAC 14-4.3-250, 675 IAC 14-4.3-251, 675 IAC 14-4.3-252, and 675 IAC 17-1.6. Effective 30 days after filing with the secretary of state.

Proposed Rules

675 IAC 14-4.3-136.5
675 IAC 14-4.3-155.5
675 IAC 14-4.3-212
675 IAC 14-4.3-213
675 IAC 14-4.3-213.5
675 IAC 14-4.3-214
675 IAC 14-4.3-215
675 IAC 14-4.3-216
675 IAC 14-4.3-219.3
675 IAC 14-4.3-219.3
675 IAC 14-4.3-219.5
675 IAC 14-4.3-219.6
675 IAC 14-4.3-219.7
675 IAC 14-4.3-219.8
675 IAC 14-4.3-225.2
675 IAC 14-4.3-226.1
675 IAC 14-4.3-226.5
675 IAC 14-4.3-226.6
675 IAC 14-4.3-227
675 IAC 14-4.3-228.5
675 IAC 14-4.3-230

675 IAC 14-4.3-232
675 IAC 14-4.3-232.5
675 IAC 14-4.3-233
675 IAC 14-4.3-234
675 IAC 14-4.3-238.5
675 IAC 14-4.3-240
675 IAC 14-4.3-240.5
675 IAC 14-4.3-241
675 IAC 14-4.3-243.5
675 IAC 14-4.3-244
675 IAC 14-4.3-246
675 IAC 14-4.3-246.5
675 IAC 14-4.3-247.5
675 IAC 14-4.3-248.5
675 IAC 14-4.3-250
675 IAC 14-4.3-251
675 IAC 14-4.3-252
675 IAC 14-4.3-253.5
675 IAC 14-4.3-253.7
675 IAC 17-1.6
675 IAC 17-1.7

SECTION 1. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-136.5 Section R1004.1; general

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 136.5. Add a new sentence to the end of SECTION R1004.1 to read as follows: **Factory-built fireplaces shall be bonded to the service equipment enclosure, the grounded conductor at the service, the grounding electrode conductor where of sufficient size, or to the one or more grounding electrodes used in accordance with SECTION E3509.8.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-136.5*)

SECTION 2. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-155.5 Section G2411.1; gas pipe bonding

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 155.5. Delete the text of SECTION G2411.1 and add text to read as follows: **All metal gas piping upstream from the equipment shutoff valve(s) shall be electrically continuous and shall be bonded to an effective ground-fault current path in accordance with SECTION E3509.7. Except where connected to appliances and at bonding connections, flexible metal gas piping shall be isolated from metal water piping, metal air ducts, and all electrical wiring methods by a space separation of at least 2 inches.** (*Fire Prevention and Building*

Safety Commission; 675 IAC 14-4.3-155.5)

SECTION 3. 675 IAC 14-4.3-212, PROPOSED TO BE ADDED AT 28 IR 305, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-212 Section E3305.6; illumination

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 212. Add a sentence to the end of SECTION E3305.6 to read as follows: **Additional lighting fixtures outlets shall not be required where the work space is illuminated by an adjacent artificial light source.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-212*)

SECTION 4. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-213.5 Section E3307.1; grounded conductors

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 213.5. In the second sentence of SECTION E3307.1, after “**distinctive white**”, add “**or gray**”. (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-213.5*)

SECTION 5. 675 IAC 14-4.3-214, PROPOSED TO BE ADDED AT 28 IR 306, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-214 Section E3401; general

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 214. Change SECTION E3401 as follows: (a) Delete the definition of APPROVED and substitute to read as follows: See the definition of APPROVED in SECTION R202.

(b) Delete the definition of BRANCH CIRCUIT, GENERAL PURPOSE and substitute: A branch circuit that supplies two or more receptacles or outlets for lighting and appliances.

(c) Change the definition of Grounding Conductor, Equipment to read as follows: The conductor used to connect the noncurrent-carrying metal parts of equipment, raceways, and other enclosures to the system grounded conductor or the grounding electrode conductor, or both, at the service equipment or at the source of a separately derived system.

(d) Change the definition of Grounding Electrode Conductor to read as follows: The conductor used to connect the grounding electrode(s) to the equipment grounded conductor or to the grounded conductor, or to both, at the service equipment, at each building or structure where supplied from a common

service, or at the source of a separately derived system.

(c) Delete the definition of **GROUND-FAULT CIRCUIT-INTERRUPTER** and substitute: A device intended for the protection of personnel that functions to de-energize a circuit or portion thereof within an established period of time when a current to ground exceeds the values established for a Class A device.

(f) (e) Delete the definition of **LABELED** and substitute as follows: See the definition of **LABELED** in SECTION R202.

(g) (f) Delete the definition of **LISTED** and substitute to read as follows: See the definition of **LISTED AND LISTING** in SECTION R202. (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-214*)

SECTION 6. 675 IAC 14-4.3-215, PROPOSED TO BE ADDED AT 28 IR 306, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-215 Section E3501.6.2; service disconnect location

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 215. (a) Delete the first sentence of SECTION E3501.6.2 and substitute to read as follows: The service disconnecting means shall be installed at a readily accessible location outside of a building or structure.

(b) At the end of SECTION E3501.6.2, add a sentence to read as follows: Conductors shall be considered outside of a building or structure under any of the following conditions:

- (1) where installed under not less than 2 inches (51 mm) of concrete beneath a building or other structure,
- (2) where installed within a building or other structure in a raceway that is encased in concrete or brick **not less than 2 inches thick, or**
- (3) where installed in conduit and under not less than 18 inches (457 mm) of earth beneath a building or other structure.

(*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-215*)

SECTION 7. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-219.3 Section E3508.1; grounding electrode system

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 219.3. (a) In the first sentence of SECTION E3508.1, delete “available” and insert “present”.

(b) After the text of SECTION E3508.1, add an exception to read as follows: **Exception: Concrete-encased electrodes of existing buildings or structures shall not be required to be part of the grounding electrode system where the steel reinforcing bars or rods are not accessible for use without disturbing the concrete.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-219.3*)

SECTION 8. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-219.5 Section E3509.7; bonding other metal piping

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 219.5. Before the period following the next to last sentence in SECTION E3509.7, add “if connected using a fixed wiring method”. (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-219.5*)

SECTION 9. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-219.6 Section E3509.8; factory-built fireplace bonding

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 219.6. Add a new SECTION E3509.8, entitled **factory-built fireplace bonding**, to read as follows: **Factory-built fireplaces shall be bonded to the service equipment enclosure, the grounded conductor at the service, the grounding electrode conductor where of sufficient size, or to the one or more grounding electrodes used. The bonding jumper shall be sized in accordance with Table E3503.1. The point of attachment of the bonding jumper shall be accessible.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-219.6*)

SECTION 10. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-219.7 Section E3510.1; installation

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 219.7. Change SECTION E3510.1 as follows: (a) In the second sentence of SECTION E3510.1, delete “severe”.

(b) In the third sentence of SECTION E3510.1, after “grounding”, add “electrode”.

(c) In the third sentence of SECTION E3510.1, delete “and”.

Proposed Rules

(d) In the third sentence of SECTION E3510.1, before “rigid nonmetallic conduit”, add “Schedule 80”.

(e) In the fourth sentence of SECTION E3510.1, after “grounding”, add “electrode”.

(f) In the fourth sentence of SECTION E3510.1, before “rigid nonmetallic conduit”, add “Schedule 80”.

(g) In the first sentence of the second paragraph of SECTION E3510.1, delete “Insulated or bare” and insert “Bare”. (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-219.7*)

SECTION 11. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-219.8 Section E3510.2; enclosures for grounding electrode conductors

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 219.8. (a) In the first and second sentences of SECTION E3510.2, delete “Metal” and insert “Ferrous metal”.

(b) In the second and third sentences of SECTION E3510.2, insert “electrode” between “grounding” and “conductor”. (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-219.8*)

SECTION 12. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-225.2 Section E3603.1; branch circuits for heating

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 225.2. Add an exception to the end of SECTION E3603.1 to read as follows: **Exception: Permanently connected air-conditioning equipment shall be permitted to be connected to the same branch circuit.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-225.2*)

SECTION 13. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-226.1 Table E3701.4; allowable applications for wiring methods

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 226.1. In the third column, in the sixteenth line of TABLE E3701.4, delete “--” and insert “A”. (*Fire Prevention*

and Building Safety Commission; 675 IAC 14-4.3-226.1)

SECTION 14. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-226.5 Section E3702.4; in unfinished basements

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 226.5. At the end of SECTION E3702.4, add the following: **NM cable used on a wall of an unfinished basement shall be installed in a listed conduit or tubing. Conduit or tubing shall utilize a nonmetallic bushing or adapter at the point the cable enters the raceway. Metal conduit and tubings and metal outlet boxes shall be grounded.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-226.5*)

SECTION 15. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-226.6 Section E3703.3; grounding

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 226.6. Delete SECTION E3703.3 without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-226.6*)

SECTION 16. 675 IAC 14-4.3-227, PROPOSED TO BE ADDED AT 28 IR 307, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-227 Section E3703.4; protection from damage

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 227. ~~In Delete~~ the third sentence of SECTION E3703.4 delete “service laterals” and substitute “underground service conductors”. **without substitution.** (*Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-227*)

SECTION 17. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-228.5 Section E3801.4.1; wall counter space

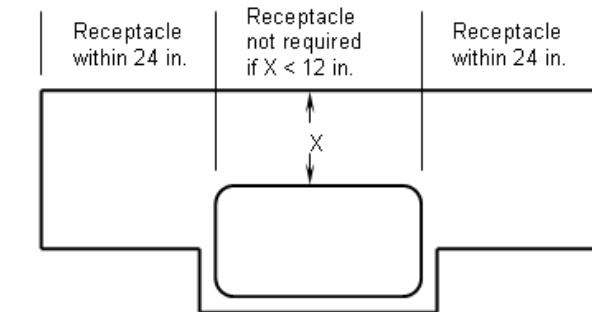
Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

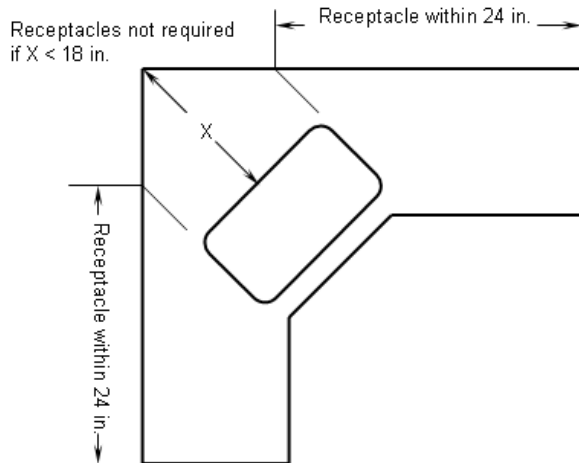
Sec. 228.5. (a) After SECTION E3801.4.1, add an exception to read as follows: **Exception: Receptacle outlets shall not be required on a wall directly behind a range or sink in**

the installation described in FIGURE E3801.4.1.

(b) After SECTION E3801.4.1, add FIGURE E3801.4.1 as follows:



Sink or range extending from face of counter



Sink or range mounted in corner

FIGURE E3801.4.1

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-228.5)

SECTION 18. 675 IAC 14-4.3-230, PROPOSED TO BE ADDED AT 28 IR 308, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-230 Section E3801.6; bathroom

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 230. (a) In SECTION E3801.6, delete the second sentence and substitute: The receptacle outlet shall be located on a wall or partition that is adjacent to the basin or basin countertop.

(b) Add an exception to SECTION E3801.6 to read as follows: **Exception: The receptacle shall not be required to be mounted in the wall or partition where it is installed on**

the side or face of the basin cabinet not more than 12 inches below the countertop. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-230)

SECTION 19. 675 IAC 14-4.3-232, PROPOSED TO BE ADDED AT 28 IR 308, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-232 Section E3801.11; HVAC outlet

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 232. (a) In the first sentence of SECTION E3801.11, delete “located in attics and crawl spaces” without substitution.

(b) In the last sentence of SECTION E3801.11, delete “and shall be protected in accordance with SECTION E3802.4” without substitution. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-232)

SECTION 20. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-232.5 Section E3802.7; bar sink receptacles

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 232.5. (a) In the title of SECTION E3802.7, before “bar sink receptacles”, insert “laundry, utility, and wet”.

(b) Change the first sentence of SECTION E3802.7 to read as follows: All 125-volt, single-phase, 15- and 20-ampere receptacles that are installed within 6 feet of the outside edge of a laundry, utility, or wet bar sink shall have ground-fault circuit-interrupter protection for personnel. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-232.5)

SECTION 21. 675 IAC 14-4.3-233, PROPOSED TO BE ADDED AT 28 IR 308, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-233 Section E3802.8; boathouse receptacles

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 233. Change SECTION 3802.8 to read as follows: All 125-volt, single phase, 15- or 20-ampere receptacles **and outlets that supply boat hoists** installed in boathouses shall have ground-fault circuit-interrupter protection for personnel. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-233)

SECTION 22. 675 IAC 14-4.3-234, PROPOSED TO BE ADDED AT 28 IR 308, SECTION 1, IS AMENDED TO

Proposed Rules

READ AS FOLLOWS:

675 IAC 14-4.3-234 Section E3802.11; bedroom outlets

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 234. In (a) Change SECTION E3802.11 add “receptacle” after to read as follows: All 120-volt, single phase, 15- and 20-ampere and before branch circuits supplying receptacle outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit. Branch/feeder AFCIs shall be permitted to be used to meet the requirements of SECTION E3802.11 until January 1, 2008.

(b) Add an exception to SECTION E3802.11 to read as follows: Exception: The location of the arc-fault circuit interrupter shall be permitted to be at other than the origination of the branch circuit in compliance with (1) and (2):

(1) The arc-fault circuit interrupter is installed within 6 feet of the branch circuit overcurrent device as measured along the branch circuit conductors.

(2) The circuit conductors between the branch circuit overcurrent device and the arc-fault circuit interrupter shall be installed in a metal raceway or a cable with a metallic sheath.

(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-234)

SECTION 23. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-238.5 Section E3805.12.2.1; conductor fill

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 238.5. After the first sentence of SECTION E3505.12.2.1, insert a new sentence to read as follows: A looped, unbroken conductor not less than twice the minimum length required for free conductors in SECTION E3306.10.3 shall be counted twice. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-238.5)

SECTION 24. 675 IAC 14-4.3-240, PROPOSED TO BE ADDED AT 28 IR 308, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-240 Section E3806.8.2.1; nails

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 240. (a) Change the title of SECTION heading E3806.8.2.1 to “Nails and screws”. In the text, delete “Nails”

and insert “Nails and screws”.

(b) Add a new sentence at the end of SECTION E3806.8.2.1 to read as follows: Screws shall not be permitted to pass through the box unless exposed threads in the box are protected using approved means to avoid abrasion of conductor insulation. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-240)

SECTION 25. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-240.5 Section E3807.2; damp or wet locations

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 240.5. (a) At the end of SECTION E3807.2, add a new sentence to read as follows: For enclosures in wet locations, raceways or cables entering above the level of uninsulated live parts shall use fittings listed for wet locations.

(b) Add an exception to SECTION E3807.2 to read as follows: Exception: Nonmetallic enclosures shall be permitted to be installed without the airspace on a concrete, masonry, tile, or similar surface. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-240.5)

SECTION 26. 675 IAC 14-4.3-241, PROPOSED TO BE ADDED AT 28 IR 309, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-241 Section E3807.7; cables

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 241. (a) At the end of Part 6 in the exception, delete the words “; the applicable article”.

(b) After Part 6 of the exception, add Part 7 to read as follows: Where installed as conduit or tubing, the allowable cable fill does not exceed that permitted for complete conduit or tubing systems by SECTION E3804.6. (Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-241)

SECTION 27. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-243.5 Section E3808.8.3; nonmetallic sheathed cable

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 243.5. (a) In the first sentence of SECTION

E3808.8.3, delete “be permitted to” without substitution.

(b) Delete the second sentence of SECTION E3808.8.3 without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-243.5)*

SECTION 28. 675 IAC 14-4.3-246, PROPOSED TO BE ADDED AT 28 IR 309, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 14-4.3-246 Section E3902.10; wet locations other than outdoors

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 246. **(a)** Delete the title of SECTION E3902.10 and substitute “Exterior **and interior** wet locations”.

(b) In the first sentence of SECTION E3902.10, delete “other than outdoors” without substitution. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-246)*

SECTION 29. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-246.5 Section E3902.11; bathtub and shower space

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 246.5. Change SECTION E3902.11 to read as follows: A receptacle shall not be installed within or directly over a bathtub or shower stall. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-246.5)*

SECTION 30. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-247.5 Section E3903.10; bathtub and shower areas

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 247.5. After the last sentence in SECTION E3903.10, add a new sentence to read as follows: Luminaires located in this zone shall be listed for damp locations or listed for wet locations where subject to shower spray. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-247.5)*

SECTION 31. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-248.5 Section E4103.1.3; GFCI protection

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 248.5. Add a new sentence to the end of SECTION E4103.1.3 to read as follows: Receptacles that supply pool pump motors and that are rated 15 or 20 amperes, 125 volts through 250 volts, single phase, shall be provided with GFCI protection. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-248.5)*

SECTION 32. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-253.5 Section E4107.2; ground-fault circuit-interrupters required

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 253.5. Add a second paragraph at the end of SECTION E4107.2 to read as follows: All 125-volt receptacles located within 20 feet of the inside walls of a storable pool shall be protected by a ground-fault circuit interrupter. In determining these dimensions, the distance to be measured shall be the shortest path the supply cord of an appliance connected to the receptacle would follow without piercing a floor, wall, ceiling, doorway with hinged or sliding door, window opening, or other effective permanent barrier. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-253.5)*

SECTION 33. 675 IAC 14-4.3, PROPOSED TO BE ADDED AT 28 IR 268, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

675 IAC 14-4.3-253.7 Section E4107.4 receptacle locations

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 253.7. Add a new SECTION E4107.4; receptacle locations, with text to read as follows: Receptacles shall not be less than 10 feet from the inside walls of a pool. In determining these dimensions, the distance to be measured shall be the shortest path the supply cord of an appliance connected to the receptacle would follow without piercing a floor, wall, ceiling, doorway with hinged or sliding door, window opening, or other effective permanent barrier. *(Fire Prevention and Building Safety Commission; 675 IAC 14-4.3-253.7)*

SECTION 34. 675 IAC 17-1.7 IS ADDED TO READ AS FOLLOWS:

Rule 1.7. Indiana Electrical Code, 2005 Edition

675 IAC 17-1.7-1 Adoption by reference

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 1. That certain document, being titled as National Electrical Code, 2005 edition, first printing, and errata to the first printing (errata dated December 24, 2004), published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02269, is hereby incorporated by reference and made a part of the rule, except those portions as are amended and adopted in sections 3 through 26 of this rule. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-1*)

675 IAC 17-1.7-2 Title; availability

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 2. (a) This rule shall be known as the Indiana Electrical Code, 2005 edition, and shall be published, except for incorporated documents, by the fire and building services department for general distribution and use under the title. Whenever the term "this code" is used within this rule, including incorporated documents, it shall mean the Indiana Electrical Code.

(b) This rule, with the incorporated National Electrical Code, 2005 edition, is available for review and reference at the Fire and Building Services Department, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-2*)

675 IAC 17-1.7-3 Section 90.2; scope

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 3. SECTION 90.2 is amended to read as follows: (A) Covered. This code covers: Installations of electric conductors and equipment within or on Class 1 and Class 2 structures, including industrialized building systems, and other premises wiring covered by rules of the commission in this title.

(B) Class 1 and Class 2 structures covered by the Indiana Residential Code shall be made to comply with the provisions of this code or the electrical provisions of the Indiana Residential Code (675 IAC 14).

Not covered. This code does not cover:

- (1) Installations in ships, watercraft, railway rolling stock, aircraft, automotive vehicles, and buildings or structures that are not Class 1 or Class 2 structures.
- (2) Installations in underground mines.
- (3) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes.
- (4) Installations of communication equipment under the exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such

installations.

(5) Installations, including associated lighting under the exclusive control of electric utilities for the purpose of communication, or metering; or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, etc., or outdoors on private property by established rights such as easements.

(6) Installations of electrical wiring, equipment, and devices, factory installed in manufactured homes under the authority of the U.S. Department of Housing and Urban Development (HUD).

(*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-3*)

675 IAC 17-1.7-4 Section 90.4; enforcement

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 4. SECTION 90.4 is amended to read as follows: Requirements covering enforcement, granting of variances, and approval of alternate methods or materials are covered in Indiana statutes and 675 IAC 12, the General Administrative Rules of the commission. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-4*)

675 IAC 17-1.7-5 Section 90.6; formal interpretations

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 5. SECTION 90.6 is deleted in its entirety without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-5*)

675 IAC 17-1.7-6 Section 90.7; examination of equipment for safety

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 6. SECTION 90.7 is deleted in its entirety without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-6*)

675 IAC 17-1.7-7 Section 90.8; wiring planning

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 7. SECTION 90.8 is deleted in its entirety without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-7*)

675 IAC 17-1.7-8 Section 90.9; units of measurement

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 8. Delete the text of SECTION 90.9 and substitute the

following: For the purpose of this code, the measurement system is the English (U.S. customary or inch-pound) system. Compliance with the numbers shown in the inch-pound system shall constitute compliance with this code. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-8)*

675 IAC 17-1.7-9 Article 100; definitions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13-2-7; IC 22-13-2-11; IC 22-14-2-10; IC 22-15-2-7; IC 36-7-2-9; IC 36-8-17-9

Sec. 9. (a) In Part I of Article 100, delete the text of the definition of APPROVED and substitute to read as follows: APPROVED. Acceptance by the AUTHORITY HAVING JURISDICTION by one of the following methods:

- (1) investigation or tests conducted by recognized authorities; or
- (2) investigation or tests conducted by technical or scientific organizations; or accepted principles.

The investigation, tests, or principles shall establish that the materials, equipments, and types of construction are safe for their intended purpose.

(b) In Part 1 of Article 100, delete the text of the definition of AUTHORITY HAVING JURISDICTION and substitute to read as follows: AUTHORITY HAVING JURISDICTION. The office of the state building commissioner authorized under IC 22-15-2-7; the office of the state fire marshal authorized under IC 22-14-2-10; the local building official authorized under IC 36-7-2-9 and local ordinance; the fire department authorized under IC 36-8-17-9.

(c) In Part I of Article 100, after the definition of ISO-LATED, add the definition of KITCHEN to read as follows: KITCHEN. An area used, or designated to be used, for the preparation of food.

(d) In Part I of Article 100, delete the text of the definition of SPECIAL PERMISSION and substitute to read as follows: SPECIAL PERMISSION. A variance granted by the commission under IC 22-13-2-11 or a variance granted by a political subdivision and approved by the commission under IC 22-13-2-7(b). *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-9)*

675 IAC 17-1.7-10 Section 110.16; spaces about electrical equipment

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 10. In SECTION 110.26(A)(1)(b), delete “By special permission” and insert “When approved”. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-10)*

675 IAC 17-1.7-11 Section 210.12; arc-fault circuit-

interrupter protection

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 11. In SECTION 210.12(B), dwelling unit bedrooms, delete “outlets” and insert “receptacle outlets”. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-11)*

675 IAC 17-1.7-12 Section 230.2; number of services

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 12. (a) In the second sentence of SECTION 230.2, after “location”, insert “as close as practical”.

(b) In SECTION 230.2(B), special occupancies, delete “By special permission” and insert “When approved”. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-12)*

675 IAC 17-1.7-13 Section 230.70(A)(1); readily accessible location

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 13. Delete the text of SECTION 230.70(A)(1) and substitute to read as follows: The service disconnecting means shall be installed at a readily accessible location outside of a building or structure. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-13)*

675 IAC 17-1.7-14 Section 250.104; bonding of piping systems and exposed structural steel

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 14. (a) Change the next to last sentence of SECTION 250.104(B) to read as follows: The equipment grounding conductor for the circuit that is likely to energize the piping shall be permitted to serve as the bonding means if connected using a fixed wiring method.

(b) Add a new sentence at the end of SECTION 250.104(B) to read as follows: All metal gas piping upstream from the equipment shutoff valve(s) shall be electrically continuous.

(c) Change the title of SECTION 250.104(C) to read as follows: structural metal and factory-built fireplaces. In the first sentence of SECTION 250.104(C), after “energized”, insert “, and factory-built fireplaces”. *(Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-14)*

675 IAC 17-1.7-15 Table 314.16(A); metal boxes

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Proposed Rules

Sec. 15. In the line for $4 \times 1\frac{1}{4}$ inch round/octagonal boxes and in the column for 8AWG conductor, delete “5” and insert “4”. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-15*)

675 IAC 17-1.7-16 Section 334.10; uses permitted

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 16. (a) Delete the text of (2) in SECTION 334.10 and substitute: (2) In any building or structure not exceeding three stories (see SECTION 362.10 for the definition of STORY).

(a) For exposed work except as prohibited in SECTION 334.12.

(b) Concealed within walls, floors, and ceilings except as prohibited in SECTION 334.12.

(b) Delete the text of (3) in SECTION 334.10 and substitute: (3) In any building or structure exceeding three stories (see SECTION 362.10 for the definition of STORY), Type NM, Type NMC, and Type NMS cables shall be concealed within walls, floors, and ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating identified in listings of fire-rated assemblies. The 15-minute-finish-rated thermal barrier shall be permitted to be used for combustible walls, floors, and ceilings, except as prohibited in SECTION 334.12.

Exception: Where the building is provided with an approved automatic sprinkler system throughout, Type NM, Type NMC, and Type NMS cables are permitted to be used within walls, floors, ceilings, exposed or concealed, in buildings exceeding three stories.

(*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-16*)

675 IAC 17-1.7-17 Section 334.12; uses not permitted

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 17. In SECTION 334.12(A), delete Item (2) without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-17*)

675 IAC 17-1.7-18 Section 334.15; unfinished base-ments

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 18. In the third sentence of SECTION 334.15(C), delete “permitted to be” without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-18*)

675 IAC 17-1.7-19 Section 334.80; ampacity

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 19. Delete the second paragraph of SECTION 334.80

without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-19*)

675 IAC 17-1.7-20 Section 362.10; uses permitted

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 20. (a) Delete the first two sentences of text in SECTION 362.10 and substitute to read as follows: For the purpose of this section, a story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused under-floor space shall be considered as a story.

(b) In Item (1), under SECTION 362.10, delete “floors above grade” and substitute “stories”.

(c) In Item (2), under SECTION 362.10, delete “floors above grade” and substitute “stories”.

(d) In SECTION 362.10, delete the exception to Items (2) and (5) and substitute to read as follows: Where the building is provided with an approved automatic sprinkler system throughout, ENT is permitted to be used within walls, floors, and ceilings, exposed or concealed, in buildings exceeding three stories. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-20*)

675 IAC 17-1.7-21 Section 362.12; uses not permitted

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 21. In Item (7), under SECTION 362.12, uses not permitted, add 362.10(2) to the listed sections. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-21*)

675 IAC 17-1.7-22 Section 406.8(B); wet locations

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 22. (a) Delete subsection 406.8(B)(1) and the text that follows without substitution.

(b) Change subsection 406.8(B)(2) to 406.8(B)(1), change the title from “other receptacles” to “exterior or interior wet locations”, and delete the first sentence that follows the title without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-22*)

675 IAC 17-1.7-23 Section 525.5(B); clearance to rides and attractions

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 23. In the first sentence of SECTION 525.5(B), delete “4.5 m (15 ft)” and insert “3.048 m (10 ft)”. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-23*)

675 IAC 17-1.7-24 Section 547.1; scope

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 24. Change SECTION 547.1 to read as follows: The provisions of this section shall apply to the following agricultural buildings or that part of a building or adjacent areas of similar or like nature as specified in (A) and (B) below, unless the building is not a Class 1 structure. Agricultural buildings that are not Class 1 structures may be regulated by local ordinance. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-24*)

675 IAC 17-1.7-25 Section 550.4; general requirements

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 25. Add a second sentence to SECTION 550.4(B) to read as follows: Modular homes, constructed under 675 IAC 15, Industrialized Building Systems, shall comply with the provisions of Article 545 of this code. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-25*)

675 IAC 17-1.7-26 Section 600.1; scope

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 26. Delete the first sentence of SECTION 600.1 and substitute to read as follows: This section covers the installation of conductors and equipment for electric signs and outline lighting as defined in Article 100 of this code that are within or connected to Class 1 or Class 2 buildings or structures. (*Fire Prevention and Building Safety Commission; 675 IAC 17-1.7-26*)

SECTION 35. THE FOLLOWING ARE REPEALED: 675 IAC 14-4.3-213; 675 IAC 14-4.3-216; 675 IAC 14-4.3-244; 675 IAC 14-4.3-250; 675 IAC 14-4.3-251; 675 IAC 14-4.3-252; 675 IAC 17-1.6.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 17, 2005, at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana; AND on July 6, 2005 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 on proposed amendments to provisions of the proposed 2005 Indiana Residential Code, 675 IAC 14-4.3 so as

not to be in conflict with provisions of the 2005 Indiana Electrical Code, 675 IAC 17-1.7 and the addition of 675 IAC 17-1.7, which adopts by reference and amends the 2005 National Electrical Code as the Indiana Electrical Code, 2005 Edition and repeals 675 IAC 17-1.6. Copies of these rules are now on file at the 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.

Secretary

Fire Prevention and Building Safety Commission

**TITLE 888 INDIANA BOARD OF VETERINARY
MEDICAL EXAMINERS**

Proposed Rule

LSA Document #04-295

DIGEST

Amends 888 IAC 1.1-8-3 to revise the passing score on the veterinary technology examination for veterinary technicians. Effective 30 days after filing with the secretary of state.

888 IAC 1.1-8-3

SECTION 1. 888 IAC 1.1-8-3 IS AMENDED TO READ AS FOLLOWS:

888 IAC 1.1-8-3 Examination scores

Authority: IC 15-5-1.1-8

Affected: IC 15-5-1.1-12

Sec. 3. (a) An applicant is required to attain a ~~minimum converted score of seventy (70) criterion-referenced passing point of 425~~ on the veterinary technology examination given by the Professional Examination Service (PES). ~~The converted score of seventy (70) shall be made equivalent to a raw score which is two (2) standard deviations below the mean score of all first-time test takers who are graduates of approved veterinary technology programs in the United States.~~

(b) An applicant is required to attain a minimum score of seventy-five (75) on a written jurisprudence examination.

(c) An applicant who attains a score of seventy-five (75) or above on the written jurisprudence examination and a ~~converted score of seventy (70) criterion-referenced passing point of 425~~ or above on the PES written examination in veterinary technology shall pass the examination.

(d) An applicant who has taken the PES written examination in another state is not required to retake that examination, provided the applicant has attained a ~~converted score of seventy (70) criterion-referenced passing point of 425~~ on the exami-

Proposed Rules

nation.

(e) An applicant who attains a score below seventy-five (75) on the written jurisprudence examination or a ~~converted score below seventy (70)~~ **criterion-referenced passing point of 425** on the PES written examination shall fail the examination and must repeat the examination on which a passing score was not attained.

(f) The applicable fee shall be charged for each examination or reexamination. (*Indiana Board of Veterinary Medical Examiners; 888 IAC 1.1-8-3; filed May 8, 1992, 5:00 p.m.: 15 IR 1963; filed Dec 27, 1993, 9:00 a.m.: 17 IR 1005; readopted filed Jul 18, 2001, 10:20 a.m.: 24 IR 4238*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on March 30, 2005 at 9:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room W064, Indianapolis, Indiana the Indiana Board of Veterinary Medical Examiners will hold a public hearing on proposed amendments to revise the passing examination score on the veterinary technology examination for veterinary technicians. 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.

Barbara Marvel McNutt
Interim Executive Director
Health Professions Bureau

Notices of Intent to Readopt**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

Notice of Intent
LSA Document #05-22

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.

OVERVIEW: Rules to be readopted without changes are as follows:

170 IAC 7-6 Disconnection of Alternative Local Exchange Carrier by Incumbent Local Exchange Carrier

Questions or comments on the readoption may be directed by mail to the Indiana Utility Regulatory Commission, Indiana Government Center-South, 302 W. Washington Street, Room E306, Indianapolis, Indiana 46204 or by electronic mail to epeters@urc.state.in.us. Statutory authority: IC 8-1-1-3.

TITLE 280 PUBLIC SAFETY TRAINING BOARD

NOTE: Under Section 6-2 of the Administrative Rules Drafting Manual, Title 280 of the Indiana Administrative Code is changed to the Public Safety Training Board.

Notice of Intent
LSA Document #05-21

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.

OVERVIEW: Rules to be readopted without changes are as follows:

280 IAC 1-1 Definitions
280 IAC 1-2 Training Facilities and Materials
280 IAC 1-3 Diplomas or Certificates
280 IAC 1-4 Advanced Handler and Canine Teams

Questions or comments about the readoption are invited and may be directed by mail to Public Safety Training Institute, Attention: Legal Counsel, Indiana Government Center-South, 302 West Washington Street, Room E208, Indianapolis, Indiana 46204 or by electronic mail to: bgavin@sema.in.gov. Statutory authority: IC 5-2-10.5-9.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Notice of Intent
LSA Document #05-20

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.

OVERVIEW: Rules to be readopted without changes are as follows:

410 IAC 1-6 Offering of Human Immunodeficiency Virus Information and Counseling and Human Immunodeficiency Virus Testing
410 IAC 15-2.1 Definitions
410 IAC 15-2.2 Compliance
410 IAC 15-2.3 Licensure Requirements
410 IAC 15-2.4 Governing Body
410 IAC 15-2.5 Required Ambulatory Outpatient Surgical Center Services
410 IAC 15-2.6 Optional Ambulatory Surgical Center Services
410 IAC 15-2.7 Incorporation by Reference

Questions or comments on the readoption may be directed by mail to the Indiana State Department of Health, Office of Legal Affairs, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-19-3-5; IC 16-21-1-7.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

Notice of Intent
LSA Document #05-15

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.

OVERVIEW: Rules to be readopted without changes are as follows:

511 IAC 6-9.1 Waiver of Curriculum and Graduation Rules for Programs for High Ability Students

Questions or comments on the readoption may be directed by mail to Mr. Jeffery P. Zaring, State Board Administrator, Indiana Department of Education, Room 229 State House,

Readopted Rules

Indianapolis, Indiana 46204 or by electronic mail to jzaring@doe.state.in.us. Statutory authority: IC 20-1-1-6; IC 20-1-1.2-18.

TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD

Notice of Intent
LSA Document #05-11

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.

OVERVIEW: Rules to be readopted without changes are as follows:

830 IAC 1-2-6 Continuing education requirements for recertification

Questions or comments on the readoption may be directed by mail to the Indiana Dietitians Certification Board, Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to krkelley@hpb.state.in.us. Statutory authority: IC 25-14.5-2-5.

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

Notice of Intent
LSA Document #05-12

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.

OVERVIEW: Rules to be readopted without changes are as follows:

840 IAC 2-1 Standards of Competent Practice

Questions or comments on the readoption may be directed by mail to the Indiana State Board of Health Facility Administrators, Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to tthompson@hpb.state.in.us. Statutory authority: IC 25-19-1-8.

TITLE 898 INDIANA ATHLETIC TRAINERS BOARD

Notice of Intent
LSA Document #05-13

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.

OVERVIEW: Rules to be readopted without changes are as follows:

898 IAC 1-1-2.4	“A.T.C./L.” defined
898 IAC 1-1-4.5	“L.A.T.” defined
898 IAC 1-1-10	“Traditional athletic training setting” defined

Questions or comments on the readoption may be directed by mail to the Indiana Athletic Trainers Board, Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to vjones@hpb.state.in.us. Statutory authority: IC 25-5.1-2-6.

TITLE 326 AIR POLLUTION CONTROL BOARD
FIRST NOTICE OF COMMENT PERIOD
#05-23(APCB)

DEVELOPMENT OF NEW RULE 326 IAC 20-95 CONCERNING INCORPORATION OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AND PROCESS HEATERS
PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rule 326 IAC 20-95 concerning the incorporation of national emission standards for hazardous air pollutants for industrial, commercial, and institutional boilers and process heaters. 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 20-95.

AUTHORITY: IC 13-14-8; IC 13-17-3-4.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING
Basic Purpose and Background

On September 13, 2004, U.S. EPA issued a final national emission standard for hazardous air pollutants (NESHAP) (69 FR 55218) to reduce arsenic, cadmium, chromium, hydrogen chloride, hydrogen fluoride, lead, manganese, mercury, nickel, and various organic hazardous air pollutants (HAPs) from industrial, commercial, and institutional boilers and process heaters. The NESHAP will implement Section 112(d) of the Clean Air Act by requiring all major sources in this source category to meet HAP emission standards reflecting the application of maximum achievable control technology (MACT). Major sources are sources that emit ten (10) tons a year or more of a single HAP, or twenty-five (25) tons a year or more of a combination of HAPs. The NESHAP includes emission limits and work practice standards for new and existing units.

Boilers produce steam by burning any combination of coal, wood, or other fuel. The steam is used to produce electricity or heat. Process heaters heat raw or intermediate materials during an industrial process. Boilers and process heaters are used at facilities such as refineries, chemical and manufacturing plants, paper mills, or as stand-alone units for heat.

The rule contains solid, liquid, and gaseous fuel subcategories of boilers and process heaters. Solid fuel includes, but is not limited to, coal, wood, biomass, tires, plastics, and other nonfossil solid materials. Liquid fossil fuel means petroleum, distillate oil, residual oil and any form of liquid fuel derived from such material. Gaseous fuel includes, but is not limited to, natural gas, process gas, landfill gas, coal derived gas, refinery gas, and biogas. Blast furnace gas is exempted from the definition of gaseous fuel.

The rule limits the amount of HAPs that may be released from exhaust stacks of existing large and limited use solid fuel boilers and process heaters. Large units are watertube boilers and process heaters with heat input capacities greater than ten (10) million British thermal units per hour (MMBtu/hr). A process heater means an enclosed device using controlled flame, that is not a boiler, and the unit's primary purpose is to transfer heat indirectly to a process material or to heat transfer material for use in a process unit, instead of generating steam.

Process heaters do not include units used for comfort or space heat, food preparation for on-site consumption, or autoclaves. Large existing solid fuel units are subject to a particulate matter (PM) limit or an alternative total selected metals (TSM), hydrogen chloride (HCl,) and mercury (Hg) limits. Large existing limited use solid fuel units are only subject to the PM or alternative TSM limit. Existing industrial boilers and process heaters must comply with the rule no later than September 13, 2007.

Boilers and process heaters in the existing large or limited use gaseous or liquid fuel only have to submit an initial notification report, but these units are not subject to any other requirements in the rule. Boilers or process heaters in the existing small gaseous, liquid, or solid fuel subcategories are not required to keep any records or submit an initial notification. Initial notifications are due March 12, 2005.

For new units, large and limited use solid fuel units are subject to PM/TSM, HCl, Hg, and carbon monoxide (CO) limits. New small solid fuel units are subject to PM/TSM, HCl, and Hg limits. New large and limited use liquid fuel units are subject to PM, HCl, and CO limits. New small liquid fuel units are subject to PM and HCl limits. New large gaseous fuel units are subject to a CO limit. New small liquid fuel units that only burn gaseous fuel or distillate oil only have to submit an initial notification. New small gaseous fuel subcategory units are not required to keep any records or submit an initial notification. New industrial boilers and process heaters must comply with the final rule when they are brought on line.

The final rule includes a compliance alternative provided for in the Clean Air Act (Section 112(d)(4)) based on threshold emission limits for HCl and manganese. If an owner/operator demonstrates that its boiler units can meet health based threshold emission limits, such sources are no longer subject to either the HCl limit in the rule or the manganese portion of the TSM limit. This compliance alternative is based on a U.S. EPA determination that those units do not pose a significant risk to human health or the environment. Sources that are eligible for the compliance alternative established in the federal rule must assume federally enforceable emissions limitations in their Title V permit. These limits ensure that the HAP emissions do not exceed levels used to qualify for the compliance alternative.

Additional requirements or clarifications that IDEM is evaluating during this rulemaking and for which IDEM is requesting comments are:

- 1) Emissions Averaging - The NESHAP allows emission averaging, if more than one existing large solid fuel boiler is located at the source, unless the state chooses to exclude the emission averaging option. IDEM proposes to retain the emission averaging option.
- 2) Notice for Compliance Test - The NESHAP requires sources to submit a notification of performance testing thirty (30) days prior to the date testing is scheduled to begin. 326 IAC 3-6 requires sources to submit notification of performance testing thirty-five (35) days prior to the test date. This rulemaking will clarify when test notifications are required to be submitted to IDEM.
- 3) Health Based Emission Limits - Sources complying with the health based emission limits for hydrogen chloride (HCl) or total selected metals (TSM) using the compliance alternative, either through lookup tables or by conducting a site specific risk assessment, are required to include the process parameters used in the health based compliance alternative demonstration in their Title V permit. The NESHAP does not specifically state that the Title V must include the alternative emission rate. IDEM is proposing that the state rule specify that the Title V permit include the alternative emission limit resulting from the health based compliance demonstration.
- 4) Site Specific Risk Assessment - Sources demonstrating eligibility

for the health based compliance alternative can either use lookup tables provided in the federal rule or perform a site specific risk assessment. For sources performing a site specific risk assessment the federal rule allows the source to use any "scientifically accepted peer-reviewed risk assessment methodology" and does not provide for approval of methodology by IDEM or U.S. EPA. IDEM proposes that sources must use U.S. EPA's "Air Toxics Risk Assessment Reference Library" (EPA-453-K-04-001B). IDEM is considering allowing other methodologies subject to IDEM's approval.

5) Continuous Eligibility for Health Based Alternative/Population - The federal rule requires sources to update the demonstration every time there is a process change that would affect the sources eligibility for the health based limit. Sources are required to annually certify that the demonstration is still accurate. One change that could happen that would affect eligibility is changes in location of where people live around the plant for sources using a site specific risk assessment. The federal rule requires the site specific risk assessment to estimate inhalation exposure for the individual most exposed to the source's emissions. While there is no definition in the rule for this exposure estimate, U.S. EPA's "Air Toxics Risk Assessment Reference Library" defines "maximum exposed individual (MEI)" as the highest modeled offsite concentration and "maximum individual risk (MIR)" as the populated location with the highest modeled ambient concentration. This language leaves open the possibility that where people live could change over time. IDEM proposes to require sources to use a reasonable estimate of worst case exposure for both current and future land use assumptions to reduce the likelihood of changes due to population shifts.

6) Health based Eligibility Demonstration Submittal - The federal rule requires sources to submit the eligibility demonstration for the alternative compliance option to the permitting authority one year prior to the compliance date of the NESHAP. The federal rule allows sources to comply with the health based limits once the source submits the process parameters for incorporation into the Title V permit. For demonstrations submitted after the compliance date this would not give any time for IDEM to approve the demonstration. IDEM proposes to clarify that the health based compliance demonstration process parameters must be added to the Title V permit before the source is exempt from the MACT HCl or TSM emission limits.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Add rule as proposed above.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes, but includes clarifications and additional procedures with respect to implementing federal rule.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? Yes, but this notice includes options for clarifying federal requirements and additional procedures with respect to implementing the federal rule.
- If it is different, describe the differences. See six options discussed in background section of notice.

Alternative 2. Add rule as straight incorporation by reference.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? No.
- If it is different, describe the differences. Not applicable.

Alternative 3. To take no action on the proposed new rule.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No; however, IC 13-14-8-7 requires NESHAPs to be incorporated into state rules.
- 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? No.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

The intent of this rule is to incorporate the national emission standard for hazardous air pollutants (NESHAP) from industrial, commercial, and institutional boilers and process heaters (69 FR 55218) into a state rule.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. Most of the changes in this alternative will have minimal fiscal impact since the additional requirements beyond those already imposed by the federal rule are either clarifications or changes in implementation procedures. The proposal may have significant fiscal impact if a source using a site specific risk assessment is unable to meet the health based compliance alternative emission limits using a reasonable estimate of worst case exposure for both current and future land use. For example, a source may have to install a scrubber to meet the HCl limits in the rule if the source is unable to comply with the health based compliance alternative emission limit.

Potential Fiscal Impact of Alternative 2. This alternative would have no fiscal impact since the requirements are already imposed under federal law.

Potential Fiscal Impact of Alternative 3. This alternative would have no fiscal impact.

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 appropriate, please contact Susan Bem, Rules Section, Office of Air Quality at (317) 233-5697 or (800) 451-6027 (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:

#05-23(APCB) Boiler MACT
Susan Bem Mail Code: 61-50
c/o Administrative Assistant
Rules Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth Floor East 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 March 31, 2005.

Additional information regarding this action may be obtained from Susan Bem, Rules Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 327 WATER POLLUTION CONTROL BOARD

IC 13-14-9.5 NOTICE OF FIRST COMMENT PERIOD #05-24(WPCB)

READOPTION OF RULES IN TITLE 327 UNDER IC 13-14-9.5

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the readoption of rules in Title 327 of the Indiana Administrative Code pursuant to IC 13-14-9.5.

RULES TO BE READOPTED: 327 IAC 3-2-2; 327 IAC 3-2-2.5; 327 IAC 3-2-4; 327 IAC 3-2-6; 327 IAC 3-6-1; 327 IAC 3-6-2; 327 IAC 3-6-3; 327 IAC 3-6-4; 327 IAC 3-6-5; 327 IAC 3-6-6; 327 IAC 3-6-7; 327 IAC 3-6-8; 327 IAC 3-6-9; 327 IAC 3-6-10; 327 IAC 3-6-11; 327 IAC 3-6-12; 327 IAC 3-6-13; 327 IAC 3-6-14; 327 IAC 3-6-15; 327 IAC 3-6-16; 327 IAC 3-6-17; 327 IAC 3-6-18; 327 IAC 3-6-19; 327 IAC 3-6-20; 327 IAC 3-6-21; 327 IAC 3-6-22; 327 IAC 3-6-23; 327 IAC 3-6-24; 327 IAC 3-6-25; 327 IAC 3-6-26; 327 IAC 3-6-27; 327 IAC 3-6-28; 327 IAC 3-6-29; 327 IAC 3-6-30; 327 IAC 3-6-31; 327 IAC 3-6-32.

AUTHORITY: IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in force on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, expire on January 1 of the

seventh year after the year in which each rule takes effect. The rules listed to be readopted have an expiration date of January 1, 2006. IDEM has chosen to readopt all affected rules at one time rather than readopt each rule separately as its expiration date approaches.

Under IC 13-14-9.5-4, the department or board that has rulemaking authority under Title 13 may readopt all rules subject to expiration under one (1) rule that lists all rules that are readopted by their titles and subtitles only. If no comments are received during this first comment period, IDEM may submit the rule for filing with the secretary of state under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-9.5-4 requires that the following procedure be followed to readopt rules:

- (1) A notice listing all rules to be readopted by their titles and subtitles shall be submitted to Legislative Services Agency for publication in the Indiana Register.
- (2) If a person submits a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule that readopts all rules in one rulemaking, the agency must:
 - (A) readopt that rule separately from the readoption rule; and
 - (B) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to that rule.
- (3) If no written request is provided within the first comment period, the agency may submit the rule for filing with the secretary of state under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

REQUEST FOR PUBLIC COMMENTS

IDEM requests that any written comments requesting that a rule be readopted separately from this readoption rule include a basis for the request. IDEM also solicits comment on rules exempt from readoption and rules to expire. Mailed comments should be addressed to:

#05-24(WPCB)[2005 Readoption]
MaryAnn Stevens
Rules Section
Office of Water Quality
Indiana Department of Environmental Management
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, Room 1255, 100 North Senate Avenue, Indianapolis, Indiana. Comments also may be submitted by facsimile to (317) 232-8406, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Office of Water Quality, Rules Section at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with another sent through the postal system.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered, or faxed by March 31, 2005.

Additional information regarding this rulemaking action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana).

Thomas W. Easterly
Commissioner
Indiana Department of Environmental Management

TITLE 327 WATER POLLUTION CONTROL BOARD**SECOND NOTICE OF COMMENT PERIOD**

#04-293(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE STATE REVOLVING FUND (SRF) LOAN PROGRAMS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules 327 IAC 13, concerning the wastewater state revolving fund loan program, and 327 IAC 14, concerning the drinking water state revolving fund loan program. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: December 1, 2004, Indiana Register (28 IR 1080).

CITATIONS AFFECTED: 327 IAC 13; 327 IAC 14.

AUTHORITY: IC 13-14-8; IC 13-14-9; IC 13-18-3; IC 13-18-13; IC 13-18-21.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

The purpose of this rulemaking is to remove inconsistencies within 327 IAC 13 and 327 IAC 14, both internally and as they relate to each other. This rulemaking also will streamline the wastewater and the drinking water state revolving fund loan programs. This will make them more efficient and easier for participating entities to comply with, thus enabling additional wastewater and drinking water projects to be financed and constructed. This rulemaking will also serve to enable the refinancing of loans, which is not an option with the current rules but is expressly permitted by the federal Clean Water Act and Indiana Code.

The wastewater state revolving fund loan program was promulgated in April 1990 to implement the wastewater state revolving fund established by IC 13-18-13. It facilitates compliance with the state and federal water quality standards by providing low cost financial assistance to construct necessary and environmentally sound treatment works. The fund is a self-sufficient funding program for the improvement and protection of water quality and public health and any other activity permitted by the Clean Water Act.

The drinking water state revolving fund loan program was promulgated in August 1998 to implement the drinking water state revolving fund established by IC 13-18-21. It provides funding for loans and other financial assistance for the planning, designing, construction, renovation, improvement, or expansion of public water systems to facilitate compliance with the national primary drinking water regulations under the federal Safe Drinking Water Act.

Any user or participant of a wastewater or drinking water utility is a potentially affected party to this rulemaking. Wastewater projects funded by the SRF loan program could include wastewater treatment plant improvements and upgrades, sewer line extensions to existing unsewered properties, combined sewer overflow corrections, and infiltration or inflow projects. Drinking water projects funded by the SRF loan program could include treatment plant improvements and

upgrades, water line extensions to existing unserved properties, and water storage facilities.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

This rule is authorized under IC 13-18-13 and IC 13-18-21, and the amendments being proposed will result in removing inconsistencies within 327 IAC 13 and 327 IAC 14 as well as streamlining the wastewater and the drinking water state revolving fund loan programs. This rulemaking will also serve to enable the refinancing of loans, which is not an option with the current rules but is expressly permitted by the federal Clean Water Act and Indiana Code. 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.

Potential Fiscal Impact

There are no added costs due to this rulemaking. In fact, it will actually reduce some of the business costs for affected parties by reducing some of the requirements. These amendments will allow refinancing to occur so affected parties can take advantage of lowered interest rates.

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 Kiran Verma, Rules Section, Office of Water Quality at (317) 234-0986 or (800) 451-6027 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from December 1, 2004, through December 30, 2004, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the first notice of public comment period.

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:

#04-293(WPCB) SRF Loan Programs Rulemaking

Larry Wu, Chief

Rules Section

Office of Water Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana, 46204-2251.

Hand delivered comments will be accepted by the receptionist on duty at the twelfth floor reception desk, Office of Water Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-8406, Monday through Friday, between 8:15 and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-8903.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by March 30, 2005.

Technical information regarding this action may be obtained from Jim McGoff, SRF Loan Programs, (317) 234-2916 or (888) 290-0016. Additional information regarding this action may be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 327 IAC 13-2-7.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 13-2-7.5 “Construction project” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 7.5. “Construction project” means the activities or tasks the department identifies in the preliminary engineering report or any other document required by the department related to the construction of a project for which the political subdivision may commit and expend funds. (*Water Pollution Control Board; 327 IAC 13-2-7.5*)

SECTION 2. 327 IAC 13-2-11 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-11 “EA” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 11. “EA” means an environmental assessment that is a document prepared by the department upon completion of the department’s review of a preliminary engineering report that:

- (1) describes the possible treatment works alternatives;
- (2) describes the potential environmental impacts of the feasible alternatives;
- (3) acts as a public record of the documentation and review process used to arrive at a preliminary decision as to whether an environmental impact statement is necessary; and
- (4) provides information adequate for the public to comment on the proposed project.

or any other document required by the department and includes those items required by 327 IAC 13-9-5. (*Water Pollution Control Board; 327 IAC 13-2-11; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1687; filed Aug 28, 1998, 4:53 p.m.: 22 IR 28; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 3. 327 IAC 13-2-21 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-21 “Loan” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 21. “Loan” means purchasing the notes or bonds of a political subdivision to finance a ~~treatment works project~~ or ~~refinancing~~ **refinance** an existing debt obligation where debt was incurred and building began after March 7, 1985, as opposed to providing other types of financial assistance eligible under the Clean Water Act. (*Water Pollution Control Board; 327 IAC 13-2-21; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1688; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 4. 327 IAC 13-2-24 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-24 “PPL” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 24. “PPL” means a project priority list ~~which that~~ is generated through the department and updated annually and **may also be** amended ~~quarterly~~ **as needed**. It ranks, in descending priority of need,

political subdivisions ~~which that~~ have indicated a need for to ~~reimburse eligible expenses related to~~ the construction of ~~treatment works~~ **a project**. (*Water Pollution Control Board; 327 IAC 13-2-24; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1689; filed Aug 28, 1998, 4:53 p.m.: 22 IR 29; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 5. 327 IAC 13-2-24.3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-24.3 “Preliminary engineering report” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 24.3. “Preliminary engineering report” means the ~~document~~ **documents** submitted by the political subdivision that ~~provides~~ **provide** the information necessary for the department to determine the technical, economic, and environmental adequacy of the proposed ~~treatment works~~ **project**. (*Water Pollution Control Board; 327 IAC 13-2-24.3; filed Aug 28, 1998, 4:53 p.m.: 22 IR 29; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 6. 327 IAC 13-2-25.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 13-2-25.5 “Refinancing” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 25.5. “Refinancing” means the refinancing of a political subdivision’s issued and outstanding bond, note, or other debt obligation as permitted by the Clean Water Act through the wastewater state revolving fund (SRF). (*Water Pollution Control Board; 327 IAC 13-2-25.5*)

SECTION 7. 327 IAC 13-2-26.5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-26.5 “Sewer charge system” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 26.5. “Sewer charge system” means a set of documents submitted by the political subdivision to the agency that ~~includes may~~ **include** a rate study, sewer rate ordinance, and any interlocal agreements or contracts that will determine the financial and legal capability associated with the operation and use of the treatment works project financed by the wastewater SRF. (*Water Pollution Control Board; 327 IAC 13-2-26.5; filed Aug 28, 1998, 4:53 p.m.: 22 IR 29; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 8. 327 IAC 13-2-27.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 13-2-27.5 “Study area” defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 27.5. “Study area” means the geographical area within a political subdivision’s boundaries, which also includes the location of the project to be financed or refinanced by the political subdivision through the wastewater SRF. (*Water Pollution Control Board; 327 IAC 13-2-27.5*)

SECTION 9. 327 IAC 13-2-28 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-28 "Substantial completion date of construction" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 28. "Substantial completion **date** of construction" means the date determined by the **political subdivision and provided to the** department when:

- (1) all but minor components of a project have been built;
- (2) all equipment is operational; and
- (3) the project is capable of functioning as designed.

(Water Pollution Control Board; 327 IAC 13-2-28; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1689; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 10. 327 IAC 13-2-29 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-2-29 "Substantive environmental impact" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 29. "Substantive environmental impact" means a significant adverse ~~change in the environment~~ **environmental impact** resulting directly or indirectly from **a project or the**:

- (1) construction;
- (2) operation;
- (3) upgrade; or
- (4) expansion;

of a treatment works. (Water Pollution Control Board; 327 IAC 13-2-29; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1689; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 11. 327 IAC 13-3-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-3-1 Wastewater SRF program expenditures

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1. The wastewater SRF shall be used to do the following:

- (1) Provide financial assistance for the construction of ~~treatment works~~ projects and all other activities that are permitted by the Clean Water Act.
- (2) Refund outstanding indebtedness of political subdivisions eligible for repurchase by the agency under the Clean Water Act.
- (3) Pay reasonable direct and indirect program administration costs.

(Water Pollution Control Board; 327 IAC 13-3-1; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1689; filed Aug 28, 1998, 4:53 p.m.: 22 IR 29; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 12. 327 IAC 13-4-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-4-2 Intended use plan

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 2. (a) The department and the agency shall prepare annually an IUP, including a PPL and a nonpoint source project list pursuant to the Clean Water Act, to be effective on the first day of the state's fiscal year.

(b) The following documents shall be included as appendices of the IUP and are subject to modification in accordance with this section:

- (1) The PPL.
- (2) A document describing the project ranking process.
- (3) A list of nonpoint source projects.
- (4) A list of refinancings that may be treated in the PPL as part of a treatment works project or other project otherwise listed on the PPL.**

(c) The department shall adopt an IUP after holding a public meeting on the plan and responding to substantial comments received. The department ~~shall~~ **may** amend the IUP to add eligible projects or change or amend listed projects as necessary ~~on a quarterly basis~~ after pursuing a public notification process.

(d) Placement in the PPL shall be based on the following criteria:

- (1) The project must be consistent with the PPL and uses of the wastewater SRF as identified in the CWA and IC 13-18-13-3.
- (2) A political subdivision must submit general project information on an application form provided by the department that is signed by the political subdivision's authorized representative and includes relevant information as follows:

- (A) A general description of the project.
- (B) An appropriate cost estimate for different phases of the project.
- (C) An estimated initiation date and completion date for each phase of the project.
- (D) For a refinancing, information received in clauses (A) through (C) and any other information required by and evaluated by the agency.**

(Water Pollution Control Board; 327 IAC 13-4-2; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1690; filed Aug 28, 1998, 4:53 p.m.: 22 IR 30; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 13. 327 IAC 13-6-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-6-1 Criteria

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1. Loans and other available SRF financial assistance shall be made only to a political subdivision that meets all of the following criteria:

- (1) **For treatment works projects**, owns, operates, and maintains, or causes to be operated and maintained, a treatment works for its useful life.
- (2) Demonstrates financial, managerial, technical, and legal capability to:
 - (A) meet the terms of the financial assistance agreement; and ~~to~~
 - (B) operate and maintain the treatment works project or other project** for its useful life.
- (3) Agrees to:
 - (A) maintain financial records in accordance with generally accepted government accounting principles for utilities; ~~and to~~
 - (B) provide a copy of audits of the treatment work's financial records as conducted by the state board of accounts or other certified independent auditor during the term of its financial assistance agreement; and**
 - ~~(4) Agrees to~~ **(C) allow inspection by the agency of the financial records related to the treatment works during the term of the financial assistance agreement.**

~~(5)~~ **(4)** Meets all other wastewater SRF program requirements. (Water Pollution Control Board; 327 IAC 13-6-1; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1690; filed Aug 28, 1998, 4:53 p.m.: 22 IR 30;

readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 14. 327 IAC 13-8.1-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-8.1-1 Purpose

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1. ~~It is~~ The purpose of this rule is to establish the preliminary engineering report procedures required for funding of treatment works **and other projects** from the wastewater SRF. The preliminary engineering report:

- (1) shall provide the information necessary for the department to determine the technical, economic, and environmental adequacy of the proposed treatment works ~~The preliminary engineering report~~ **and other projects; and**
- (2) must be approved by the department ~~prior to~~ **before** award of financial assistance **for a construction project.**

(Water Pollution Control Board; 327 IAC 13-8.1-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 31; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 15. 327 IAC 13-8.1-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-8.1-2 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 2. (a) This rule shall apply to any political subdivision requesting financial assistance from the wastewater SRF program **for a construction project.**

(b) **This rule does not apply to a refinancing or to a project that is determined by the department to be categorically excluded under 327 IAC 13-9-3.** (Water Pollution Control Board; 327 IAC 13-8.1-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 31; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 16. 327 IAC 13-8.1-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-8.1-3 Project summary

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 3. The preliminary engineering report shall include a section that provides a brief summary of the proposed project and shall include the following:

- (1) Project purpose, scope, and schedule.
- (2) Project cost estimates for construction and nonconstruction activities.
- (3) All anticipated funding sources for the project.
- (4) ~~Legal~~ Description of the project area.
- (5) Current population data and twenty (20) year projection.
- (6) Current condition of facilities, current pollutant loadings and flows, and twenty (20) year projection.
- (7) The preliminary design summary with schematics, layouts, and maps for the affected and proposed treatment works.
- (8) Sewer system studies, where appropriate, in order to establish that the system is not subject to excessive inflow and infiltration.
- (9) ~~The department~~ may request additional information ~~from a political subdivision~~ that it deems necessary to complete a preliminary

nary engineering report **from a political subdivision.**

(Water Pollution Control Board; 327 IAC 13-8.1-3; filed Aug 28, 1998, 4:53 p.m.: 22 IR 31; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 17. 327 IAC 13-8.1-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-8.1-6 Public participation

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 6. The preliminary engineering report shall include the following:

- (1) Copies of all written comments submitted by the public during the preliminary engineering process.
- (2) A transcript of the public hearing.
- (3) A mailing list **or labels, or both**, of all:
 - (A) individuals;
 - (B) industries;
 - (C) groups;
 - (D) **media outlets within the study area;** and
 - (E) **organizations within the study area;**

that demonstrated an interest in receiving copies of the EA and FNSEI issued ~~pursuant to~~ **under** 327 IAC 13-9-5 through 327 IAC 13-9-6.

- (4) A copy of the publisher's affidavit from the newspaper with the public hearing notice.

(Water Pollution Control Board; 327 IAC 13-8.1-6; filed Aug 28, 1998, 4:53 p.m.: 22 IR 32; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 18. 327 IAC 13-8.1-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-8.1-7 Public hearings

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 7. At least one (1) public hearing shall be held ~~prior to~~ **within the study area approving the** adoption of the preliminary engineering report by the political subdivision. The purpose of the public hearing shall be to discuss the preliminary engineering report. A copy of the preliminary engineering report shall be available to all attendees at the hearing. Requirements for the hearing shall include the following:

- (1) The public hearing shall be publicized in at least one (1) newspaper of general circulation in the study area a minimum of ~~fourteen (14)~~ **ten (10)** days ~~prior to~~ **before** the date of the hearing.
- (2) The preliminary engineering report shall be available for public review for a minimum of ~~fourteen (14)~~ **ten (10)** days ~~prior to~~ **before** the date of the public hearing.
- (3) Written comments shall be accepted during the **public** hearing and for a period of ten (10) days following the **public** hearing.
- (4) A sign up sheet shall be available **at the public hearing** for all individuals interested in receiving the EA and FNSEI. ~~at the public hearing.~~

(Water Pollution Control Board; 327 IAC 13-8.1-7; filed Aug 28, 1998, 4:53 p.m.: 22 IR 32; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 19. 327 IAC 13-9-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-9-2 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 2. (a) This rule applies to any political subdivision requesting financial assistance for treatment works from the wastewater SRF program.

(b) **This rule does not apply to a refinancing.** (*Water Pollution Control Board; 327 IAC 13-9-2; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1693; filed Aug 28, 1998, 4:53 p.m.: 22 IR 33; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 20. 327 IAC 13-9-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-9-3 Categorical exclusions

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 3. (a) The following classes of projects may be categorically ~~exempt~~ **excluded** from the requirements of this rule **and 327 IAC 13-8.1**, except as described in subsection (b):

- (1) Minor addition, rehabilitation, improvement, or expansion of any existing treatment works that will disturb only previously disturbed land.
- (2) Rehabilitation of sewer systems that will:
 - (A) not result in the extension of the existing system; and ~~will~~
 - (B) disturb only previously disturbed land.

(b) If it is determined by the department that the construction or operation, or both, of any treatment works listed in subsection (a) may result in substantive environmental impacts, a categorical ~~exemption~~ **exclusion** shall not be granted, and the political subdivision shall prepare a preliminary engineering report under 327 IAC 13-8.1.

(c) A categorical ~~exemption~~ **exclusion** may be rescinded by the department if it is determined that information exists sufficient to suggest that substantive environmental impacts may occur as a result of the construction or operation, or both, of any treatment works included in a project that received a categorical ~~exemption~~ **exclusion**.

(d) All decisions to categorically ~~exempt~~ **exclude** a project from the requirements of this rule, or to rescind a previously granted categorical ~~exemption~~ **exclusion**, shall be issued for public comments for thirty (30) days **in one (1) newspaper of general circulation within the study area**. The decision shall be considered final ~~in at the absence of significant public comments~~ **conclusion of the comment period**. If significant public comments are received during the comment period, the decision ~~shall may~~ be reevaluated and a new decision, if appropriate, issued for public comments for **an additional thirty (30) days: day comment period**.

(e) **If a project is determined by the department to be categorically excluded under this section, the information describing the project required to be submitted to the department for its review shall be limited to only that information specifically requested by the department, which may vary for each project being considered.** (*Water Pollution Control Board; 327 IAC 13-9-3; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1693; filed Aug 28, 1998, 4:53 p.m.: 22 IR 33; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 21. 327 IAC 13-9-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-9-5 Environmental assessment

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 5. (a) The purpose of an EA shall be the following:

- (1) To provide a description of all feasible treatment works alternatives.
- (2) To document the potential environmental impacts of the feasible alternatives.
- (3) To act as a public record of the information evaluated by the department.
- (4) To provide information adequate for the public to evaluate the alternatives.

(b) The preparation of an EA shall be the responsibility of the department.

(c) The EA shall, at a minimum, include the following information:

- (1) Project identification.
- (2) System summary.
- (3) System need and purpose.
- (4) System description.
- (5) Project costs ~~affordability~~ and funding.
- (6) ~~Evaluation~~ **Identification of feasible alternatives provided by the political subdivisions**.
- (7) Environmental impacts of the feasible alternatives.
- (8) Mitigation measures.
- (9) Public participation.

(d) The EA shall be provided as an attachment to the FNSEI document issued ~~pursuant to~~ **under** section 6 of this rule. (*Water Pollution Control Board; 327 IAC 13-9-5; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1694; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 22. 327 IAC 13-11-1.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 13-11-1.5 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1.5. This rule does not apply to a refinancing. (*Water Pollution Control Board; 327 IAC 13-11-1.5*)

SECTION 23. 327 IAC 13-12-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-12-1 Construction permit

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1. (a) ~~The~~ Political subdivisions must obtain a construction permit from the department in accordance with ~~327 IAC 3-2-3~~ **327 IAC 3-2-3.5 or other applicable permitting authority** in conjunction with the approved preliminary engineering report ~~prior to~~ **before** contract award approval.

(b) The political subdivision must receive authorization from the department ~~prior to~~ **initiating before initiating** procurement for construction. (*Water Pollution Control Board; 327 IAC 13-12-1; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1696; filed Aug 28, 1998, 4:53 p.m.: 22 IR 35; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 24. 327 IAC 13-12-1.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 13-12-1.5 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1.5. This rule does not apply to a refinancing. (*Water Pollution Control Board; 327 IAC 13-12-1.5*)

SECTION 25. 327 IAC 13-12-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-12-2 Acquisition of land, easements, and existing facilities

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13; IC 32-24

Sec. 2. The political subdivision is responsible for acquisition of land, easements, and any existing facilities necessary to construct, operate, and maintain the project. ~~Prior to~~ **Before** the ~~issuance approval of a construction permit contract award~~ by the department, the political subdivision shall provide evidence that it has ~~or will have~~ **or, by a mutually agreeable date,** the required property rights. All acquisitions of property by exercise of power of eminent domain shall comply with the procedure in ~~IC 32-11~~ **IC 32-24** or other applicable law. (*Water Pollution Control Board; 327 IAC 13-12-2; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1696; filed Aug 28, 1998, 4:53 p.m.: 22 IR 35; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 26. 327 IAC 13-12-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-12-6 Change orders

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 6. The political subdivision shall submit copies of each change order to the department **for approval**. Change orders ~~which that:~~
(1) significantly change the scope or design of the project; or
(2) ~~which~~ increase the amount of financing needed for the project; require the prior approval of the department and ~~the~~ agency before the work is authorized by the political subdivision. If the change order will result in the expenditure of more wastewater SRF funds than the current amount of financial assistance approved by the agency, an amendment increasing the amount of assistance must be executed ~~prior to before~~ the implementation of the changes. Any additional financial assistance shall comply with existing law as to the borrowing power of the political subdivision. (*Water Pollution Control Board; 327 IAC 13-12-6; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1697; filed Aug 28, 1998, 4:53 p.m.: 22 IR 35; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 27. 327 IAC 13-12-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-12-7 Inspections

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 7. The inspections shall proceed as follows:

(1) During the construction of the project, the political subdivision shall provide ~~continuous inspection~~ **frequent inspections** by qualified inspectors in sufficient numbers to ensure that the construction complies with **the following**:

(A) Department approved plans and specifications. ~~and~~

(B) The terms and conditions of the contract.

(2) The inspectors shall maintain logs, written in ink, with entries sufficient to establish the amount and quality of work completed by the contractor including **the following**:

(A) Weather conditions. ~~and~~

(B) Problems encountered.

(3) The department shall conduct construction inspections to determine compliance with **the following**:

(A) Department approved plans. ~~and specifications~~.

(B) **Preliminary engineering reports.**

(C) **Construction permits.**

Inspections performed by the department are not made to replace the political subdivision's responsibility to properly monitor the construction of its project but are made solely to protect the department's and ~~the~~ agency's financial interest in the project.

(4) The political subdivision shall:

(A) conduct a prefinal inspection making a punch list of incomplete and unacceptable work to be corrected before final inspection; ~~and~~

~~(5) The political subdivision shall~~ (B) notify the department after:

(i) the prefinal inspection has been done; and

(ii) all punch list items have been corrected or agreed to be corrected;

to set up a final inspection to be made by the department to determine the date of substantial completion.

(*Water Pollution Control Board; 327 IAC 13-12-7; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1697; filed Aug 28, 1998, 4:53 p.m.: 22 IR 35; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 28. 327 IAC 13-15-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-15-1 Disbursement process

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1. The loan proceeds shall be disbursed as follows:

(1) The department shall review and certify the wastewater SRF loan share of the appropriate costs incurred for the project. These costs shall be documented as requested by the department. ~~in the political subdivision's most recent invoice statement.~~ The agency shall ~~may~~ pay these costs in accordance with ~~state disbursement procedures~~.

~~(2) Multiple disbursements of the loan proceeds shall be made by the agency on the basis of incurred costs during the construction of the project with the first disbursement made at financial assistance closing. Succeeding disbursements shall normally be made monthly until construction completion or until all proceeds of the loan have been disbursed. Interest shall commence on the day funds are disbursed to the political subdivision for that disbursement only or to third parties on behalf of the political subdivision. agreement.~~

~~(3)~~ (2) The political subdivision shall:

(A) approve ~~the all~~ project costs for payment; ~~prior to disbursement of and~~

(B) ~~provide the approval to the proceeds:~~ department.

~~(4)~~ (3) Loan proceeds disbursed to or on behalf of the political subdivision shall be used only for authorized purposes. Funds shall not be ~~disbursed applied to pay~~ costs associated with a contract change order that authorized a significant change in project scope or design, or both, ~~prior to before~~ concurrence by the department and the agency.

~~(5)~~ (4) The department and the agency may at any time review and

audit requests for loan disbursements and make adjustments for circumstances, including, but not limited to, the following:

- (A) Mathematical errors.
- (B) Items not bought or built.
- (C) Unacceptable construction.

~~(6)~~ (5) By its acceptance of the final loan disbursement, the political subdivision releases and discharges the department and ~~the~~ agency and its officers, agents, and employees from all liabilities, obligations, and claims arising out of the disbursement of loan proceeds, subject only to exceptions previously specified contractually in writing between the ~~department~~ agency and the political subdivision.

~~(7)~~ (6) All files and records pertaining to the project shall be maintained by the political subdivision throughout the project and made accessible to the department and ~~the~~ agency. These files and records shall be retained by the political subdivision for at least six (6) years after initiation of operation as determined by the department and ~~the~~ agency. However, if any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the six (6) year period, the records shall be retained until:

- (A) completion of the action and resolution of all issues that arise from it; or ~~until~~
- (B) the end of the regular six (6) year period; whichever is later.

(Water Pollution Control Board; 327 IAC 13-15-1; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1699; filed Aug 28, 1998, 4:53 p.m.: 22 IR 36; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 29. 327 IAC 13-16-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 13-16-1 "Rights" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-13-18
Affected: IC 13-11-2; IC 13-18-13

Sec. 1. The following rights are reserved:

(1) Nothing in this article prohibits a political subdivision from requiring more:

- (A) assurances;
- (B) guarantees; ~~or~~
- (C) indemnity; or
- (D) other contractual requirements;

from any party performing work on the project.

(2) Nothing in this article affects the department's **right** and agency's right under existing rules to take remedial action, including, but not limited to, administrative enforcement action and actions for breach of contract against a political subdivision that fails to carry out its obligations under this article.

(3) Review or approval of any document by or for the department **or the agency** does not relieve the political subdivision of its responsibility to properly plan, design, build, and effectively operate and maintain the treatment works as required by federal and state statutes, rules, regulations, permits, and best management practice. The department ~~is and the agency are~~ not responsible for increased costs resulting from defects in the plans, design drawings, specifications, inspections, construction, or other subagreement documents related to the project.

(Water Pollution Control Board; 327 IAC 13-16-1; filed Apr 26, 1990, 10:45 a.m.: 13 IR 1700; filed Aug 28, 1998, 4:53 p.m.: 22 IR 36; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 30. 327 IAC 14-1-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-1-1 Purpose

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16; IC 13-18-21

Sec. 1. The purpose of this article is to implement the drinking water state revolving fund established by IC 13-18-21 and accomplish the following:

(1) Provide funding for loans and other financial assistance to or for the benefit of ~~political subdivisions~~, **participants**, including forgiveness of principal if allowed under federal law.

(2) Provide ~~political subdivisions~~ **participants** in Indiana funding for the:

- (A) planning;
- (B) designing;
- (C) construction;
- (D) renovation;
- (E) improvement; or
- (F) expansion;

of public water systems (PWS) that will facilitate compliance with national primary drinking water regulations applicable to PWS under the ~~federal~~ Safe Drinking Water Act (~~SDWA~~) (42 U.S.C. Section 300f to 300j-26) or otherwise significantly further the health protection objectives of the ~~federal SDWA~~ **Safe Drinking Water Act** and other activities necessary or convenient to complete these tasks.

(3) Pay the cost of administering the fund and the **drinking water SRF** program, except as provided in the ~~federal SDWA~~ **Safe Drinking Water Act**.

(4) Conduct any other activity permitted by the ~~SDWA~~ **Safe Drinking Water Act**.

(Water Pollution Control Board; 327 IAC 14-1-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 38; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 31. 327 IAC 14-2-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-3 "Authorized representative" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 3. "Authorized representative" means a person who has been designated by the governing board of a ~~political subdivision~~ **participant** to sign documents on behalf of that board. (Water Pollution Control Board; 327 IAC 14-2-3; filed Aug 28, 1998, 4:53 p.m.: 22 IR 38; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 32. 327 IAC 14-2-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-5 "Board" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 5. "Board" means the governing body of the ~~political subdivision~~ **participant** seeking financial assistance. (Water Pollution Control Board; 327 IAC 14-2-5; filed Aug 28, 1998, 4:53 p.m.: 22 IR 38; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 33. 327 IAC 14-2-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-6 "Bond" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 6. "Bond" is the debt instrument that evidences the long term financing undertaken by a ~~political subdivision~~ **participant** in accordance with Indiana statutes for incurring debt. (*Water Pollution Control Board; 327 IAC 14-2-6; filed Aug 28, 1998, 4:53 p.m.: 22 IR 38; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 34. 327 IAC 14-2-7.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 14-2-7.5 "Construction project" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 7.5. "Construction project" means the activities or tasks the department identifies in the preliminary engineering report or any other document required by the department related to the construction of a project for which the participant may commit and expend funds. (*Water Pollution Control Board; 327 IAC 14-2-7.5*)

SECTION 35. 327 IAC 14-2-10 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-10 "Due diligence" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 10. "Due diligence" means a process that provides financial disclosures advising the state of economic matters related to the ~~political subdivision participant~~ and ~~their~~ **its** ability to repay the loan. (*Water Pollution Control Board; 327 IAC 14-2-10; filed Aug 28, 1998, 4:53 p.m.: 22 IR 39; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 36. 327 IAC 14-2-11 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-11 "EA" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 11. "EA" means an environmental assessment that is a document prepared by the department upon completion of ~~a~~ **the** department's review of a preliminary engineering report ~~that:~~

- (1) describes the PWS project alternatives;
- (2) describes the potential environmental impacts of the feasible alternatives;
- (3) acts as a public record of the documentation and review process used to arrive at a preliminary decision as to whether an EIS is necessary; and
- (4) provides information adequate for the public to comment on the proposed project.

or other document required by the department and includes those items required by 327 IAC 14-8-4. (*Water Pollution Control Board; 327 IAC 14-2-11; filed Aug 28, 1998, 4:53 p.m.: 22 IR 39; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 37. 327 IAC 14-2-14 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-14 "Financial assistance agreement" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 4-13-2-14.1; IC 13-11-2; IC 13-18-16

Sec. 14. "Financial assistance agreement" means a contract document approved under IC 4-13-2-14.1 that contains the covenants between the ~~political subdivision~~ **participant** and agency concerning financial assistance from the drinking water SRF. (*Water Pollution Control Board; 327 IAC 14-2-14; filed Aug 28, 1998, 4:53 p.m.: 22 IR 39; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 38. 327 IAC 14-2-15 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-15 "Financial assistance closing" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 15. "Financial assistance closing" means the occasion in which:

(1) a ~~political subdivision~~ **participant** tenders its:

- (A) note;
- (B) bond;
- (C) guaranty agreement; or
- (D) credit enhancement agreement;

to the agency; and

(2) the agency provides a portion, or all, of the drinking water SRF financial assistance to the ~~political subdivision~~ **participant**.

(*Water Pollution Control Board; 327 IAC 14-2-15; filed Aug 28, 1998, 4:53 p.m.: 22 IR 39; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 39. 327 IAC 14-2-16 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-16 "FNSEI" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 16. "FNSEI" means a finding of no significant environmental impact that is a finding of the department, issued with an EA, that the construction and operation of a proposed PWS **or the improvements thereto** will not significantly impact the environment. (*Water Pollution Control Board; 327 IAC 14-2-16; filed Aug 28, 1998, 4:53 p.m.: 22 IR 39; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 40. 327 IAC 14-2-18 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-18 "Loan" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 18. "Loan" means purchasing the notes or bonds of a ~~political subdivision participant~~ to finance a **PWS project** or refinancing **refinance** an existing debt obligation where debt was incurred after July 1, 1993. (*Water Pollution Control Board; 327 IAC 14-2-18; filed Aug 28, 1998, 4:53 p.m.: 22 IR 40; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 41. 327 IAC 14-2-20 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-20 "Participant" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 5-1.4; IC 5-1.5-1-8; IC 8-1-2-125; IC 13-11-2; IC 13-18-16; IC 13-26; IC 14-33-1-1; IC 36-1-2

Sec. 20. ~~"Political subdivision~~ **"Participant"** means the following:

- (1) Political subdivision as defined in IC 36-1-2.

(2) Regional water, sewage, or solid waste district organized under IC 13-26 or IC 13-3-2, before its repeal July 1, 1996.

(3) Local public improvement bond bank organized under IC 5-1.4.

(4) Qualified entity described in IC 5-1.5-1-8(4) that is a public water utility described in IC 8-1-2-125.

(5) Conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).

(6) Any other owner of a PWS that is authorized by the Safe Drinking Water Act to borrow from the drinking water SRF.

(Water Pollution Control Board; 327 IAC 14-2-20; filed Aug 28, 1998, 4:53 p.m.: 22 IR 40; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 42. 327 IAC 14-2-21 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-21 "PPL" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 21. "PPL" means a project **priority** list ~~which~~ that is generated through the department and updated annually and **may also be amended quarterly as necessary**. It ranks, in descending priority of need, ~~political subdivisions which participants that~~ have indicated a need for a PWS to reimburse eligible expenses related to the construction of a project. *(Water Pollution Control Board; 327 IAC 14-2-21; filed Aug 28, 1998, 4:53 p.m.: 22 IR 40; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)*

SECTION 43. 327 IAC 14-2-22 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-22 "Preliminary engineering report" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 22. "Preliminary engineering report" means the ~~document~~ documents submitted by the ~~political subdivision participant~~ that provides provide the information necessary for the department to determine the technical, economic, and environmental adequacy of the proposed PWS construction project. *(Water Pollution Control Board; 327 IAC 14-2-22; filed Aug 28, 1998, 4:53 p.m.: 22 IR 40; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)*

SECTION 44. 327 IAC 14-2-24 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-24 "Project" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 24. "Project" means the activities or tasks the department identifies in the preliminary engineering report for which the ~~political subdivision participant~~ participant may commit and expend funds. *(Water Pollution Control Board; 327 IAC 14-2-24; filed Aug 28, 1998, 4:53 p.m.: 22 IR 40; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)*

SECTION 45. 327 IAC 14-2-25.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 14-2-25.5 "Refinancing" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 25.5. "Refinancing" means the refinancing of a participant's

issued and outstanding bond, note, or other debt obligation as permitted by the Safe Drinking Water Act through the drinking water SRF. *(Water Pollution Control Board; 327 IAC 14-2-25.5)*

SECTION 46. 327 IAC 14-2-26 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-26 "ROD" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 26. "ROD" means a ~~statement~~ record of decision issued by the department upon the completion of an EIS, which includes a determination of whether to proceed with a proposed project. *(Water Pollution Control Board; 327 IAC 14-2-26; filed Aug 28, 1998, 4:53 p.m.: 22 IR 40; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)*

SECTION 47. 327 IAC 14-2-27.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 14-2-27.5 "Study area" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 27.5. "Study area" means the geographical area within a participant's boundaries, which also includes the location of the project to be financed or refinanced by the participant through the drinking water SRF. *(Water Pollution Control Board; 327 IAC 14-2-27.5)*

SECTION 48. 327 IAC 14-2-28 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-28 "Substantial completion date of construction" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 28. "Substantial completion date of construction" means the date determined by the participant and provided to the department when:

- (1) all but minor components of a project have been built;
- (2) all equipment is operational; and
- (3) the project is capable of functioning as designed.

(Water Pollution Control Board; 327 IAC 14-2-28; filed Aug 28, 1998, 4:53 p.m.: 22 IR 41; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 49. 327 IAC 14-2-29 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-2-29 "Substantive environmental impact" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 29. "Substantive environmental impact" means a significant adverse ~~change in the environment~~ environmental impact resulting directly or indirectly from the:

- (1) construction; ~~operation~~;
- (2) upgrade; ~~or~~
- (3) expansion; ~~or~~
- (4) operation;

of a PWS construction project. *(Water Pollution Control Board; 327 IAC 14-2-29; filed Aug 28, 1998, 4:53 p.m.: 22 IR 41; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)*

SECTION 50. 327 IAC 14-3-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-3-1 Drinking water SRF program expenditures

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. The drinking water SRF shall be used to do the following:
(1) Provide financial assistance for PWS construction projects and all other activities that are permitted by the Safe Drinking Water Act.
(2) Refinance a participant's outstanding indebtedness of political subdivisions as determined to be eligible for repurchase by the agency under the Safe Drinking Water Act.
(3) Pay reasonable direct and indirect program administration costs.
(4) Provide funds for set aside accounts as permitted by the Safe Drinking Water Act.

(Water Pollution Control Board; 327 IAC 14-3-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 41; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 51. 327 IAC 14-4-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-4-1 Project priority list

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. The agency shall award drinking water SRF financial assistance for PWS construction projects to a political subdivision participant only for eligible costs of projects listed on the department's project priority list PPL. (Water Pollution Control Board; 327 IAC 14-4-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 41; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 52. 327 IAC 14-4-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-4-2 Intended use plan

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16; IC 13-18-21-3

Sec. 2. (a) The department and the agency shall prepare annually an IUP, including a project priority list pursuant to the Safe Drinking Water Act, to be effective on the first day of the state's fiscal year.

(b) The following documents shall be included as appendices of the IUP and are subject to modification in accordance with this section:

- (1) The PPL.
- (2) A document describing the project ranking process.
- (3) A list of any other types of project permitted by the Safe Drinking Water Act.
- (4) A list of refinancings that may be treated in the PPL as part of a project otherwise listed on the PPL.

(c) The department shall adopt an IUP after holding a public meeting on the plan and responding to substantial comments received. The department shall may amend the IUP to add eligible projects and change or amend listed projects as necessary on a quarterly basis after pursuing a public notification process.

- (d) Placement in on the PPL shall be based on the following criteria:
(1) The project must be consistent with the uses of the drinking water SRF as identified in the SDWA Safe Drinking Water Act and IC 13-18-21-3.

(2) A political subdivision participant must submit general project information on an application form provided by the department that is signed by the political subdivision's participant's authorized representative and includes relevant information as follows:

- (A) A general description of the project.
- (B) An appropriate cost estimate for different phases of the project.
- (C) An estimated initiation date and completion date for each phase of the project.
- (D) For a refinancing, information like that received in clauses (A) through (C) and any other information required by and evaluated by the agency.
- (E) Any additional relevant information the department may request.

(Water Pollution Control Board; 327 IAC 14-4-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 41; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 53. 327 IAC 14-5-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-5-1 Criteria

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. Loans and other available SRF financial assistance for PWS construction projects shall be made only to a political subdivision participant that meets all of the following criteria:

- (1) Owns, operates, and maintains, or causes to be operated and maintained, a PWS for its useful life.
- (2) Demonstrates financial, managerial, technical, and legal capability to:
 - (A) meet the terms of the financial assistance agreement; and to
 - (B) operate and maintain the PWS for its useful life.
- (3) Agrees to:
 - (A) submit an annual operating budget for the agency's approval and periodically adjust:
 - (i) fees;
 - (ii) charges;
 - (iii) taxes;
 - (iv) special assessments; and
 - (v) revenues available;

to the political subdivision participant, if any, in order to assure receipt of sufficient revenue annually to comply with all requirements of the loan agreement;

- (4) Agrees to:
 - (A) (B) maintain financial records in accordance with generally accepted government accounting principles for utilities; and
 - (B) (C) provide a copy of audits of the PWS financial records as conducted by the state board of accounts or other certified independent auditor during the term of the its financial assistance agreement; and
 - (C) (D) allow inspection by the agency of the financial records related to the PWS during the term of the financial assistance agreement.

(6) (4) Meets all other drinking water SRF program requirements. (Water Pollution Control Board; 327 IAC 14-5-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 42; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 54. 327 IAC 14-6-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-6-1 Due diligence process

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. The due diligence process shall include the following tasks:
(1) The ~~political subdivision~~ **participant** shall submit a completed due diligence form issued or authorized by the agency with the required documentation.

(2) The agency shall:

(A) review or cause to be reviewed the due diligence form and documentation; and

(B) inform the ~~political subdivision~~ **participant**, in writing, of the determination.

(Water Pollution Control Board; 327 IAC 14-6-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 42; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 55. 327 IAC 14-7-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-7-2 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 2. (a) This rule shall apply to any ~~political subdivision~~ **participant** requesting financial assistance from the drinking water SRF program **for a PWS construction project**.

(b) **This rule does not apply to a refinancing or to a project that is determined by the department to be categorically excluded under 327 IAC 14-8-3.** (Water Pollution Control Board; 327 IAC 14-7-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 42; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 56. 327 IAC 14-7-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-7-3 Project summary

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 3. The preliminary engineering report shall include a section that provides a brief summary of the proposed project, including the following:

(1) Project purpose, scope, and schedule.

(2) Project cost estimates for construction and nonconstruction activities.

(3) All anticipated funding sources for the project.

(4) ~~Legal~~ Description of the project area.

(5) Current population data and twenty (20) year projection.

(6) Current condition of facilities, current ~~pollutant loadings and flows~~ **water supply, design and peak demand, treatment**, and twenty (20) year projection.

(7) The preliminary design summary with schematics, layouts, and maps for the affected project and proposed PWS.

(8) The department may request additional information ~~from a political subdivision~~ **from a participant** that it deems necessary to complete a preliminary engineering report **from a participant**.

(Water Pollution Control Board; 327 IAC 14-7-3; filed Aug 28, 1998, 4:53 p.m.: 22 IR 42; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 57. 327 IAC 14-7-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-7-5 Environmental information

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 5. The preliminary engineering report shall contain the following:

(1) A comparison of the potential environmental impacts among feasible alternatives, including that of doing nothing.

(2) A basis for a determination to prepare either an EA and FNSEI, issued ~~pursuant to~~ **under** 327 IAC 13-9-5 and 327 IAC 13-9-6 or an EIS, issued under 327 IAC 13-9-7, as the final environmental document.

(3) An assessment of the cumulative environmental impacts of the feasible alternatives within each of the following categories:

(A) Soils and prime farmland.

(B) Air quality.

(C) Ground water, drinking water, and sole source aquifers.

(D) Flood plains, wetlands, waterways, and other surface waters.

(E) Plants and animals.

(F) Historic, architectural, and archaeological sites.

(G) Natural national landmarks.

(H) Coastal zones.

(4) The environmental information document shall include an evaluation of the environmental impacts of taking no action to modify, improve, or expand an existing PWS.

(5) Specific mitigation measures shall be listed, as necessary, which shall eliminate, minimize, or compensate for the environmental impacts described in subdivision (3).

(6) If the construction of an approved project is initiated five (5) or more years after the date of approval of a preliminary engineering report, an additional environmental information document shall be required unless it is determined by the department that there have been no substantial changes in the environmental impacts of the project.

(7) If a proposed project is to be completed in several distinct phases, the environmental information associated with the first phase must consider the cumulative impacts of the entire proposed system, including all succeeding phases. As succeeding phases are constructed, no additional environmental information shall be required if there have been no significant changes to the original preliminary engineering report.

(8) If a project is to be constructed ~~in for a political subdivision~~ **participant** that had a preliminary engineering report for a previous project approved by the department, the environmental information submitted with the previous project shall be evaluated by the department to determine if its scope and content encompassed the environmental impacts associated with the current project. Based on this evaluation, the ~~political subdivision~~ **participant** shall only be required to submit additional information if the department deems it necessary to complete the environmental review for the current project.

(Water Pollution Control Board; 327 IAC 14-7-5; filed Aug 28, 1998, 4:53 p.m.: 22 IR 43; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 58. 327 IAC 14-7-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-7-6 Public participation

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 6. The preliminary engineering report shall include the

following:

- (1) Copies of all written comments submitted by the public during the preliminary engineering process.
- (2) A transcript of the public hearing.
- (3) A mailing list **or labels, or both**, of all:
 - (A) individuals;
 - (B) industries;
 - (C) groups;
 - (D) media outlet within the study area; and
 - (E) organizations within the study area;

that have demonstrated an interest in receiving copies of the EA and FNSEI issued pursuant to under 327 IAC 13-9-5 through and 327 IAC 13-9-6.

- (4) A copy of the publisher's affidavit from the newspaper with the public hearing notice.

(Water Pollution Control Board; 327 IAC 14-7-6; filed Aug 28, 1998, 4:53 p.m.: 22 IR 43; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 59. 327 IAC 14-7-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-7-7 Public hearings

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 7. At least one (1) public hearing shall be held ~~prior to~~ **within the study area approving the** adoption of the preliminary engineering report by the ~~political subdivision participant~~. The purpose of the public hearing shall be to discuss the preliminary engineering report. A copy of the preliminary engineering report shall be available to all attendees at the hearing. Requirements for the hearing shall include the following:

- (1) The public hearing shall be publicized in at least one (1) newspaper of general circulation in the study area a minimum of ~~fourteen (14)~~ **ten (10)** days ~~prior to before~~ the date of the hearing.
- (2) The preliminary engineering report shall be available for public review for a minimum of ~~fourteen (14)~~ **ten (10)** days ~~prior to before~~ the date of the public hearing.
- (3) Written comments shall be accepted:
 - (A) during the hearing; and
 - (B) for a period of ten (10) days following the hearing.
- (4) A sign up sheet shall be available **at the hearing** for all individuals interested in receiving the EA and FNSEI. ~~at the public hearing.~~

(Water Pollution Control Board; 327 IAC 14-7-7; filed Aug 28, 1998, 4:53 p.m.: 22 IR 43; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 60. 327 IAC 14-8-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-8-1 Purpose

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. ~~It is~~ The purpose of this rule is to accomplish the following:

- (1) To establish the environmental impact assessment procedures required for ~~political subdivisions participants~~ seeking financial assistance for PWS construction projects from the drinking water SRF.
- (2) To assure that the:
 - (A) environmental impacts of all projects funded by the drinking water SRF be evaluated adequately ~~prior to before~~ award of

financial assistance; **and**

- ~~(3) To assure that the~~ (B) consideration of public comments is an integral component of the environmental impact assessment process.

(Water Pollution Control Board; 327 IAC 14-8-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 44; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 61. 327 IAC 14-8-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-8-2 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 2. (a) This rule applies to any ~~political subdivision participant~~ requesting financial assistance ~~for PWS construction projects~~ from the drinking water SRF program **for a PWS construction project**.

(b) **This rule does not apply to a refinancing.** (Water Pollution Control Board; 327 IAC 14-8-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 44; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 62. 327 IAC 14-8-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-8-3 Categorical exclusions

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 3. (a) The following classes of projects may be categorically ~~exempt~~ **excluded** from the requirements of this rule **and 327 IAC 14-7**, except as described in subsection (b):

- (1) Minor addition, rehabilitation, improvement, or expansion of any existing ~~PWS PWS's treatment facilities~~ that will disturb only previously disturbed land.
- (2) Rehabilitation of ~~PWS a PWS's distribution system~~ that will not result in the extension of the existing system and will disturb only previously disturbed land.

(b) If ~~it is determined by~~ the department **determines** that the construction or operation, or both, of any PWS construction project listed in subsection (a) may result in substantive environmental impacts, a categorical ~~exemption~~ **exclusion** shall not be granted, and the ~~political subdivision participant~~ shall prepare a preliminary engineering report environmental information document under this rule.

(c) A categorical ~~exemption~~ **exclusion** may be rescinded by the department if it is determined that information exists sufficient to suggest that substantive environmental impacts may occur as a result of the construction or operation, or both, of any PWS construction project that received a categorical ~~exemption~~ **exclusion**.

(d) All decisions to categorically ~~exempt~~ **exclude** a project from the requirements of this rule, or to rescind a previously granted categorical ~~exemption~~ **exclusion**, shall be issued for public comments for thirty (30) days **in one (1) newspaper of general circulation within the study area**. The decision shall be considered final ~~in at the absence of significant public comments~~ **conclusion of the comment period**. If significant public comments are received during the comment period, the decision ~~shall~~ **may** be reevaluated and a new decision, if appropriate, issued for public comments for **an additional thirty (30) days: day comment period**.

(e) If a project is determined by the department to be categorically excluded under this section, the information describing the project required to be submitted to the department for its review shall be limited to only that information specifically requested by the department, which may vary for each project based upon the specific type of project being considered. (*Water Pollution Control Board; 327 IAC 14-8-3; filed Aug 28, 1998, 4:53 p.m.: 22 IR 44; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 63. 327 IAC 14-8-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-8-4 Environmental assessment

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 4. (a) The purpose of an EA shall be the following:

- (1) To provide a description of all feasible PWS alternatives.
- (2) To document the potential environmental impacts of the feasible alternatives.
- (3) To act as a public record of the information evaluated by the department.
- (4) To provide information adequate for the public to evaluate the alternatives.

(b) The preparation of an EA shall be the responsibility of the department.

(c) The EA shall, at a minimum, include the following information:

- (1) Project identification.
- (2) System summary.
- (3) System need and purpose.
- (4) System description.
- (5) Project costs ~~affordability~~, and funding.
- (6) ~~Evaluation~~ **Identification** of feasible alternatives **provided by the participant.**
- (7) Environmental impacts of the feasible alternatives.
- (8) Mitigation measures.
- (9) Public participation.

(d) The EA shall be provided as an attachment to the FNSEI document issued under section 5 of this rule. (*Water Pollution Control Board; 327 IAC 14-8-4; filed Aug 28, 1998, 4:53 p.m.: 22 IR 44; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 64. 327 IAC 14-9-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-9-1 Approval rate study water rate ordinance

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16; IC 36-7-23

Sec. 1. (a) Every ~~political subdivision~~ **participant** shall obtain the agency's approval of its water system rates and charges as part of the due diligence process.

(b) Each ~~political subdivision~~ **participant** shall establish rates and charges at a level adequate to produce and maintain sufficient revenue to:

- (1) properly operate and maintain the treatment works; and ~~to~~
- (2) repay all debt obligations of the treatment works.

(*Water Pollution Control Board; 327 IAC 14-9-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 45; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 65. 327 IAC 14-9-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-9-2 Interlocal agreement

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16; IC 36-7-23

Sec. 2. If the project will serve two (2) or more ~~political subdivisions, participants,~~ **political subdivision participants** the ~~political subdivision~~ **participants** shall submit an interlocal service agreement, contract, or other legally binding instrument necessary for the:

- (1) financing;
- (2) construction;
- (3) operation; and
- (4) maintenance;

of the proposed public water system project for approval by the agency. If the ~~political subdivision~~ **participant** is a multicounty infrastructure authority under IC 36-7-23, the agency may require similar documentation and assurances. (*Water Pollution Control Board; 327 IAC 14-9-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 45; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 66. 327 IAC 14-10-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-10-1 Professional services

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 5-16-11.1; IC 13-11-2; IC 13-18-16; IC 36-1-12

Sec. 1. ~~Political subdivisions~~ **Participants** conducting procurement for the uses authorized by the drinking water SRF for professional services shall proceed ~~pursuant to~~ **under** IC 5-16-11.1. (*Water Pollution Control Board; 327 IAC 14-10-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 45; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 67. 327 IAC 14-10-1.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 14-10-1.5 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1.5. This rule does not apply to a refinancing. (*Water Pollution Control Board; 327 IAC 14-10-1.5*)

SECTION 68. 327 IAC 14-10-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-10-2 Procurement

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16; IC 36-1-12

Sec. 2. ~~Political subdivisions~~ **Participants** conducting procurement for the uses authorized by the drinking water SRF for any activity other than professional services shall proceed ~~pursuant to~~ **under** IC 36-1-12. (*Water Pollution Control Board; 327 IAC 14-10-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 45; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 69. 327 IAC 14-10-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-10-3 Small, minority, and women's business enterprises

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 3. The ~~political subdivision participant~~ shall take all necessary affirmative steps to assure that small, minority, and women's business enterprises are used when possible. Affirmative steps shall include taking the following actions:

- (1) Placing qualified enterprises on solicitation lists.
- (2) Assuring that these enterprises are solicited whenever they are potential sources.
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by these enterprises.
- (4) Establishing delivery schedules, where the requirement permits, that encourage participation by these enterprises.
- (5) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

(*Water Pollution Control Board; 327 IAC 14-10-3; filed Aug 28, 1998, 4:53 p.m.: 22 IR 46; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 70. 327 IAC 14-11-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-1 Construction permit

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. (a) The ~~political subdivision participant~~ must obtain a construction permit from the department in accordance with 327 IAC 8-3-2, **or other permitting authority, if applicable**, in conjunction with the approved preliminary engineering report ~~prior to before~~ contract award approval.

(b) The ~~political subdivision participant~~ must receive authorization from the department ~~prior to before~~ initiating procurement for construction. (*Water Pollution Control Board; 327 IAC 14-11-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 46; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 71. 327 IAC 14-11-1.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 14-11-1.5 Applicability

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1.5. This rule does not apply to a refinancing. (*Water Pollution Control Board; 327 IAC 14-11-1.5*)

SECTION 72. 327 IAC 14-11-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-2 Acquisition of land, easements, and existing facilities

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16; IC 32-24

Sec. 2. The ~~political subdivision participant~~ is responsible for acquisition of land, easements, and any existing facilities necessary to construct, operate, and maintain the project. ~~Prior to Before~~ the **issuance approval of a construction permit contract award** by the department, the political subdivision shall provide evidence that it has ~~or will have by a mutually agreeable date~~, the required property rights.

All acquisitions of property by exercise of power of eminent domain shall comply with the procedure in ~~IC 32-11~~ **IC 32-24** and Section 1452(a)(2) of the Safe Drinking Water Act. (*Water Pollution Control Board; 327 IAC 14-11-2; filed Aug 28, 1998, 4:53 p.m.: 22 IR 46; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 73. 327 IAC 14-11-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-4 Contract information submittal

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 4. Following the department's approval of the proposed award, each ~~political subdivision participant~~ shall provide copies of the following to the department:

- (1) Executed contracts.
- (2) Notices to contractors to proceed.
- (3) Bid bonds.
- (4) Performance and payment bonds.
- (5) Construction schedules.

(*Water Pollution Control Board; 327 IAC 14-11-4; filed Aug 28, 1998, 4:53 p.m.: 22 IR 46; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 74. 327 IAC 14-11-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-5 Construction wage rates

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 5. Wages paid for the construction of public water systems shall conform to the prevailing wage rates established for the ~~political subdivision's participant's~~ locality by the U.S. Department of Labor under the Davis-Bacon Act, 40 U.S.C. 276a. (*Water Pollution Control Board; 327 IAC 14-11-5; filed Aug 28, 1998, 4:53 p.m.: 22 IR 46; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 75. 327 IAC 14-11-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-6 Change orders

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 6. The ~~political subdivision participant~~ shall submit copies of each change order to the department. Change orders that:

- (1) significantly change the scope or design of the project; or
- (2) increase the amount of financing needed for the project;

require the prior approval of the department and the agency before the work is authorized by the political subdivision. If the change order will result in the expenditure of more drinking water SRF funds than the current amount of financial assistance approved by the agency, an amendment increasing the amount of assistance must be executed ~~prior to before~~ the implementation of the changes. Any additional financial assistance shall comply with existing law as to the borrowing power of the political subdivision. (*Water Pollution Control Board; 327 IAC 14-11-6; filed Aug 28, 1998, 4:53 p.m.: 22 IR 46; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 76. 327 IAC 14-11-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-7 Inspections

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 7. The inspections shall proceed as follows:

(1) During the construction of the project, the ~~political subdivision~~ **participant** shall provide ~~continuous inspection~~ **frequent inspections** by qualified inspectors in sufficient numbers to ensure that the construction complies with the **following**:

- (A) The department-issued construction permit. ~~and~~
- (B) The terms and conditions of the contract.

(2) The inspectors shall maintain logs, written in ink, with entries sufficient to establish the amount and quality of work completed by the contractor, including **the following**:

- (A) Weather conditions. ~~and~~
- (B) Problems encountered.

(3) The department shall conduct construction inspections to determine compliance with the **following**:

- (A) The department ~~issued~~ **preliminary engineering report**.
- (B) The construction permit. ~~and~~
- (C) The financial assistance agreement.

Inspections performed by the department are not made to replace the ~~political subdivision's participant's~~ responsibility to properly monitor the construction of its project but are made solely to protect the department's and the agency's financial interest in the project.

(4) The ~~political subdivision~~ **participant** shall:

- (A) conduct a prefinal inspection making a punch list of incomplete and unacceptable work to be corrected before final inspection; ~~and~~

~~(5) The political subdivision shall~~ (B) notify the department after:

- (i) the prefinal inspection has been done; and
- (ii) all punch list items have been corrected or agreed to be corrected;

to set up a final inspection to be made by the department to determine the date of substantial completion.

(Water Pollution Control Board; 327 IAC 14-11-7; filed Aug 28, 1998, 4:53 p.m.: 22 IR 47; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 77. 327 IAC 14-11-8 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-11-8 As-built plans

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 8. After completion of the project, the ~~political subdivision~~ **participant** shall obtain as-built plans for the project from its engineer and provide these to the department. (Water Pollution Control Board; 327 IAC 14-11-8; filed Aug 28, 1998, 4:53 p.m.: 22 IR 47; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 78. 327 IAC 14-12-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-12-1 Disbursement process

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. The loan proceeds shall be disbursed as follows:

(1) The department shall review and certify the drinking water SRF loan share of the appropriate costs incurred for the project. These costs shall be documented as requested by the department. ~~in the~~

~~political subdivision's most recent invoice statement.~~ The agency shall ~~may~~ pay these costs in accordance with ~~state disbursement procedures~~.

~~(2) Multiple disbursements of the loan proceeds shall be made by the agency on the basis of incurred costs during the construction of the project with the first disbursement made at financial assistance closing. Succeeding disbursements shall normally be made monthly until construction completion or until all proceeds of the loan have been disbursed. Interest shall commence on the day funds are disbursed to the political subdivision for that disbursement only or to third parties on behalf of the political subdivision. agreement.~~

~~(3) (2) The political subdivision participant shall approve the all project costs for payment prior to disbursement of and provide the approval to the proceeds department.~~

~~(4) (3) Loan proceeds disbursed to or on behalf of the political subdivision participant shall be used only for authorized purposes. Funds shall not be disbursed applied to pay costs associated with a contract change order that authorized a significant change in project scope or design, or both, prior to before concurrence by the department and the agency.~~

~~(5) (4) The department and the agency may at any time review and audit requests for loan disbursements and make adjustments for circumstances including, but not limited to, the following:~~

- ~~(A) Mathematical errors.~~
- ~~(B) Items not bought or built.~~
- ~~(C) Unacceptable construction.~~

~~(6) (5) By its acceptance of the final loan disbursement, the political subdivision participant releases and discharges the department and the agency and its officers, agents, and employees from all liabilities, obligations, and claims arising out of the disbursement of loan proceeds, subject only to exceptions previously specified contractually in writing between the department agency and the political subdivision.~~

~~(7) (6) All files and records pertaining to the project shall be maintained by the political subdivision participant throughout the project and made accessible to the department and the agency. These files and records shall be retained by the political subdivision for at least six (6) years after initiation of operation as determined by the department and the agency. However, if any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the six (6) year period, the records shall be retained until:~~

- ~~(A) completion of the action and resolution of all issues that arise from it; or until~~
- ~~(B) the end of the regular six (6) year period; whichever is later.~~

(Water Pollution Control Board; 327 IAC 14-12-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 47; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 79. 327 IAC 14-13-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-13-1 "Rights" defined

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8
Affected: IC 13-11-2; IC 13-18-16

Sec. 1. The following rights are reserved:

(1) Nothing in this article prohibits a ~~political subdivision~~ **participant** from requiring more:

- (A) assurances;
- (B) guarantees; ~~or~~

(C) indemnity; or

(D) other contractual requirements;

from any party performing work on the project.

(2) Nothing in this article affects the department's and ~~agency~~ **the agency's** right under existing rules to take remedial action, including, but not limited to, administrative enforcement action and actions for breach of contract against a ~~political subdivision participant~~ **participant** that fails to carry out its obligations under this article.

(3) Review or approval of any document by or for the department **or the agency** does not relieve the ~~political subdivision participant~~ **participant** of its responsibility to properly plan, design, build, and effectively operate and maintain the PWS as required by federal and state statutes, rules, regulations, permits, and best management practice. **Neither** the department **nor the agency** is ~~not~~ responsible for increased costs resulting from defects in the plans, design drawings, specifications, inspections, construction, or other subagreement documents related to the project.

(Water Pollution Control Board; 327 IAC 14-13-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 47; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 80. 327 IAC 14-14-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 14-14-1 Review procedures

Authority: IC 13-14-7; IC 13-14-8; IC 13-18-2; IC 13-18-3; IC 13-18-16-8

Affected: IC 13-11-2; IC 13-18-16

Sec. 1. A ~~political subdivision participant~~ **participant** whose:

(1) financial assistance application is denied or disputes the terms contained in the financial assistance agreement; or ~~whose~~

(2) preliminary engineering report or any provisions of its preliminary engineering report as defined in 327 IAC 13-8.1-3 is rejected; may request a special review. The department and the agency shall conduct the review and make a determination. If further review is requested, the ~~political subdivision participant~~ **participant** may present its case to the department and **the** agency. The department and the agency shall make a recommendation to the agency director, whose decision is final.

(Water Pollution Control Board; 327 IAC 14-14-1; filed Aug 28, 1998, 4:53 p.m.: 22 IR 48; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

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 May 11, 2005, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on amendments to rules 327 IAC 13, concerning the wastewater state revolving fund loan, and 327 IAC 14, concerning the drinking water state revolving fund loan programs.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Technical information regarding this action may be obtained from Jim McGoff, SRF Loan Programs, (317) 234-2916, or (888) 290-0016. Additional information regarding this action may be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 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

Indianapolis, Indiana 46204-2251

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Water Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor, Indianapolis, Indiana and are open for public inspection.

Martha Clark Mettler, Chief

Watershed-Planning Branch

Office of Water Quality

Indiana Department of Environmental Management

Executive Orders

**STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS**

EXECUTIVE ORDER: 04-32

FOR: DECLARING A UTILITY SERVICE EMERGENCY IN THE STATE OF INDIANA DURING SEVERE WEATHER

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, on January 5, 2005, conditions existed constituting a utility service emergency because of inclement weather in the form of an ice storm in Northern Indiana; and

WHEREAS, the availability of essential utility services is vital to the welfare and economy of Indiana; and

WHEREAS, the Indiana electric and gas utility industries have requested relief from the requirements of 49 C.F.R. §395.3(a) and §395.3(b) of the Federal Motor Carrier Safety Regulations for commercial motor vehicles while restoring power outages and service interruptions; and

WHEREAS, 49 C.F.R. §390.23 of the Federal Motor Carrier Safety Regulations provides that a governor of a state may declare an emergency thereby exempting owners and operators of commercial motor vehicles from parts 390 through 399 of the Federal Motor Carrier Safety Regulations; and

WHEREAS, under Indiana Code §8-2.1-24-18, the requirements of 49 C.F.R. §395.3(a) and §395.3(b) apply to the drivers of commercial motor vehicles operating in this state, except for vehicles operated in the restoration of utility service; and

WHEREAS, the rapid and efficient restoration of utility services requires the temporary suspension of limitations on the hours of service for drivers of utilities' commercial motor vehicles.

NOW THEREFORE, I, Joseph E. Kernan, by virtue of the authority vested in me as Governor of the State of Indiana as well as Indiana Code §10-4-1-7.1 and 49 C.F.R. Part 390.23, do hereby declare a utility service emergency beginning at noon on January 5, 2005 and extending to noon on January 7, 2005; and order that energy utilities' vehicles and their commercial motor vehicle drivers are exempt from regulations restricting their hours of service during this utility service emergency. This exemption applies only to drivers directly participating in restoration of utility service affected by the inclement weather. Nothing contained in this declaration shall be construed as an exemption from any portion of the Motor Carrier Safety Regulations other than those regulating hours of service.

IN TESTIMONY WHEREOF, I, Joseph E. Kernan have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this fifth day of January, 2005.

BY THE GOVERNOR:
Joseph E. Kernan, Governor of Indiana

SEAL
ATTEST: Todd Rokita
Secretary of State

**STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS**

EXECUTIVE ORDER: 04-33

FOR: DECLARING A DISASTER EMERGENCY IN THE STATE OF INDIANA DUE TO SEVERE WINTER WEATHER.

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, Indiana is in the midst of continuing winter storm that started seven days ago; and

WHEREAS, Northern Indiana is affected by heavy snow, Central Indiana is affected by a severe ice storm and Southern Indiana is affected by near record flooding; and

WHEREAS, nearly 200,000 homes are without power and many will remain without power for days to come; and

WHEREAS, families are being sheltered to protect them from the cold and flood waters; and

WHEREAS, many state, federal and local roads throughout Indiana remain impassable from high water and downed power lines and trees; and

WHEREAS, flooding will continue to worsen as rivers continue to rise; and

WHEREAS, all state resources available are being directed to assist victims of this storm;

NOW, THEREFORE, I Joseph E. Kernan, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby

DECLARE, a state of disaster emergency exists throughout the State of Indiana; and

ORDER the state Emergency Management Agency, having already implemented the State Emergency Plan, to provide needed emergency services to the damaged areas of Indiana impacted by the storms and to coordinate assistance with appropriate federal and state agencies.

This declaration of disaster emergency is in effect beginning January 6, 2005 and continues.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of Indiana this 6th day of January 2005

Joseph E. Kernan
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 04-34

FOR: JAMES LINCOLN, PARDON

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETING:

WHEREAS, JAMES LINCOLN, was convicted in Marion County Court on October 26, 1971 for the offense of Possession of Stolen Goods and received 180 days probation, \$25. Court Costs. He was convicted in Marion County Court on July 21, 1973, for the offense of 15 Narcotic Act, Possession of Heroin and received a sentence of 2-10 years suspended, \$500.00 Court Costs and two (2) years probation. He was convicted in Marion County Court on March 6, 1989, for the offense of Battery and received 180 days probation, \$2.00 Court Costs and 60 days suspended. He was convicted in Marion County Court on October 9, 1990, for the offense of Driving While License Suspended and Operating a Vehicle While Intoxicated and received 365 days probation, 365 days suspended and \$47.00 Court Costs; and

Executive Orders

WHEREAS, the petitioner is currently employed at St. Vincent's Hospital. He served in the United States Marine Corp from October 1965 through September 1969, and received an Honorable Discharge. Petitioner is an active member of the Hovey Street Church of Christ in Indianapolis, Indiana; and

WHEREAS, the petitioner has several letters of support for a pardon from family, friends and his employer; and

WHEREAS, the petitioner requests a pardon stating "I have straightened my life out and I have a great job opportunity awaiting me, providing I can get all felony convictions cleared from my record"; and

WHEREAS, the Parole Board, after careful investigation and examination of all the facts in the case, recommend that this pardon be granted.

NOW THEREFORE, I, Joseph E. Kernan, Governor of the State of Indiana, by virtue of the power vested in me by the Constitution and the laws of said State, hereby issue a pardon to JAMES LINCOLN.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana, at the Capitol, in the City of Indianapolis, this 6th day of January 2005.

By the Governor
Joseph E. Kernan
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 04-34

FOR: EXTENDING A UTILITY SERVICE EMERGENCY IN THE STATE OF INDIANA DURING SEVERE WEATHER

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, on January 5, 2005, conditions existed constituting a utility service emergency because of inclement weather in the form of an ice storm; and

WHEREAS, on January 7, 2005, those conditions continue to exist, including additional inclement weather and the loss of power to thousands of Indiana residents; and

WHEREAS, the availability of essential utility services is vital to the welfare and economy of Indiana; and

WHEREAS, the Indiana electric and gas utility industries have requested additional relief from the requirements of 49 C.F.R. §395.3(a) and §395.3(b) of the Federal Motor Carrier Safety Regulations for commercial motor vehicles while restoring power outages and service interruptions; and

WHEREAS, 49 C.F.R. §390.23 of the Federal Motor Carrier Safety Regulations provides that a governor of a state may declare an emergency thereby exempting owners and operators of commercial motor vehicles from parts 390 through 399 of the Federal Motor Carrier Safety Regulations; and

WHEREAS, under Indiana Code §8-2.1-24-18, the requirements of 49 C.F.R. §395.3(a) and §395.3(b) apply to the drivers of commercial motor vehicles operating in this state, except for vehicles operated in the restoration of utility service; and

WHEREAS, the rapid and efficient restoration of utility services requires the temporary suspension of limitations on the hours of service for drivers of utilities' commercial motor vehicles.

NOW THEREFORE, I, Joseph E. Kernan, by virtue of the authority vested in me as Governor of the State of Indiana as well as Indiana Code §10-4-1-7.1 and 49 C.F.R. Part 390.23, do hereby extend the previously declared utility service emergency that is due to expire at noon on January 7, 2005, and hereby declare an additional utility service emergency from noon on January 7, 2005, extending to noon on January 10, 2005 or such time as my authority as governor expires; and order that energy utilities' vehicles and their commercial motor vehicle drivers are exempt from regulations restricting their hours of service during this utility service emergency. This exemption applies only to drivers directly participating in restoration of utility service affected by the inclement weather, and is intended to permit safe return to assigned home bases of operation at the conclusion of the utility service emergency. Nothing contained in this declaration shall be construed as an exemption from any portion of the Motor Carrier Safety Regulations other than those regulating hours of service. I respectfully request the governors of other states to waive trip and fuel permits and to facilitate travel through their states by commercial motor vehicles responding to this utility service emergency.

IN TESTIMONY WHEREOF, I, Joseph E. Kernan have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 7th day of January, 2005.

By the Governor:
Joseph E. Kernan
Governor of Indiana

SEAL
ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 04-35

FOR: CHARLES I. THURMAN, PARDON

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETING:

WHEREAS, CHARLES I. THURMAN was convicted in Vanderburgh County Circuit Court on January 12, 1978, for the offense of Burglary. He received a sentence of four (4) years; and

WHEREAS, the petitioner has been steadily employed for the last 4 years and has remained a law-abiding citizen since the offense; and

WHEREAS, the petitioner has several letters of support that his pardon be granted from his family, friends and employers; and

WHEREAS, the petitioner requests a pardon, stating "I would like to obtain better employment, be able to hunt and would like to see the felony erased from his record as it occurred a long time ago"; and

WHEREAS, the Parole Board, after careful investigation and examination of all the facts in the case, recommend that this pardon be granted.

NOW THEREFORE, I, Joseph E. Kernan, Governor of the State of Indiana, by virtue of the power vested in me by the Constitution and the laws of said State, hereby issue a pardon to CHARLES I. THURMAN.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana, at the Capitol, in the City of Indianapolis, this 6th day of January 2005.

By the Governor
Joseph E. Kernan
Governor of Indiana

Executive Orders

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 04-37

FOR: CLEMENCY FOR MICHAEL DANIELS, NO. 13135

TO ALL WHOM THESE PRESENTS MAY COME, GREETING:

WHEREAS, Michael Daniels was convicted in Marion Superior Court on September 14, 1979 for the offenses of Felony Murder, Attempted Robbery, and four counts of Robbery; and

WHEREAS, Daniels is guilty of the felony murder of Allen Streett and legally eligible for the death penalty; and

WHEREAS, Daniels' claims have received review by the judicial system; and

WHEREAS, Daniels has asked that his capital sentence be commuted to life without parole; and

WHEREAS, there exist sufficient reasons to commute Daniels' capital sentence, as explained in detail in the document titled Grant of Commutation to Michael Daniels, attached hereto and incorporated in this Executive Order; and

WHEREAS, my review of the facts of this case leads me to exercise clemency by commuting Daniels' capital sentence. This decision is based on the unique circumstances of this case. All the facts, not one single element, cause me to grant clemency.

NOW, THEREFORE, I, Joseph E. Kernan, Governor of the State of Indiana, by virtue of the power vested in me by the Constitution and laws of the State of Indiana, hereby commute the Death sentence of Michael Daniels to Life Without Parole for his conviction of Felony Murder.

IN TESTIMONY WHEREOF, I, Joseph E. Kernan, have hereunto set by hand and caused to be affixed the Great Seal of the State of Indiana, at the Capitol, in the City of Indianapolis, this Seventh day of January, 2005.

Joseph E. Kernan
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-1

FOR: CREATION OF THE OFFICE OF SECRETARY OF COMMERCE AND COORDINATION OF THE STATE'S ECONOMIC DEVELOPMENT AND JOB TRAINING EFFORTS

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, in recent years, Indiana has experienced significant job losses, resulting in diminished hope and opportunity for Hoosiers and a decline in revenues available to address the problems faced by our State;

WHEREAS, fostering opportunities for business growth and job creation is vital to restoring Indiana's economic health and helping Indiana realize its true potential;

WHEREAS, business growth and job creation depend upon the availability of a skilled workforce, resulting in the need for coordination between our State's economic development efforts and its job training and labor programs;

WHEREAS, consistent with the foregoing identification of need, the General Government Subcommittee of the Government Efficiency Commission has recommended the establishment of an office of economic development, headed by a chief economic development officer reporting directly to the Governor with complete responsibility, accountability, and authority for all functions related to economic development and job creation and retention within the State;

WHEREAS, it is in the best interests of the citizens of Indiana to establish the position of Secretary of Commerce to lead Indiana's economic development efforts and to coordinate those efforts with its job training and labor programs;

WHEREAS, the Governor has proposed legislation to the General Assembly that would abolish the Department of Commerce and expedite the transfer of its business development powers and duties to the Indiana Economic Development Corporation (IEDC); and

WHEREAS, it is appropriate and necessary to give immediate effect to actions designed to address the needs and implement the reforms described in this Executive Order;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The position of Secretary of Commerce is hereby created.
2. The Secretary of Commerce shall be appointed by, report directly to, and serve at the pleasure of the Governor.
3. The Secretary of Commerce, shall, among other things, oversee and coordinate the State's efforts to foster business growth, industry modernization, economic diversification, and job creation and retention.
4. The Secretary of Commerce shall be the chief executive officer of the Department of Commerce and, upon the elimination of such department, of the IEDC, and shall have such powers, duties and responsibilities in such capacity as may be set forth by statute upon enactment of legislation or as may be designated by the Governor from time to time consistent with the exercise of executive authority under the Constitution and laws of the State.
5. In furtherance of the goal of coordinating the State's economic development efforts with its job training and labor programs, the Commissioner of the Department of Workforce Development (DWD) and the Commissioner of the Department of Labor, each of whom is appointed by and serves at the pleasure of the Governor, shall report to the Secretary of Commerce.
6. Consistent with the foregoing, and as a means of providing for the consolidation of all job training programs under the Secretary of Commerce, the Commissioner of the DWD and the Secretary of the Family and Social Services Administration (FSSA) are hereby authorized and directed to enter into such inter-agency agreements or memoranda of understanding and to take such other actions as may be necessary in order to provide for DWD's administration, to the fullest extent permitted by law, of the Indiana Manpower and Comprehensive Training (IMPACT) job training programs currently administered by the FSSA's Division of Family and Children.
7. Upon the enactment of the legislation by the General Assembly to codify the measures described in paragraphs 1 through 5 of this Executive Order, this Executive Order shall expire as to those measures; provided, however, that this Executive Order shall continue in effect as to the measures described in paragraph 6 hereof.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

**STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS**

EXECUTIVE ORDER: 05-2

FOR: CREATION OF THE OFFICE OF MANAGEMENT AND BUDGET

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, the State has, in recent years, suffered a series of budget deficits due to a combination of overspending, less than anticipated tax revenues, and ineffective budgeting practices;

WHEREAS, many state government practices have subjected businesses, and particularly small businesses, to burdensome laws and regulations, and have done so in the absence of any analysis to ascertain whether the burdens imposed by such laws and regulations are justified by their benefits;

WHEREAS, due to the serious fiscal problems facing our State, the State requires a new financial oversight and management mechanism to restore the soundness of its budget process, to ensure that effective financial management policies are implemented throughout state government, to coordinate all functions related to budgeting and controlling spending in state government, to measure the performance of government activities, and to subject state laws and regulations to a rigorous cost-benefit analysis;

WHEREAS, consistent with the foregoing identification of need, the General Government Subcommittee of the Government Efficiency Commission has recommended the establishment of the position of a chief state fiscal officer to report directly to the Governor with responsibility, accountability and authority for (i) all functions currently performed by the State Budget Agency, (ii) all accounting and accounting-related functions now occurring within the various agencies, departments and programs of state government, and (iii) all those functions now performed by the Department of Revenue, the Department of Local Government Finance and all other agencies, departments, and programs related to budgeting and controlling spending in state government; and

WHEREAS, it is appropriate and necessary to give immediate effect to actions designed to address the need and implement the reforms described in this Executive Order;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Office of Management and Budget (OMB) is hereby created.
2. A Director of the OMB, who shall serve at the pleasure of the Governor, shall be appointed by the Governor and shall be the chief financial officer of the State.
3. The OMB Director shall serve as the director of the State Budget Agency (SBA) until such time as the Governor may appoint a separate individual to serve as director of the SBA. For so long as the OMB Director serves as the director of the SBA, the OMB Director shall not be entitled to receive any salary or other compensation in his capacity as OMB Director.
4. To the fullest extent permitted by law, the OMB shall:
 - a. perform a cost-benefit analysis upon the final promulgation of new regulations, and provide to the Governor an assessment of the impact on Indiana business of such regulations;
 - b. assist the Governor in the articulation, development, and execution of the Governor's policies and programs on fiscal management;
 - c. be involved, on behalf of the Governor, in the development and review of all policy, legislative, and regulatory proposals affecting capital budgeting, procurement, e-government, and other matters related to fiscal management;
 - d. coordinate the review and clearance of the Governor's legislative proposals and statements on bills pending before the General Assembly;
 - e. monitor the General Assembly's action on spending legislation, report to the Governor as necessary on such action, and articulate the Governor's position on proposed spending legislation;
 - f. harmonize agency views on legislation and facilitate the negotiation of policy positions relating to the Governor's policies, legislative priorities, and programs;
 - g. provide expertise for budget decision-making and negotiations;
 - h. analyze trends in, and the consequences of, aggregate budget policy; and
 - i. establish metrics, with the approval of the Governor, for measuring state government performance and efficiency.

5. In furtherance of the goal of coordinating the State's financial management functions, the Director of the SBA, the Commissioner of the Department of Revenue, the Public Finance Director, and the Commissioner of the Department of Local Government Finance, all of whom are appointed by and serve at the pleasure of the Governor, shall report to the Director of the OMB and administer their offices and agencies in compliance with such policies and procedures related to fiscal management as may be established by the OMB and approved by the Governor.

6. All instrumentalities, agencies, authorities, boards, commissions, and officers of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State, shall, to the fullest extent permitted by law, comply with such policies and procedures related to fiscal management as may be established by the OMB and approved by the Governor.

7. The OMB shall oversee and coordinate the functions, responsibilities, and duties of the Public Employment Retirement Fund (PERF), the Teachers Retirement Fund (TRF), and the State Board of Accounts to the fullest extent permitted by law.

8. All state agencies, as defined in IC 4-13-1-1, shall, in addition to complying with all relevant statutory duties related to state purchasing, be accountable to the OMB for adherence to policies and procedures on public procurement and spending controls established by the OMB and approved by the Governor.

9. The Division of Government Efficiency and Financial Planning is hereby established within the OMB. The Director of OMB shall appoint, subject to the approval of the Governor, a director of this division, who shall serve at the pleasure of the Director of OMB. This division shall conduct operational and procedural audits of state government, perform financial planning, design and implement efficiency projects, and carry out such other responsibilities as may be designated by the Director of OMB.

10. This Executive Order shall expire upon the enactment of legislation by the General Assembly to codify the creation and functions of the OMB as described in this Executive Order.

11. All instrumentalities, agencies, authorities, boards, commissions, and officers of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State, shall cooperate and provide assistance to the OMB in implementing this Executive Order to the fullest extent permitted by law.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-3

FOR: CREATION OF THE OFFICE OF INSPECTOR GENERAL

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, Hoosiers deserve to know that government decisions are being made in the public interest, not because of gifts, political contributions, or undue influence;

WHEREAS, it is imperative that clear ethics guidelines be developed and rigorously enforced to ensure that all state employees meet the highest standards of conduct;

WHEREAS, the federal government and many other states have created the position of Inspector General to root out fraud and ethical misconduct and serve as a public watchdog on behalf of taxpayers;

WHEREAS, Indiana must create the position of Inspector General and should model the position after that of the federal government, which annually recovers over \$5.5 billion as a result of its efforts;

Executive Orders

WHEREAS, the Governor has proposed legislation to the General Assembly that would codify the creation of the Office of Inspector General;

WHEREAS, it is appropriate and necessary to give immediate effect to actions designed to address the need and implement the reforms described in this Executive Order;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Office of Inspector General (OIG) is hereby created and shall be responsible for addressing fraud, waste, abuse, and wrongdoing in state government.
2. An Inspector General shall be appointed by and serve at the pleasure of the Governor. The Inspector General shall be an attorney licensed to practice law in Indiana.
3. The Inspector General shall be the director of the OIG and may appoint such additional staff of deputy inspectors general, investigators, auditors, and clerical employees as may be necessary to carry out the duties of the OIG.
4. The Inspector General shall:
 - a. Initiate, supervise, and coordinate investigations;
 - b. Recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, and misconduct in state government;
 - c. Receive complaints alleging the following:
 - i. A violation of the code of ethics referred to in subparagraph 4(e) below;
 - ii. Bribery (IC 35-44-1-1);
 - iii. Official misconduct (IC 35-44-1-2);
 - iv. Conflict of interest (IC 35-44-1-3);
 - v. Profiteering from public service (IC 35-44-1-7);
 - vi. A violation of the executive branch lobbying rules (Executive Order 04-11); and
 - vii. A violation of a statute or rule relating to the purchase of goods or services by a current or former state employee, state officer, special state appointee, lobbyist, or person who has a business relationship with an agency.
 - d. Report the suspected crime to the Governor and appropriate state or federal law enforcement agencies or prosecuting authorities having jurisdiction over the matter if the Inspector General has reasonable cause to believe that a crime has occurred or is occurring;
 - e. Adopt a code of ethics for the conduct of state business in a manner consistent with Indiana law;
 - f. Ensure that every state employee, state officer, special state appointee, and person who has a business relationship with an agency is properly trained in the code of ethics;
 - g. Provide advice to agencies on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agencies; and
 - h. Recommend legislation to the Governor and the General Assembly to strengthen public integrity laws.
5. The Inspector General shall have such other powers, duties, and responsibilities as may be set forth by statute upon enactment of legislation or as may be designated from time to time by the Governor consistent with the exercise of executive authority under the Constitution and laws of the State.
6. If, after investigation, the Inspector General determines that there is specific and credible evidence that a current or former state employee, a current or former state officer, a current or former special state appointee, or a person who has or had a business relationship with an agency has violated the code of ethics, the Inspector General may file a complaint with the State Ethics Commission and represent the State in a public proceeding before such Commission or negotiate an agreed settlement for approval by such Commission, in each case according to its rules.
7. The State Ethics Commission shall continue to be the adjudicative body for all alleged ethics violations. The Inspector General shall provide staff for the State Ethics Commission and assume the responsibility for investigating and initiating administrative, civil recovery, or criminal actions for alleged misconduct.
8. All instrumentalities, agencies, authorities, boards, commissions, and officers of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State, shall cooperate and provide assistance to the OIG in implementing this Executive Order to the fullest extent permitted by law.
9. This Executive Order shall expire upon the enactment of legislation by the General Assembly to codify the measures described in this Executive Order.
10. Executive Order 04-09 establishing the Office of Chief Investigator is hereby superseded.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-4

FOR: CONTINUING THE OFFICE OF PUBLIC FINANCE

WHEREAS, Executive Order 01-17, dated December 3, 2001, created the Office of Public Finance for the State, and Executive Order 03-36, effective September 13, 2003 (collectively, with Executive Order 01-17, the “Prior Orders”), continued the Office of Public Finance;

WHEREAS, the establishment of the Public Finance Office recognized the importance to the State of formulating and applying policies for the management of bonds, notes, and other evidences of indebtedness issued by bodies corporate and politic and instrumentalities of the State;

WHEREAS, it is in the interest of all Hoosiers that the State communicate regularly, substantively, and in one voice with participants in the financial markets, including credit rating agencies, investment bankers, investors, municipal bond insurers, and other credit enhancers and underwriters; and

WHEREAS, it is in the best interest of the State to continue the work of the Public Finance Office;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Office of Public Finance created under the Prior Orders (the “Public Finance Office”) shall be continued.
2. The Public Finance Office shall be managed by the Public Finance Director, who shall specialize in public finance, debt issuance, and management and pension investment matters for the State. The Public Finance Director shall report to the Director of the Office of Management and Budget (OMB), and shall be appointed by and serve at the pleasure of the Governor.
3. The Public Finance Director and employees of the Public Finance Office shall be employed by (and housed within) the Indiana Development Finance Authority (IDFA) or the Indiana Transportation Finance Authority (ITFA).
4. The Public Finance Director is authorized and directed to establish and manage an annual budget funded through contributions from those issuers of bonds, notes and other evidences of indebtedness and programs that benefit from the work of the Public Finance Office. Such issuers and programs include, but are not limited to, the IDFA, Indiana Port Commission, Indiana Recreational Development Commission, State Fair Commission, Indiana State Office Building Commission and ITFA, and the State Wastewater Revolving Loan Program and State Drinking Water Revolving Loan Program (the “Issuers” and the “Programs”). To the extent the Public Finance Office provides financial advisory services to an Issuer or a Program, the Public Finance Office may be compensated from proceeds of the sale of bonds, notes, or other evidences of indebtedness.
5. The Public Finance Director is authorized to hire such staff as may be necessary or appropriate with the prior approval of the Director of the Office of Management and Budget.
6. The Public Finance Director shall coordinate, monitor, and oversee the debt issuance and management and investment activities of all the Issuers and Programs, including such additional issuers and programs as the Governor or the Director of OMB may designate or direct from time to time.
7. The Public Finance Director shall also advise the Director of OMB and the Governor as to debt issuance and management activities and investment matters of all bodies corporate and politic and instrumentalities of the State and programs that benefit the State and its citizens or for-profit and non-profit organizations, including issuers of “conduit debt” (the “Special Purpose Issuers” and the “Special Programs”). Special Purpose Issuers and Special Programs include, but are not limited to, the Board for Depositories, IDFA, Indiana Educational Facilities Authority, Indiana Health Facility Financing Authority, Indiana Housing

Executive Orders

Finance Authority, Intelenet Commission, Indiana Political Subdivision Risk Management Commission, Indiana Secondary Market for Education Loans, Inc., the Indiana White River State Park Development Commission, and the Public Employees' Retirement Fund (PERF) and Indiana State Teachers' Retirement Fund (TRF).

8. The Public Finance Director is further authorized and directed to:

- a. in connection with the Issuers and the Programs, retain bond and other financing- and project-related legal counsel and such other financial advisers, investment bankers and project consultants and underwriters as may be necessary or appropriate;
- b. monitor or oversee, as appropriate, all issues of bonds, notes, and other evidences of indebtedness which are (or may be) (i) payable from state appropriations, (ii) secured by a state moral obligation, or (iii) purchased by or for a state fund, including, but not limited to, any Program or Special Program;
- c. advise and work with the Director of OMB on debt issuance and management and investment matters, including a debt database;
- d. work with the Treasurer and the staff of the Indiana Bond Bank on debt issuance and management and investment matters;
- e. advise and work with the Indiana Commission for Higher Education on debt issuance and management and investment matters;
- f. advise and work with the Special Purpose Issuers and Special Programs on debt issuance and management and investment matters;
- g. coordinate all communications with and presentations to credit rating agencies, investors and prospective investors with respect to the State and its credit and economy, the Issuers and the Programs;
- h. participate in meetings of investment committees and task forces of or for Special Programs, including PERF and TRF;
- i. when designated or otherwise authorized by the Governor, chair the ITFA and the Board for Depositories and, when requested by the Governor, serve as the Governor's representative on finance and related boards;
- j. recommend qualified candidates for membership on finance and related boards, including those of the Issuers and Programs and the Special Purpose Issuers and Special Programs;
- k. advise Issuers and Programs on good disclosure practices and coordinate and help Issuers and Programs fulfill their current and continuing disclosure obligations;
- l. advise the Governor and the Director of OMB on legislation that may affect debt issuance and management, investment matters, or outstanding bonds, notes, and other evidences of indebtedness issued by or for the Issuers and Programs or the Special Purpose Issuers and Special Programs.

9. All executive department agencies, authorities, boards, bodies corporate and politic, commissions, instrumentalities, officers, public corporations and Issuers, Programs, Special Purpose Issuers and Special Programs of the State shall cooperate with and provide assistance and information to the Public Finance Director in the implementation of this Executive Order to the fullest extent permitted by law.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-5

FOR: ESTABLISHMENT OF THE "BUY INDIANA" PRESUMPTION

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, over \$.40 of every public purchasing dollar in state government is being spent outside Indiana and, as a result, the public's business is being transacted with out-of-state companies out of the public's view; and

WHEREAS, when our tax dollars are spent on goods and services provided by Indiana-based businesses that employ Hoosiers, our State benefits from increased employment opportunities, more tax revenues to fund our schools, roads, police and fire protection, health care, and other public services, and enhanced oversight of the use of public funds;

NOW, THEREFORE, I, **Mitchell E. Daniels, Jr.**, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. Subject to such policies and procedures as may be developed and approved in accordance with paragraph 3 below, state procurement shall be subject to a "Buy Indiana" presumption requiring state agencies to buy their supplies and services from "Indiana businesses," as defined by IC 5-22-15-20.5.
2. The Department of Administration (DOA) shall undertake all efforts to increase the percentage of state procurement from Indiana businesses to 90 percent of the State's total procurement volume.
3. In furtherance of such efforts, the Commissioner of Administration shall, as soon as practicable following the date hereof, develop procurement policies and procedures to give effect to the "Buy Indiana" presumption. Such policies and procedures, which shall be subject to the Governor's approval, shall set forth the guidelines (and any *de minimis* or other exceptions thereto) to be followed by state agencies in conducting their procurement efforts on the basis of the "Buy Indiana" presumption.
4. The DOA shall also promulgate rules and, if necessary, recommend such legislative reform as may be necessary to implement more fully this "Buy Indiana" presumption.
5. State contracts that do not meet any of the *de minimis* or other exceptions under the Buy Indiana policies and procedures shall only be awarded to "out-of-state businesses," as defined by IC 5-22-15-20(b), upon the DOA's approval of a written request by the contracting agency for a waiver of the "Buy Indiana" presumption. This written request shall set forth (a) the reasons for seeking the waiver and (b) list each Indiana business that submitted a bid to provide the goods or perform the services sought by the State.
6. This Executive Order shall not be deemed to authorize any state agency, as defined in IC 4-13-1-1, to conduct its purchasing functions in a manner contrary to applicable law, nor shall it create any right or benefit, substantive or procedural, enforceable at law or equity by any person against the State, its agencies or instrumentalities, its officers or employees, or any other person.
7. This Executive Order shall not apply to procurement of supplies and services to address immediate and serious government needs at a time of emergency, including without limitation a threat to the public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, or such other threat as may be proclaimed by the Governor or determined by the Commissioner of Administration.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-6

FOR: DIRECTIVE TO ACCOUNT FOR ALL STATE ASSETS AND TO DIVEST OF UNUSED OR UNDERUTILIZED ASSETS

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

Executive Orders

WHEREAS, state government is entrusted with managing its assets to optimize public services without unnecessary expense;

WHEREAS, this responsibility for management and efficient stewardship includes ensuring proper utilization and maintenance of state assets, acting judiciously to increase assets as necessary to meet heightened needs for public services, and acting prudently to decrease assets when there exists an asset surplus relative to such needs;

WHEREAS, the State does not currently have an accurate account of all state assets, many of which are unused or underutilized;

WHEREAS, by one estimate, the State owns one vehicle for every three state employees;

WHEREAS, the absence of an accurate inventory and the inefficient use of state assets burden Hoosier taxpayers with unnecessary expense; and

WHEREAS, the State would benefit from efforts to identify and dispose of unused and underutilized assets in order to redeploy its capital to new and more productive uses;

NOW, THEREFORE, I, **Mitchell E. Daniels, Jr.**, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Department of Administration (DOA) and the Office of Management and Budget (OMB) shall provide a detailed accounting of all state assets to the Governor by July 1, 2005. In their accounting, the DOA and the OMB shall specifically identify all unused, underutilized, or otherwise unnecessary state assets. Any property subject to any legal protection or impediment restricting the sale of such property shall also be specifically identified. The DOA and the OMB shall also recommend to the Governor options for disposing of such assets, specifically noting the most efficient and profitable means of doing so, and shall also recommend any necessary reforms to improve state asset management.
2. In order to complete the aforementioned accounting, all state agencies shall provide a complete inventory of their real and personal property in compliance with guidelines to be issued as soon as practicable following the date hereof by the Commissioner of Administration in conjunction with the Director of OMB. Such guidelines shall specify the methodology to be followed by the agencies in conducting the inventory, including requirements (and any *de minimis* exceptions thereto) for providing asset descriptions, identifying the purposes for which such assets are being used, and, in the case of unused, underutilized or otherwise unnecessary assets, providing suggestions for the most efficient and profitable means of disposing of such assets.
3. Other entities of state government not under the Governor's direct executive authority, including constitutional officers, the legislative and judicial branches, and the public institutions of higher education are requested to participate actively in this effort.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-7

FOR: DIRECTIVE TO THE DEPARTMENT OF ADMINISTRATION TO LOG WRITTEN STATE CONTRACTS ON THE INTERNET

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, it is the policy of this Administration that all persons are entitled to full and complete information regarding the affairs of government;

WHEREAS, Hoosiers have every right to know how their hard-earned tax dollars are spent in state contracts; and

WHEREAS, the State would enjoy the benefits of increased competition if potential state contractors could easily review the significant aspects of state contracts.

NOW, THEREFORE, I, **Mitchell E. Daniels, Jr.**, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. As soon as practicable following the date hereof, the significant terms and conditions and other key elements of all written contracts to which the State becomes a party shall be summarized and logged on the Internet.
2. The Department of Administration (DOA) shall, subject to the approval of the Governor, develop policies and procedures to implement the program described in this Executive Order. Such policies and procedures shall prescribe the methodology for indexing the contract information and identify the criteria to be used to determine which contracts, if any, should be exempted from this program.
3. The index of contracts shall be searchable, free of charge, by Electronic Document Summary number, contracting agency, vendor, contract amount, and any other data included in the index.
4. As part of this program, the DOA shall also make available on the Internet the total number of state contracts entered into each year, the total amount of dollars awarded under state contracts each year, and the number and percentage of Indiana businesses and out-of-state businesses to whom state contracts are awarded each year as prescribed by Executive Order 05-05.
5. All instrumentalities, agencies, authorities, boards, commissions, and officers of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State, shall cooperate and provide assistance to the DOA in implementing this Executive Order to the fullest extent permitted by law.
6. The Commissioner of Administration shall report to the Governor by July 1, 2005, on the status of the implementation of this Executive Order.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-8

FOR: CREATION OF THE OFFICE OF FEDERAL GRANTS AND PROCUREMENT

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, federal and federally-assisted development, grant, loan, and planning activities have a significant effect on the economic, social, and aesthetic well-being of the citizens of Indiana;

WHEREAS, the maximum benefits from these federal programs are only achieved in a framework of coordination and cooperation;

Executive Orders

WHEREAS, Indiana recently placed near the bottom of multiple lists ranking states by the amount of federal grant money they received;

WHEREAS, Indiana is 52nd in the nation in securing federal education grants and 51st in the nation in securing health and human services grants;

WHEREAS, it is imperative that Indiana be as competitive as any other state in securing federal grants;

WHEREAS, in 1982, President Reagan issued Executive Order 12372, "Intergovernmental Review of Federal Programs," which provided states with an opportunity to review and coordinate proposed federal financial assistance and direct federal development;

WHEREAS, Executive Order 12372 allows each state to designate an entity to establish a clearinghouse for seeking federal grants; and

WHEREAS, a state clearinghouse for seeking federal grants should be created to eliminate duplication, ensure proposals are in accord with state plans, policies, programs, objectives and procedures, determine if the proposed project is fiscally and environmentally sound, and provide information to state government and businesses concerning proposed activities that may affect them;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Office of Federal Grants and Procurement (OFGP) is hereby created. The OFGP shall have a direct relationship to the Office of the Governor.
2. The Director of the OFGP shall be appointed by and shall serve at the pleasure of the Governor.
3. In accordance with federal law, the OFGP shall serve as the single point of contact (SPOC) for federal assistance applications in the State.
4. The OFGP shall log, assign a State Application Identifier (SAI) to, and review all proposals for federal assistance in accordance with applicable federal and state laws.
5. The OFGP shall review the best practices of other SPOCs that have been designated to participate in the intergovernmental review process with the U.S. Office of Management and Budget and promulgate all necessary and proper rules and regulations to carry out this essential function.
6. Executive Order 10-83 designating the State Budget Agency as the state agency responsible for the administration of the procedures for Intergovernmental Review is hereby superseded.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-9

FOR: ESTABLISHING AND CLARIFYING DUTIES OF STATE AGENCIES FOR ALL MATTERS RELATING TO EMERGENCY MANAGEMENT

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, under the provisions of IC 10-14-3, the *Emergency Management and Disaster Law*, the Governor is charged with the responsibility for ensuring that a comprehensive emergency management program exists that addresses all aspects of emergency and disaster mitigation, preparedness, response, and recovery;

WHEREAS, the State, its political subdivisions and citizens are subject to natural disasters on a regular basis including, but not limited to, floods, tornadoes, severe winter storms, earthquakes, and droughts;

WHEREAS, the State, its political subdivisions, and citizens are subject to disasters caused by humans or technology including, but not limited to, hazardous material spills, widespread contamination, explosions, fires, major power failures, transportation accidents, and acts of terrorism;

WHEREAS, the State, its political subdivisions, and citizens could be subject to disasters and emergencies related to our national security, including military attack and terrorist activity;

WHEREAS, in order to protect the public health, welfare, and safety and preserve the lives and property of the people of this State from such emergencies and disasters, the Indiana State Emergency Management Agency, under the provisions of IC 10-14-2-4, is charged with the responsibility for coordinating the State's comprehensive emergency management program under the direction of the Governor; and

WHEREAS, it is appropriate and necessary to establish and clarify the duties and responsibilities of all state agencies in order that a comprehensive emergency management program can be successfully implemented;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Director of the State Emergency Management Agency, appointed pursuant to IC 10-14-2-2, or in the Director's absence the person designated in the State Emergency Operations Plan, is hereby designated to act as the State Coordinating Officer (SCO) for all matters relating to emergency and disaster mitigation, preparedness, response, and recovery in this State, and in all matters relating to the Federal Emergency Management Agency.
2. The Governor's Emergency Advisory Group is reestablished and continued. The Governor's Emergency Advisory Group is composed of the following members:
 - Superintendent of the Indiana State Police Department;
 - Commissioner of the Indiana Department of Environmental Management;
 - Commissioner of the Indiana Department of Transportation;
 - Director of the Department of Natural Resources;
 - State Fire Marshal;
 - Indiana Adjutant General;
 - Director of the State Emergency Management Agency;
 - Commissioner of the Indiana State Department of Health;
 - Director of the Indiana Counterterrorism and Security Council; and
 - Governor's Liaison for Public Safety Issues.
3. The Director of the State Emergency Management Agency shall act as chairperson of the Emergency Advisory Group. Each member of the Emergency Advisory Group may designate a deputy to serve as an alternate in the event that the principal member is unavailable to participate in meetings of the Emergency Advisory Group.
4. The Director of the State Emergency Management Agency shall reestablish and continue the Indiana State Hazard Mitigation Council.
 - a. The Council shall:
 - i. Assist in the development, maintenance, and implementation of a state hazard mitigation plan;
 - ii. Assist in the development, maintenance and implementation of guidance and informational materials to support hazard mitigation efforts of local and state government and private entities;
 - iii. Solicit, review and identify hazard mitigation projects for funding under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended, and sections 553 and 554 of the National Flood Insurance Reform Act, P.L. 103-325; and
 - iv. Foster and promote, where appropriate, hazard mitigation principles and practices within local and state government and the general public.
 - b. The Governor, with the advice of the Director of the State Emergency Management Agency, shall appoint members to serve on the Council. Each member of the Council shall serve without compensation or reimbursement for expenses, except that each member of the Council who is a state employee is entitled to reimbursement from his or her employing agency for travel expenses and other expenses actually incurred in connection with the member's duties as provided in state policies and procedures.
 - c. The Director of the State Emergency Management Agency shall serve as chairperson of the Council.

5. In accordance with IC 10-14-3-9 and IC 10-14-3-19, the Director of the State Emergency Management Agency shall create and establish mobile support units to reinforce emergency management and disaster organizations in stricken areas and with due consideration of the plans of the federal government and of other states.

6. Whenever the Director of the State Emergency Management Agency exercises his or her authority as the SCO, he or she shall be authorized to use and allocate the services, facilities, equipment, personnel, and resources of any state agency, on the Governor's behalf, as reasonably necessary in the preparation for, response to or recovery from any emergency or disaster situation that threatens, or has occurred in, this State. Upon the SCO's request for such assistance from a state agency, all officers of that agency shall cooperate to the fullest extent possible. This authority to use and allocate state agency resources extends to their use before a formal declaration of a State Disaster Emergency, as provided for under IC 10-14-3-12, and is subject to the Governor's subsequent approval. The cost of providing such services, facilities, equipment, personnel, and resources shall be borne by the providing state agency, unless otherwise notified that federal and/or other state funding reimbursement is determined to be available or other payment arrangements are made.

7. In order to expedite emergency response and recovery operations, one or more state agencies may be designated as lead agencies by the SCO for various portions of the overall state response and recovery efforts. All actions of such designated lead state agencies shall be coordinated with, and through, the SCO. Additionally, state agencies may be required to participate in the training, exercising and actual deployment of mobile support teams, such as the State's Forward Response Team.

8. Each agency of state government shall report any threatened or actual occurrences of natural, technological, human-caused, or national security emergencies that may require the resources of more than one agency of state government to the Director of the State Emergency Management Agency by the fastest means available. In the event of a threatened or actual occurrence of an emergency or disaster, the Director of the State Emergency Management Agency shall consult with the Governor, or with the Governor's Chief of Staff in the Governor's absence, as soon as possible.

9. In the event of a threatened or actual occurrence of an emergency or disaster, and upon the request of the Director of the State Emergency Management Agency, each agency of state government shall promptly send the agency's designated emergency management coordinator or designee to the State Emergency Operations Center to monitor and analyze information and participate as its representative in performing all tasks relating to the State's response to the incident.

10. In accordance with IC 10-14-3-9, the Director of the State Emergency Management Agency shall ensure that the State's Emergency Operations Plan and all accompanying annexes, appendices and standard operation procedures are kept current. Additionally, these plans and procedures are to be developed in coordination with similar plans and procedures developed by the federal government. In order to accomplish these tasks, all state agencies shall assist in the development, preparation, and revision of the portions of these plans and procedures that relate to each individual agency's mission, responsibility and capability.

11. Upon the request of the Director of the State Emergency Management Agency, all state agencies shall participate to the fullest extent possible in emergency management training programs, as well as in exercises of the comprehensive emergency management system, or portions thereof.

12. Each state agency shall develop and keep current a continuity of operations plan to ensure that its essential functions are performed during any emergency or situation that may disrupt normal operation. This plan shall be developed and maintained consistent with the guidelines of, and in cooperation with, the State Emergency Management Agency and shall be submitted to the State Emergency Management Agency and the Governor. Each agency emergency management coordinator shall participate in plan reviews, training and exercises organized by the State Emergency Management Agency and shall conduct internal training and exercises of appropriate agency employees to ensure that the plan can be implemented with little or no notice.

13. The United States Department of Homeland Security has adopted a National Incident Management System that establishes standardized incident management processes, protocols, and procedures that all responders -- Federal, state, tribal, and local -- will use to coordinate and conduct response actions. Said National Incident Management System is hereby established as the state standard for incident management.

14. In order to assist the State Emergency Management Agency in carrying out its responsibilities, the following state agencies shall immediately designate one or more senior officials to act as the agency's emergency management coordinator for all emergency and disaster matters and shall submit the name of the coordinator to the Director of the State Emergency Management Agency:

- Alcohol and Tobacco Commission created by IC 7.1-2-1-1;
- Budget Agency created by IC 4-12-1-3;
- Bureau of Motor Vehicles created by IC 9-14-1-1;
- Civil Rights Commission created by IC 22-9-1-4;
- Commissioner of Agriculture created by IC 4-4-3-2;
- Commission on Public Records created by IC 5-15-1.5-3;

- Counterterrorism and Security Council created by IC 4-3-20-2;
- Department of Commerce created by IC 4-4-3-2;
- Department of Correction created by IC 11-8-2-1;
- Department of Education created by IC 20-1-1.1-2;
- Department of Environmental Management created by IC 13-13-1-1;
- Department of Financial Institutions created by IC 28-11-1-1;
- Department of Insurance created by IC 27-1-1-1;
- Department of Labor created by IC 22-1-1-1;
- Department of Local Government Finance created by IC 6-1.1-30-1.1;
- Department of Natural Resources created by IC 14-9-1-1;
- Department of State Revenue created by IC 6-8.1-2-1;
- Department of Workforce Development created by IC 22-4.1-2-1;
- Fire and Building Services Department created by IC 22-12-5-1;
- Governor's Council for People with Disabilities created by IC 4-23-29-7;
- Health Professions Bureau created by IC 25-1-5-3;
- Indiana Department of Administration created by IC 4-13-1-2;
- Indiana Department of Transportation created by IC 8-23-2-1;
- Indiana Gaming Commission created by IC 4-33-3-1;
- Indiana Grain Buyers and Warehouse Licensing Agency created by IC 26-3-7-1;
- Indiana Housing Finance Authority created by IC 5-20-1-3;
- Indiana Port Commission created by IC 8-10-1-3;
- Indiana Professional Licensing Agency created by IC 25-1-6-3;
- Indiana State Board of Animal Health created by IC 15-2.1-3-1;
- Indiana Utility Regulatory Commission created by IC 8-1-1-2;
- Intelenet Commission created by IC 5-21-2-1;
- Law Enforcement Training Board created by IC 5-2-1-3;
- Military Department of the State created by IC 10-16-2-1;
- Office of Attorney General created by IC 4-6-1-2;
- Office of Auditor of State created by Article VI, Section 1 of the Indiana Constitution;
- Office of the Secretary of Family and Social Services created by IC 12-8-1-1;
- Office of Secretary of State created by Article VI, Section 1 of the Indiana Constitution;
- Office of Treasurer of State created by Article VI, Section 1 of the Indiana Constitution;
- Office of Utility Consumer Counselor created by IC 8-1-1.1-2;
- Professional Standards Board created by IC 20-1-1.4-2;
- Public Safety Institute created by IC 5-2-10.5-4;
- State Board of Accounts created by IC 5-11-1-1;
- State Department of Health created by IC 16-19-1-1;
- State Information Technology Oversight Commission created by IC 4-23-16-1;
- State Office Building Commission created by IC 4-13.5-1-1.5;
- State Personnel Department created by IC 4-15-1.8-2;
- State Police Department created by IC 10-11-2-4; and
- Worker's Compensation Board created by IC 22-3-1-1;

15. All state agencies, departments, commissions, bureaus, institutions and other authorities in state government shall cooperate to the fullest extent possible with this Executive Order.

16. Executive Order 03-34 addressing the same subject matter covered by this Executive Order is hereby superseded.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

Executive Orders

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-10

FOR: DIRECTIVE TO ESTABLISH MEDICAL ERROR REPORTING AND QUALITY SYSTEM

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, Indiana's hospitals are among the most advanced in the country and must continue to lead the way in improving patient care and health outcomes;

WHEREAS, a landmark report by the Institute of Medicine and other evidence demonstrates that medical errors are among the leading causes of death in the United States and impose an enormous economic cost on families and businesses;

WHEREAS, a growing, widely respected body of standards, best practices, and technical support services now exists on which to construct medical error reporting and quality systems (MERS), including the work of the Hospital Quality Initiative of the federal Department of Health and Human Services, the Institute for Healthcare Improvement, and the "Leapfrog Group" of private business and healthcare purchasers;

WHEREAS, hospitals across the country are implementing MERS to improve healthcare and demonstrate to both health professionals and the public that procedures can be implemented to reduce medical errors by identifying and controlling the associated hazards;

WHEREAS, successfully implemented MERSs reduce the frequency of medical errors and can reveal the causes for errors and empower healthcare professionals to design methods to prevent or discover errors before patients are harmed; and

WHEREAS, Indiana hospitals are not currently required to implement a MERS, and the successful implementation of a MERS would likely radically improve Hoosier healthcare and lessen healthcare costs;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. As soon as practicable, the Department of Health (DOH) shall promulgate regulation, and, if necessary, propose legislation, requiring each hospital in this State to implement a MERS.
2. The DOH shall confer with various representatives of the State's hospitals, physicians, nurses, pharmacists, and quality improvement experts and consult best practices guides, including the 10-measure "starter set" of quality reporting indicators that are supported by the federal Hospital Quality Initiative, to develop minimum standards applicable to every MERS in the State.
3. To ensure that each hospital's MERS is effective, the MERS should, at a minimum:
 - a. ensure that patients' and healthcare professionals' identities are kept confidential and not discoverable in any court or administrative proceeding;
 - b. not be used as the basis for punishing any healthcare professional;
 - c. require all healthcare professionals to report medical errors promptly;
 - d. require hospitals to report all MERS data to the DOH, which shall make the information available on its website for the public to see which hospitals are the most successful in reducing medical errors;
 - e. require DOH to regularly disseminate medical error data and trends analysis to hospital administrators, front-line caregivers, and the public so that hospitals can implement useful error prevention strategies;
 - f. require hospitals to provide patients with easy to understand aggregate data and trends analysis so that patients understand their role in helping to prevent errors; and
 - g. require hospitals to share successful solutions and improvements with other hospitals.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-11

FOR: RECOGNITION OF PRIVATE MINORITY BUSINESS ENTERPRISE CERTIFICATION

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, the State has taken up to twelve months to approve an application for a Minority Business Enterprise (MBE) certification for state contracting purposes and, as a result, minority small business owners are losing business opportunities while waiting for an MBE certification;

WHEREAS, in contrast, the Indiana Regional Minority Supplier Development Council (IRMSDC) takes only three to five weeks to grant such a certification, which is recognized and accepted by well-regarded companies across Indiana;

WHEREAS, the State does not currently recognize the IRMSDC certification; and

WHEREAS, the IRMSDC certification should be recognized and accepted by this State, and the Department of Administration (DOA) should strive to ensure that applications for MBE certifications will be processed within sixty (60) days;

NOW, THEREFORE, I, **Mitchell E. Daniels, Jr.**, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. It shall be the policy of the DOA to accept the IRMSDC's MBE certification for state contracting purposes.
2. Pending the promulgation of administrative rules to formalize the specific terms and conditions of this policy, the policy shall be subject to revocation at any time if the Governor, in consultation with the Commissioner of Administration, determines that the IRMSDC's certification process has materially changed and, as a result of such changes, no longer benefits the State.
3. The DOA shall undertake a comprehensive review of the State's MBE certification process under IC 4-13-16.5-1 *et seq.* and the administrative rules promulgated thereunder and shall, within one hundred eighty (180) days of the date of this Executive Order, take any necessary and proper action to be able to render its decision on each application for MBE certification within sixty (60) days of the submission of the application.
4. The DOA shall promulgate administrative rules to formalize the specific terms and conditions of the aforementioned policy of accepting the IRMSDC's MBE certification for state contracting purposes.
5. The DOA shall research whether reputable private companies are available to provide certifications as part of the State's Women Business Enterprise (WBE) certification program, as well, and report its findings to the Governor as soon as practicable.
6. This Executive Order does not create any right or benefit, substantive or procedural, enforceable at law or equity by any person against the State, its agencies or instrumentalities, its officers or employees, or any other person.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

Executive Orders

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-12

FOR: ESTABLISHING ETHICAL RULES OF CONDUCT FOR STATE OFFICERS, EMPLOYEES, AND SPECIAL APPOINTEES

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, Hoosiers deserve to know that state government is being conducted in an open and honest fashion and in the public interest;

WHEREAS, currently the functions of state government are often performed with a lack of openness and adequate disclosure;

WHEREAS, Indiana continues to trail other states and the federal government in the ethical expectations demanded of its officers, employees, and special appointees; and

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. No agency officer, employee, or special state appointee, as defined by IC 4-2-6-1, shall solicit or accept gifts, favors, services, entertainment, food, or drink in any amount from a person who has a business relationship with the employee's agency, except as permitted under 40 IAC 2-1-6(a) or 40 Indiana IAC 2-1-6(b)(1)-(6). Upon enactment of legislation codifying the position of Inspector General, the Inspector General shall promulgate rules, in consultation with the Indiana State Ethics Commission, to effectuate this prohibition. Executive Order 04-08, which continues in effect, is hereby amended to be consistent herewith.
2. The Commissioner of Administration shall consult with the Inspector General and State Ethics Commission prior to promulgating rules requiring registration for individuals who lobby the Executive Branch. Executive Order 04-11, which continues in effect, is hereby amended to be consistent herewith.
3. The heads of all state agencies and instrumentalities of the executive department, including all bodies corporate and politic, and all employees or special state appointees with purchasing or procurement authority on behalf of the State, shall not solicit political contributions on behalf of any candidate for public office, unless that individual is a candidate for public office himself or herself.
4. No state officer, employee, or special state appointee shall accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired. The Inspector General is directed to create procedures for the issuance of an advisory opinion granting approval to outside employment, which advisory opinion would serve as conclusive proof that such employment is not in violation of this section and is consistent with the State's desire to attract quality individuals who are successful in the community and/or private sector and are willing to serve the State in some capacity.
5. A state officer, employee, or special state appointee may not participate in any decision or vote if that individual has knowledge that any of the following has a financial interest in the outcome of the matter:
 - a. The state officer, employee, or special state appointee.
 - b. A member of the immediate family of the state officer, employee, or special state appointee.
 - c. A business organization in which the state officer, employee, or special state appointee is serving as an officer, director, trustee, partner, or employee; or
 - d. Any person or organization with whom the state officer, employee, or special state appointee is negotiating, or has an arrangement concerning, prospective employment.

The Inspector General is directed to create procedures to allow an individual who identifies a potential financial conflict of interest to make full disclosure, establish screening procedures, and obtain an advisory opinion that would serve as conclusive proof that it is not a violation of this section for a state officer, employee, or special state appointee to participate in a particular matter.

6. A state officer, employee, or special state appointee may not knowingly have a direct or indirect financial interest in a contract made by any agency. This prohibition does not apply if:
 - a. the contract is made after public notice or, where applicable, through competitive bidding;
 - b. the state officer, employee, or special state appointee files with the State Ethics Commission a statement making full

disclosure of all related financial interests in the contract;

c. the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee; and

d. in the case of a contract for professional services, the appointing authority of the contracting agency makes and files a written certification with the State Ethics Commission that no other state officer, employee, or special state appointee of the agency is available to perform those services as a part of their regular duties.

The Inspector General is directed to create procedures for the issuance of an advisory opinion that would serve as conclusive proof that it is not a violation of this section if a state officer, employee, or special state appointee who, acting in good faith, learns of an actual or prospective violation of this section no later than thirty (30) days after the agency makes the contract, makes full disclosure of any financial interest, and terminates or disposes of the financial interest.

7. The revolving door prohibitions created by Executive Order 04-10, which continues in effect, shall continue to apply to any state officer, employee, or special state appointee who left state government prior to January 10, 2005, or to any individual who served as a state officer, employee or special state appointee prior to and after January 10, 2005 and who seeks and receives a waiver from the State Ethics Commission of the requirements of this Executive Order that are in addition to those imposed by Executive Order 04-10.

8. No state officer, employee, or special state appointee who leaves state government after January 10, 2005 shall accept employment or receive compensation for one year:

a. as a lobbyist engaged in lobbying the executive or legislative branches of state government in Indiana;

b. from an employer if the former officer, employee, or special state appointee was engaged in the negotiation or administration of one or more contracts with that employer or in a position to make a discretionary decision affecting the outcome of the negotiation or administration of such a contract; or

c. from an employer if the former officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a company that controls, is controlled by, or is under common control with, the employer.

9. No state officer, employee, or special state appointee who leaves state government after January 10, 2005 shall represent or assist a person in a particular matter involving the State if such former officer, employee, or appointee personally and substantially participated in the matter while serving in the capacity of a state officer, employee, or special state appointee, even if such former officer, employee, or appointee receives no compensation for such representation.

10. A registered lobbyist may not serve as a member of a board, commission, committee, authority, or task force of the executive department, unless that body is an advisory body only. This provision shall not apply to any person who was appointed to a board, commission, committee, authority, or task force of the executive department prior to January 10, 2005.

11. All instrumentalities of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State, are directed to notify the State Ethics Commission within thirty (30) days of this executive order that they are under the jurisdiction of the State Ethics Commission.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-13

FOR: EXTENDING A UTILITY SERVICE EMERGENCY IN THE STATE OF INDIANA DURING SEVERE WEATHER

Executive Orders

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, on January 5, 2005, conditions existed constituting a utility service emergency because of inclement weather in the form of an ice storm;

WHEREAS, on January 10, 2005, those conditions continue to exist, including additional inclement weather and the loss of power to thousands of Indiana residents;

WHEREAS, the availability of essential utility services is vital to the welfare and economy of Indiana;

WHEREAS, the Indiana electric and gas utility industries have requested additional relief from the requirements of 49 C.F.R. § 395.3(a) and § 395.3(b) of the Federal Motor Carrier Safety Regulations for commercial motor vehicles while restoring power outages and service interruptions;

WHEREAS, 49 C.F.R. § 390.23 of the Federal Motor Carrier Safety Regulations provides that a governor of a state may declare an emergency, thereby exempting owners and operators of commercial motor vehicles from parts 390 through 399 of the Federal Motor Carrier Safety Regulations;

WHEREAS, under IC 8-2.1-24-18, the requirements of 49 C.F.R. § 395.3(a) and § 395.3(b) apply to the drivers of commercial motor vehicles operating in this State, except for vehicles operated in the restoration of utility service; and

WHEREAS, the rapid and efficient restoration of utility services requires the temporary suspension of limitations on the hours of service for drivers of utilities' commercial motor vehicles and for drivers of support commercial motor vehicles that are necessary to provide equipment/supplies to ensure the restoration of utility service;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, as well as IC 10-14-3-13 and 49 C.F.R. Part 390.23, do hereby declare that the previously declared utility service emergency due to expire at noon on January 10, 2005, continues until noon on January 15, 2005, unless further extended by order of the Governor.

1. Energy utilities' vehicles and their commercial motor vehicle drivers are exempt from regulations restricting their hours of service during this utility service emergency. This exemption applies only to drivers directly participating in restoration of utility service affected by the inclement weather, and is intended to permit safe return to assigned home bases of operation at the conclusion of the utility service emergency.
2. Nothing contained in this declaration shall be construed as an exemption from any portion of the Motor Carrier Safety Regulations other than those regulating hours of service.
3. I respectfully request the governors of other states to waive trip and fuel permits and to facilitate travel through their states by commercial motor vehicles responding to this utility service emergency.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-14

FOR: PROVIDING A COMPLAINT PROCEDURE TO STATE EMPLOYEES AND RESCINDING CERTAIN PRIOR EXECUTIVE ORDERS

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, state employees should have available a complaint and hearing process for contested disciplinary actions; and

WHEREAS, the State must move forward with meaningful reforms, including improvements in the State's personnel system, while acknowledging the right of state employees to voluntarily belong to a union;

NOW, THEREFORE, I, **Mitchell E. Daniels, Jr.**, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The following complaint procedure is established:
 - a. An employee of the non-merit service, as defined in 31 IAC 1-1-1, who:
 - i. Does not have standing to file a complaint under a statute or rule,
 - ii. Has at least six (6) months of continuous full-time or twelve (12) months of continuous part-time employment,
 - iii. Is not classified in the ESM or SAM/PAT job categories, and
 - iv. Is not employed on a temporary or intermittent basismay file a complaint concerning the employee's dismissal, demotion, or suspension without pay.
 - b. The complaint must be filed in writing with the State Employees Appeals Commission, within thirty (30) calendar days from the date the employee receives notice of the disciplinary action.
 - c. The State Employees Appeals Commission will determine whether the suspension, demotion, or dismissal was based on inadequate performance or inappropriate behavior.
 - d. Determinations by the State Employee Appeals Commission are subject to judicial review in accordance with the Administrative Orders and Procedures Act.
2. Executive Orders 90-6, 97-8, and 03-35 are rescinded and declared null and void.
3. Executive Orders 03-44, 03-45, and 04-01, together with all prior Executive Orders approving union Settlements, are rescinded and declared null and void.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 11th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-15

FOR: CREATION OF THE INDIANA DEPARTMENT OF CHILD SERVICES

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, Public Law 9-1991, effective July 1, 1991, established, among other things, the Office of the Secretary of Family and Social Services (FSSA), the Office of Medicaid Policy and Planning, and certain family and social services advisory bodies;

WHEREAS, Public Law 9-1991 also provided to the Secretary of FSSA, subject to approval of the Governor, the authority to appoint directors of each division of FSSA;

WHEREAS, Executive Order 99-8, which continued FSSA as a state agency in 1999, recognized the constitutional power of the Governor to create administrative agencies by executive order (*see also* Executive Order 89-12; Executive Order 91-2; and IC 4-1-7.1-3);

Executive Orders

WHEREAS, the Division of Family and Children (DFC), which is a division of FSSA that is established under IC 12-13-1-1, *et seq.*, is generally responsible for services regarding child protection, child support, child development, foster care, adoption, paternity matters, Food Stamps, the temporary assistance for needy families (TANF) program, and child care licensing, among others;

WHEREAS, Indiana's future depends on its ability to provide children of the State with a healthy and supportive environment in which to live and grow and to prevent child abuse and neglect whenever possible;

WHEREAS, it has become clear that FSSA has become too large to effectively provide essential child protection services, foster care services, adoption services, independent living services, and child support services through the existing FSSA and DFC structure to our State's families and children;

WHEREAS, Indiana's families and children would be better served by a free-standing state agency dedicated, as its sole mission, to the administration of child protection services, foster care services, adoption services, independent living services, and child support services;

WHEREAS, the proper administration of these services is a matter of life and death for many children in our State;

WHEREAS, the Governor has proposed legislation to the General Assembly that would codify the measures described in this Executive Order; and

WHEREAS, it is appropriate and necessary to give immediate effect to actions designed to address the need and implement the reforms described in this Executive Order;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Indiana Department of Child Services (DCS) is hereby created as a state agency.
2. The Governor shall appoint a Director of the DCS who shall serve at the pleasure of the Governor and report directly to the Governor.
3. Those services and programs currently being administered by FSSA and the DFC that relate to child protection services, foster care services, adoption services, independent living services, and child support services through bureaus established within the DFC under Title 12 of the Indiana Code that are commonly referred to as the "Bureau of Family Protection and Preservation" and the "Bureau of Child Support" shall be transferred to and administered by DCS.
4. Consistent with the foregoing, the Secretary of FSSA and the Director of DCS are hereby authorized and directed to enter into such inter-agency agreements or memoranda of understanding and to take such other actions as may be necessary in order to provide for DCS's administration, to the fullest extent permitted by law, of the programs to be transferred to DCS pursuant to this Executive Order and for the continued funding for such programs through FSSA's budget until the enactment of legislation by the General Assembly to codify the creation of DCS and the other reforms described herein.
5. All DFC programs and services not being transferred to the DCS shall remain at FSSA and shall continue to be administered by the DFC, which shall be renamed the Division of Family Resources (DFR). The Secretary of FSSA shall appoint, subject to the approval of the Governor, a Director of the DFR.
6. All reporting requirements to the Budget Committee and the General Assembly that were previously required of the Secretary of FSSA or the Director of the DFC regarding child protection services, foster care services, adoption services, independent living services, or child support services shall now be the obligations of the Director of DCS.
7. The Director of DCS shall provide to the Governor copies of all reports that are required to be submitted to the Budget Committee and the General Assembly.
8. The Director of DCS shall provide quarterly reports to the Governor that assess the state of child abuse and neglect, foster care services, adoption services, independent living services, and child support enforcement and collection efforts in the State.
9. The Director of DCS shall have such other powers, duties, and responsibilities as may be set forth by statute upon enactment of legislation or as may be designated from time to time by the Governor consistent with the exercise of executive authority under the Constitution and laws of the State.
10. All rules adopted prior to the effectiveness of this Executive Order pertaining to FSSA or the DFC regarding child protection services, foster care services, adoption services, independent living services, or child support services shall now pertain to DCS for those same purposes to the fullest extent permitted by law.
11. This Executive Order shall expire upon the enactment of legislation by the General Assembly to codify the measures described in this Executive Order.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 11th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

**STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS**

EXECUTIVE ORDER: 05-16

FOR: CREATION OF THE OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, Hoosiers are a dedicated and selfless people who have a long and proud tradition of helping their neighbors and those less fortunate than themselves;

WHEREAS, committed volunteers in faith-based and community-based organizations bring unique skills, services, and resources to bear on the struggles faced by Hoosier families;

WHEREAS, there are many opportunities for faith-based and community-based organizations to partner with government entities to deliver services more effectively than either can do alone;

WHEREAS, these opportunities represent an avenue toward addressing many of the State's unmet educational, human, public safety, and environmental needs and expanding the options available for enhancing the quality of life for all Hoosiers;

WHEREAS, many beneficial opportunities may be lost if faith-based and community-based groups are not aware of opportunities to participate with state government in serving Hoosiers, or are not equipped to participate on a level playing field, to the fullest extent permitted by law, in partnering or contracting with government entities for the delivery of services that serve a valid government purpose;

WHEREAS, similarly, many beneficial opportunities may be lost if state government does not make efforts to reach out and share information about opportunities to faith-based and community-based providers or to secure and direct federal and state funding to them or assist them in identifying and applying for discretionary federal and state grants;

WHEREAS, government may neither advance nor inhibit religious expression, nor endorse any particular type of religion over non-religion, but must not discriminate against the provision of services by faith-based or community-based providers who are otherwise qualified to provide services;

WHEREAS, it is beneficial to encourage communication between state government and faith-based and community-based organizations, recognizing the importance of sharing information about and encouraging the best practices of successful faith-based and community-based programs;

WHEREAS, the National and Community Service Trust Act of 1993 (the "Act") calls for the support and collaboration of federal, state, and local programs and agencies to build on existing organizational structures and expand full-time and part-time service opportunities for all citizens, and makes federal funding available under the National and Community Service State Grant Program;

WHEREAS, Hoosiers can benefit from a comprehensive and coordinated effort to improve and strengthen the State's volunteerism and community service infrastructure, maximize the utilization of available resources, and cultivate volunteer service opportunities that address the State's pressing needs; and

Executive Orders

WHEREAS, this effort should be facilitated by a program having a position of prominence in direct relationship to the Office of the Governor;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Office of Faith-Based and Community Initiatives (OFBCI) is hereby created.
2. The OFBCI shall have a Director, who shall be appointed by the Governor and serve at the pleasure of the Governor.
3. The OFBCI shall have a direct relationship to the Office of the Governor. The Director of the OFBCI shall be authorized and directed to organize the OFBCI in such manner as the Director deems necessary or appropriate to achieve the objectives set forth in this Executive Order.
4. The OFBCI shall:
 - a. apply for funding to the Corporation for National and Community Service and other entities that administer federal grants to support the objectives established by OFBCI for faith-based and community-based programs;
 - b. provide to all applicants under the National and Community Service State Grant Program and other federal programs the services required by, and select grantees under, such guidelines as may be specified by those federal programs and applicable law;
 - c. work closely with faith-based and community-based groups, charitable organizations, private charities, voluntary associations, educational entities, and other nonprofit service organizations to promote volunteerism and community service and to assist them in identifying and applying for discretionary federal grants;
 - d. provide technical assistance, education, information, and other support to such groups and organizations to improve and strengthen the State's volunteerism and community service infrastructure;
 - e. promote innovative and model programs and initiatives and share best practices among such groups and organizations; and
 - f. coordinate OFBCI activities with those of any federally administered service programs to ensure that services are not duplicated.
5. The Indiana Commission on Community Service and Volunteerism (ICCSV) is continued. The existing programs of both the ICCSV and FaithWorks Indiana, which were formerly affiliated with the Department of Workforce Development and the Division of Family and Children of the Family and Social Services Administration, respectively, will be transferred to the OFBCI. The staff and resources of the ICCSV and FaithWorks Office will also be transferred to the OFBCI.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 11th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-17

FOR: CREATION OF THE OFFICE OF TECHNOLOGY

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, today, the State's information technology is managed by each state agency under the limited oversight and coordination of at least three different entities: the Information Technology Oversight Commission, the Division of Information Technology, and the Intelenet Commission;

WHEREAS, this decentralized structure prevents Indiana from delivering the highest quality information technology services at the

lowest cost, since such a siloed approach leads to inconsistent services, prevents uniform accounting and management of assets and expenses, and prevents consolidation and efficiency;

WHEREAS, the Intelenet Commission has been plagued by scandal and ineffectiveness and must be abolished;

WHEREAS, immediate efficiencies can be realized by the coordination of all state information technology through a single office;

WHEREAS, the Governor has proposed legislation to the General Assembly that would codify the Office of Technology; and

WHEREAS, it is appropriate and necessary to give immediate effect to actions designed to address the needs and implement the reforms described in this Executive Order;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Office of Technology (OT) is hereby created.
2. A Director of the OT, who shall serve at the pleasure of the Governor, shall be appointed by the Governor and shall be the Chief Information Officer of the State.
3. To the fullest extent permitted by law, the OT shall:
 - a. Develop and maintain overall strategy and architecture for the use of information technology in state government.
 - b. Review all state agency budget requests and proposed contracts relating to information technology.
 - c. Coordinate state information technology master planning.
 - d. Maintain an inventory of information technology resources and expenditures.
 - e. Manage a computer gateway known as "accessIndiana" solely to carry out or to facilitate the carrying out of essential public, educational, and governmental functions of authorized users.
 - f. Provide technical staff support services for each state agency in conjunction with the information technology director, or other similar person knowledgeable on information technology matters, within each state agency.
 - g. Monitor trends and advances in information technology.
 - h. Monitor state agency information technology activities.
 - i. Develop and maintain policies, procedures, and guidelines for the effective and secure use of information technology in state government.
 - j. Develop and maintain guidelines for the hiring of information technology staff in state agencies.
 - k. Conduct periodic management reviews of information technology activities within state agencies.
 - l. Seek funding for technology services from any source of funds.
 - m. Perform other related functions and duties under the direction of the Chief Information Officer.
4. The OT shall have such other powers, duties, and responsibilities as may be set forth by statute upon enactment of the aforementioned legislation or as may be designated from time to time by the Governor consistent with the exercise of executive authority under the Constitution and laws of the State.
5. Agencies and instrumentalities of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State (hereinafter "state instrumentalities"), shall use information technology and telecommunications services provided by the OT.
6. State instrumentalities shall submit to the OT all information technology-related budget requests, which will be reviewed by and be subject to the approval of the OT, prior to submission to the state budget agency of requests for appropriations.
7. State instrumentalities shall submit all information technology-related proposed contracts to the OT, which will be reviewed by and be subject to the approval of the OT. The requirements of this subsection are in addition to the rules adopted by the Department of Administration (DOA); however, the DOA shall not promulgate any procurement rule that is duplicative or inconsistent with the rules adopted by the OT.
8. State instrumentalities shall submit all other information technology-related requests to the OT, which will be reviewed by and be subject to the approval of the OT.
9. The OT may require a director of information technology services or other individual employed by a state agency and knowledgeable on information technology matters to advise and assist the OT in carrying out its functions.
10. State instrumentalities shall consult with the OT concerning the hiring of information technology directors and staff.
11. At the request of the OT, a state agency must submit an information technology resource inventory to the OT to include all information technology hardware, software, technical personnel, and information technology contracts.
12. The functions and services of the Division of Information Technology (DoIT) in the DOA are transferred to the OT. The Chief Information Officer and the Commissioner of Administration are hereby authorized and directed to enter into such inter-agency agreements or memoranda of understanding and to take such other actions as may be necessary in order to provide for

Executive Orders

the OT's administration, to the fullest extent permitted by law, of the functions and services of DoIT and for the continued funding of DoIT through the DOA's budget until the enactment of legislation by the General Assembly to codify the creation of the OT and the other reforms described herein.

13. The OT shall oversee and coordinate the functions, responsibilities, and duties of the Information Technology Oversight Commission and Intelenet to the fullest extent permitted by law.

14. All state instrumentalities shall cooperate and provide assistance to the OT in implementing this Executive Order to the fullest extent permitted by law.

15. This Executive Order shall expire upon the enactment of legislation by the General Assembly to codify the OT as described in this Executive Order.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 11th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA EXECUTIVE DEPARTMENT INDIANAPOLIS

EXECUTIVE ORDER: 05-18

FOR: MAINTENANCE OF SALARY AND HEALTH COVERAGE FOR ACTIVE DUTY MILITARY PERSONNEL
EMPLOYED BY STATE GOVERNMENT

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, since September 11, 2001, the U.S. armed forces have waged an essential war on terror and have relied on state National Guard and other military reserve forces to ensure victory;

WHEREAS, many Hoosiers are members of the National Guard and other military reserve units, many of which have been ordered into active military service since September 11, 2001, some more than once, with more units to be activated in the years ahead; and

WHEREAS, it is imperative that we be ever thankful for the sacrifice made by these citizen-soldiers and, as part of our gratitude, ensure that no state employee who is mobilized to active duty status loses compensation or benefits as a result of abiding by his or her solemn oath to protect our nation;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The State shall pay to each eligible member of the Indiana National Guard, or other Indiana reserve component of the armed forces of the United States, an amount equal to the difference between the soldier's basic active duty military salary and the salary the soldier would be paid as an active state employee, including any adjustments the soldier would have received had he or she not been on leave of absence from state employment. This "Differential Payment" shall (a) be made only to employees of the State on active military service and whose basic active duty military salary is less than the salary the state employee would be paid as an active state employee; (b) be made at the intervals at which the soldier received pay as a state employee; and (c) terminate when the soldier is no longer on active duty.

2. The State shall also continue the employee's enrollment in healthcare coverage and the State's contribution toward that coverage, if any, until the soldier is covered by health coverage provided by the armed forces. If the employee had elected dependent coverage as of the time that the employee reported for active military service, the State shall offer the employee the option to continue the dependent coverage at the employee's own expense. The State shall also permit the employee to continue participating in any pretax account in which the employee participated at the time the employee reported for active military service.

3. “Basic active duty military salary” shall not be construed to include any allowances, stipends, and other benefits a soldier might receive during active military service (e.g., travel, food, housing, separation, and other allowances, such as hostile fire pay and combat pay).

4. The term “active military service” means either state active service, federally funded state active service, or federal active service, but excludes service performed exclusively for training, including basic combat training, advanced individual training, annual training, inactive duty training, and special training periodically made available to reserve members.

5. This Executive Order does not create any right or benefit, substantive or procedural, enforceable at law or equity by any person against the State, its agencies or instrumentalities, its officers or employees, or any other person.

6. This Executive Order shall apply prospectively to any basic active duty military salary or benefits, as described herein, of a state employee currently in active military service or ordered into active military service on or after the date hereof.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 12th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 05-19

FOR: DIRECTIVE TO DEPARTMENT OF LOCAL GOVERNMENT FINANCE REGARDING SCHOOL BUILDING PROJECT FINANCINGS

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, education is the largest expense of state government in Indiana, and properly so;

WHEREAS, recent practices have led to a disproportionate ratio of facilities spending to academic instruction spending, with the result that too much of what our State spends on public school students is diverted to purposes unrelated to the only result that counts—equipping those students with an education that prepares them for life;

WHEREAS, while remaining committed to the principle that every student should have the opportunity to learn in a place of safety and reasonable comfort, the State must take measures to reprioritize the objectives of its education spending, and do so in a manner that places greater emphasis on academic achievement and less emphasis on the size and cost of our school buildings and their non-academic facilities;

WHEREAS, the Department of Local Government Finance (DLGF) has the authority, pursuant to IC 6-1.1-19-4.2, to consider the following six factors in determining whether or not to approve a school building construction project:

- the current and proposed square footage of school building space per student,
- enrollment patterns within the school corporation;
- the age and condition of the current school facilities;
- the cost per square foot of the school building construction project;
- the effect that completion of the school building construction project would have on the school corporation’s tax rate; and
- any other pertinent matter;

WHEREAS, the DLGF has, pursuant to IC 6-1.1-19-8, three months in which to render a decision to approve, disapprove, or approve subject to modification a school corporation’s proposed bond issue, lease rental agreement or similar financing arrangement (each,

Executive Orders

a “school building project financing”), and such period is capable of being extended, with proper notice, for an additional three months;

WHEREAS, at this time of fiscal crisis, and as a first step in regaining an appropriate balance between facilities spending and academic instruction spending, the DLGF must exercise the full extent of its statutory authority to scrutinize closely all pending or newly-proposed school building project financings; and

WHEREAS, the DLGF should establish guidance to facilitate its efforts to carry out its responsibilities under IC 6-1.1-19-4.2 and IC 6-1.1-19-8 and to ensure that school building project financings are approved only after careful consideration of all pertinent matters;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. Effective as of the date of this Executive Order, and pursuant to its authority under IC 6-1.1-19-8, the DLGF shall impose a 120-day moratorium on the consideration and approval of any school building project financings.
2. The DLGF shall immediately inventory all school building project financings that are currently pending or that have been proposed prior to the date hereof and report such inventory to the Governor and the Director of the Office of Management and Budget.
3. The DLGF shall immediately develop guidance to facilitate its review of school building project financings in accordance with IC 6-1.1-19-4.2 and IC 6-1.1-19-8 and to ensure that any such projects are approved only after careful consideration of the factors set forth in IC 6-1.1-19-4.2, including without limitation all matters deemed pertinent by the DLGF. In developing such guidance, the DLGF shall, for example, give due regard to the ratio of academic facilities to non-academic facilities in, and the effectiveness of the cost structure of, any proposed school building project financing.
4. In the event that any school corporation has, prior to the date of this Executive Order, filed a petition requesting approval from the DLGF to incur bond indebtedness or to enter into a lease rental agreement or other school building project financing, the DLGF shall (i) consider such a petition in the light of the criteria set forth in IC 6-1.1-19-4.2, the guidance developed by the DLGF as described in paragraph 3 above, and the intent and purpose of this Executive Order, and (ii) use such portion of the review period available under IC 6-1.1-19-8 as the DLGF deems appropriate, including any extensions thereof, in deciding whether to approve, disapprove, or approve subject to modification the school building project financing.
5. Upon the conclusion of the 120-day moratorium period, the DLGF shall report to the Governor on whether any rulemaking or legislation may be necessary or appropriate in order to give more permanent or complete effect to the measures described in this Executive Order.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 19th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

OFFICE OF THE ATTORNEY GENERAL

February 9, 2005
Originally issued June 23, 2003

OFFICIAL OPINION 2004-6

State Senator Jeff Drozda
200 West Washington
Indianapolis, Indiana 46204

RE: Existing and Planned Runways

Dear Senator Drozda:

This letter is in response to your request for an opinion on the following question:

1. Does Indiana Code section 8-21-10-3(b) apply to both existing and planned runways?

BRIEF ANSWER

It is the opinion of this office that the permit requirements set out in Indiana Code section 8-21-10-3(b) apply to the construction of buildings used for noise sensitive purposes when the building is to be constructed within the specified area of either an existing runway or a planned runway which has not yet been constructed, but has been included in the approved airport site plan. Interpreting “runways” to include both existing and planned runways advances the goal of the legislature to preserve unobstructed conditions for the safe flight of aircraft and to promote the comfort and safety of the citizens of the state. In addition, the broad interpretation of the term corresponds with existing statutory language regarding runways in the same chapter.

ANALYSIS

State law regarding aeronautics may be found in Indiana Code chapter 8-21-1 and Indiana Code chapter 8-21-10 sets out regulations for tall structures in the state in order to ensure that unobstructed conditions exist for the safe flight of aircraft. The state regulates the location and height of structures and the use of land related to those structures. By law, those who build structures of certain heights and in certain locations must obtain a permit from the Indiana Department of Transportation (INDOT). Ind. Code §§ 8-21-10-1 to 3. State permit requirements also apply to the construction of buildings around airports if the buildings are used for “noise sensitive purposes.” Ind. Code §§ 8-21-10-2, -3(b), -3(c). “Noise sensitive purpose” is defined as the use of a building as a residence, school, church, childcare facility, medical facility, retirement home, or nursing home. Ind. Code § 8-21-10-2. Your question concerns the section of the statute at Indiana Code section 8-21-10-3 dealing with permit requirements for construction in a noise sensitive area:

8-21-10-3 Permit requirements

Sec. 3.

...

(b) Unless:

(1) a permit for construction in a noise sensitive area has been approved by the department;

(2) the holder of a permit for construction in a noise sensitive area has filed a copy of the permit for construction in a noise sensitive area with the county recorder of the county in which the structure is located, as provided in subsection (d); and

(3) a certified copy of the recorded permit for construction in a noise sensitive area, with the recording data from the county recorder on the copy of the permit, has been received by the department; *a person may not erect a building used for a noise sensitive purpose within an area lying one thousand five hundred (1,500) feet on either side of the centerline and the extended centerline of a runway for a distance of one (1) nautical mile from the boundaries of any public use airport.*

...

(d) A person applying for a permit for construction in a noise sensitive area under subsection (b) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport if the public use airport is located within a distance of one (1) nautical mile from the boundary of the property that contains the building used for a noise sensitive purpose.

(e) Notice under subsections... (d) must be sent by certified or registered mail, with return receipt requested, and must include the:

(1) name, telephone number, and a contact person for the:

(A) applicant;

(B) department; and

(C) plan commission that has jurisdiction over the site of the structure;

(2) location of the structure, including a legal description;

(3) height of the structure; and

(4) Federal Aviation Administration aeronautical study number assigned to the application, if applicable to the type of permit for which notice is required.

(f) The applicant for a permit under subsection (b) shall record each permit issued by the department in the office of the county recorder for the county where the structure is located, not later than five (5) business days after the department issues the permit. If a structure is located in more than one (1) county, the county that contains the majority of the structure is the county in which the permit must be filed.

(g) A permit issued under subsection (b) is valid only after the department receives a certified copy of the recorded permit with the recording data from the county recorder of the county in which the structure is located.

(h) A permit issued under subsection (b) must contain the following statement:

“The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft operations, and that the permittee is erecting a building designed for noise sensitive use upon the real estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.”.

(emphasis added).

In summary, the statute requires a person to obtain a “noise sensitive permit” from INDOT if he or she plans to construct a building used as a residence, school, church, medical facility, retirement home, or nursing home within the “noise sensitive area” of a public use airport. By statute, the “noise sensitive area” is the “area lying one thousand five hundred (1,500) feet on either side of the centerline and the extended centerline of a runway for a distance of one (1) nautical mile from the boundaries of any public use airport.” Ind. Code § 8-21-10-3(b). The person seeking the permit from INDOT must, at the time the application for a permit is filed, provide notice to the owner of the public use airport. Ind. Code § 8-21-10-3(d). Notice must be sent by registered mail and contain certain information such as the name and telephone number of the applicant and plan commission having jurisdiction over the site, as well as the location of the building. Ind. Code § 8-21-10-3(e). Once issued, the permit holder must record the permit in the office of the county recorder in the county where the building is being constructed. Ind. Code § 8-21-10-3(f). The noise sensitive permit issued by INDOT contains a brief statement indicating that the permittee acknowledges that the building being constructed will be used for a noise sensitive purpose and that the permit holder fully recognizes and accepts the aircraft operations within the vicinity. Ind. Code § 8-21-10-3(h).

You asked whether the noise sensitive permit requirements apply only to the construction of a building in a noise sensitive area near an existing runway, or whether permit requirements also apply to an area where a runway does not actually exist, but is planned.

When the meaning of a statute is at issue, the rules of statutory construction are useful. First and foremost, one should determine the intent of the legislature. *MDM Inv. v. City of Carmel*, 740 N.E.2d 929, 934 (Ind. Ct. App. 2000). The words of a statute are to

be given their plain and ordinary meaning. Ind. Code § 1-1-4-1(1); *Town of Merrillville v. Merrillville Conservancy Dist.*, 649 N.E.2d 645, 649 (Ind. Ct. App. 1995). One must presume that the legislature is aware of existing statutes in the same area when it enacts a statute. *Id.* Differing statutes should be construed together to produce a harmonious result. *Id.* The “goals of the statute and the reasons and policy underlying the statute’s enactment” should be considered. *Id.*

Aircraft noise has an adverse impact on land used for residential and other noise sensitive uses. Reducing aircraft noise and promoting compatible land use around airport areas is a continuing concern of the Federal Aviation Administration (FAA). Noise Abatement Policy, 65 Fed. Reg. 43803 (July 14, 2000). In its Noise Abatement Policy 2000, the FAA noted that the adverse impact of noise threatens the construction, development, and expansion of airports. *Id.* The FAA encourages local government to reduce the impact of aircraft noise through effective land use control measures, such as planning and zoning. *Id.* at 43810. If noise sensitive land uses cannot be precluded entirely through these measures, the FAA recommends local government implement policies for the formal disclosure of noise exposure levels as part of real estate transactions for properties near airports. *Id.* at 43811. Such local policies are not required by federal law, but are strongly recommended by the FAA.

The General Assembly has indicated that Indiana’s aviation laws and regulations shall be implemented in coordination with and in conformity with federal laws. Ind. Code § 8-21-1-8(b); -8(c). In 1983, the legislature included a statement of purpose when enacting Indiana Code chapter 8-21-10 indicating that the law was intended to regulate the use of land near public-use airports in order to preserve unobstructed conditions for the safe flight of aircraft and to promote the comfort and safety of the citizens of the state. Ind. Code § 8-21-10-1. Given the level of influence of the FAA, along with the statement of purpose included in chapter 10, it is likely that the General Assembly included formal disclosure requirements for the construction of noise sensitive buildings in direct response to FAA concerns or to concerns of a similar nature. Presumably, it was the legislature’s intent to promote long-term compatible land use around airport areas by enacting the permit requirements for noise sensitive areas. A broad interpretation of the statute to include both existing and planned runways would advance the legislative goal of long-term compatibility in land use.

In addition, in enacting the permit requirements at Indiana Code section 8-21-10-3, one must presume that the legislature was aware of existing language contained in other sections of chapter 10. The permit requirements for noise sensitive areas apply to the building of structures near public use airports. Ind. Code § 8-21-10-1. At Indiana Code section 8-21-10-2, “public use airport” is defined as any area “utilized or *to be utilized*” for the landing and taking off of aircraft. Proposed public use airport sites must be pre-approved by INDOT and must be granted an INDOT certificate of site approval. Ind. Code § 8-21-1-10. Applications for certificates of site approval include detailed drawings of the proposed public use airport indicating the “initial and ultimate stages of airport development.” 105 Ind. Admin. Code 3-3-8(a)(2). INDOT approves airport site plans with the understanding that the airport may not be fully developed for a period of time. Thus, the inclusion of the language “to be utilized” in the statute regarding permit requirements would appear to be a reference to those areas included in the public use airport’s master plan or layout plan which have yet to be put into operation, but which have been approved by INDOT.¹ Such a reference would suggest the legislature intended the noise sensitive permit requirements be followed whether the building is located within the stated boundaries of a planned or an existing runway. In addition, other sections within chapter 10 establishing imaginary surface guidelines for tall structure permits make direct references to runways that have been “approved or planned” or indicated on a planning document. Ind. Code § 8-21-10-8(b).

CONCLUSION

It is my opinion that the reference to “runway” at Indiana Code section 8-21-10-3(b), regarding permit requirements for the construction of buildings for noise sensitive purposes, should be interpreted as a reference to existing runways, as well as runways indicated on an airport site approval plan which are approved, but not yet put into operation.

Sincerely,

Stephen Carter
Attorney General

Rebecca Walker
Deputy Attorney General

¹ INDOT issues certificates of approval to proposed airport sites in accordance with regulations established at 105 Indiana Administrative Code 3.

OFFICE OF THE ATTORNEY GENERAL

February 9, 2005
Originally issued February 6, 2004

OFFICIAL OPINION 2004-7

Senator James Merritt, Jr.
Assistant Majority Caucus Chair
State House
200 West Washington Street
Indianapolis, Indiana 46204-2785

Re: Gambling tax revenues and historic preservation

Dear Senator Merritt:

This letter is in response to your correspondence of November 25, 2003, wherein you requested that our office issue an opinion addressing the following issue:

When gambling tax revenues, which have been disbursed to local communities, are used to fund projects that result in the demolition, alteration or removal of a historic structure, as defined in Indiana's Historic Preservation and Archeology Act, must the project obtain the approval of the Historic Preservation Review Board?

The Indiana Historic Preservation and Archeology Act states that "a historic site... may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the Review Board has granted a certificate of approval." Ind. Code §14-21-1-18. The issue at hand becomes whether or not gambling tax revenues constitute being "funded, in whole or in part, by the state." *Id.*

Gambling taxes are levied by the state, collected by the state and disbursed under formulas established by state law. A portion of the revenues collected as a result of those taxes is distributed to local units of government. Therefore, we conclude that such gambling revenues are state funds and that their expenditure to alter, demolish, or remove a historic structure requires a certificate of approval from the Historic Preservation Review Board¹.

BACKGROUND

Pari-mutuel wagering on horse races and riverboat gambling generate tax revenues that ultimately make their way to local governments. Under the pari-mutuel statute, admission taxes are collected for individuals "who paid an admission charge for the privilege of entering the racetrack grounds or satellite facility." Ind. Code§4-31-9-5(a). The tax is collected by the department of state revenue. Ultimately, half of the admission tax revenue is deposited in the state general fund and half of it is distributed to the city, town or county "in which the racetrack is located." Ind. Code§ 4-31-9-5(b).

Under the riverboat gambling statute, "[a] tax is imposed on admissions." Ind. Code§4-33-12-1. The admission tax goes into the state general fund and from there, a portion of the revenues makes its way to local governments under formulas contained in Indiana Code section 4-33-12-6. The state also imposes a tax on adjusted gross receipts from gambling games on riverboats. Ind. Code§4-33-13-1. Those tax revenues are deposited in the state gaming account and eventually some of that money is paid to units of local government. Ind. Code§4-33-13-5.

ANALYSIS

"A: (1) historic site or historic structure owned by the state; or (2) historic site or historic structure listed on the state or national register; may not be altered, demolished, or removed by a project *funded, in whole or in part, by the state* unless the review board has granted a certificate of approval." Ind. Code§14-21-1-18(a) (emphasis added). The common definition of the verb "fund" is to provide or place resources in a fund. Webster's Third New International Dictionary (1993). Under the mechanism established by the gambling statutes, the state is providing money to local units of government. Because the state is the ultimate source of the gambling tax revenues, a project making use of that money is funded, at least in part, by the state.

This conclusion is reinforced by the legislature's purpose for enacting the Historic Preservation and Archeology Act. That

purpose is “to further our understanding of the state’s heritage and historical culture by preserving and studying what has been left behind.” *Whitacre v. State of Indiana*, 619 N.E.2d 605, 608 (Ind. App. 1993), *aff’d*, 629 N.E.2d 1236 (Ind. 1994). This broad legislative purpose militates against interpreting section 18 narrowly. In other words, section 18’s requirement that the Historic Preservation Review Board approve specified projects would be frustrated by a narrow interpretation of “funded, in whole or in part, by the state.” Accordingly, the better interpretation is that a project is state funded, whether the General Assembly has approved the disbursement of funds for a specific project directly or approved the expenditure indirectly by allocating state tax revenues for disbursement to local governments.

CONCLUSION

If a local unit of government undertakes a project to alter, demolish or remove a historic structure, using money obtained from gambling taxes, the project is “funded, in whole or in part, by the state,” as that term is used in the Historic Preservation and Archeology Act. As a consequence, that project must obtain a certificate of approval from the Historic Preservation Review Board.

Sincerely,

Stephen Carter
Attorney General

Gordon White
Deputy Attorney General

¹ In great part, this letter adopts the reasoning and conclusion of a prior Attorney General advisory letter to you dated November 9, 1998.

OFFICE OF THE ATTORNEY GENERAL

February 9, 2005
Originally issued May 18, 2004

OFFICIAL OPINION 2004-8

Representative Michael Ripley
Indiana House of Representatives
2990 S. 650 E
Monroe, Indiana 46772

Re: Department of Insurance Bulletin 123

Dear Representative Ripley:

This letter is in response to your correspondence of December 19, 2003. You raised a concern about how the Commissioner of the Department of Insurance (“Commissioner”) interprets Indiana Code section 27-2-21-16. The statute provides in pertinent part that an insurer shall not “[d]eny, cancel, or decline to renew a personal insurance policy *solely* on the basis of credit information” or “[b]ase an insured’s renewal rate for a personal insurance policy *solely* on credit information.” Ind. Code § 27-2-21-16(2) & (3) (2003) (emphasis added). The Commissioner reads this language 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.” Ind. Dep’t of Ins., Use of Credit Information by Insurance Companies, Bull. 123 (Dec. 5, 2003) (emphasis added) (hereinafter Bulletin 123).¹ You contend that Bulletin 123 places restrictions on insurers that were not intended by the General Assembly when it adopted Public Law Number 201-2003 (Ind. Code ch. 27-2-21). Although the Commissioner’s interpretation of Public Law Number 201-2003 is entitled to great deference, Bulletin 123 does place constraints on insurers that were not imposed by the Legislature.

BACKGROUND

In recent years insurers have used a customer's credit information to derive credit scores. They then use the credit scores to assist them in calculating premiums and making underwriting decisions for personal insurance. Insurers maintain that credit scores are an accurate predictor of loss frequency and severity.² But, "[q]uestions have been raised not only about the validity of credit history as a predictor of risk, but also its fundamental fairness, and the impact of credit scoring on minority and low income groups."³ Numerous state legislatures have recently considered the use of credit scores. Last year several states, including Indiana, adopted legislation based on the National Conference of Insurance Legislators (NCOIL) "Model Act Regarding Use of Credit Information In Personal Insurance." According to NCOIL at least sixteen states have adopted the Model Act.⁴ The Commissioner's interpretation of the "sole basis" language in the Model Act is not unique,⁵ although NCOIL has taken the position that such an analysis is incorrect.⁶

ANALYSIS

An insurance score (credit score) is "a number or rating that is derived from an algorithm, computer application, model, or other process that is based on credit information for the purpose of predicting the future insurance loss exposure of an individual consumer." Ind. Code § 27-2-21-1-1 (2003). When underwriting or rating a risk, an insurer may not base its decisions "solely" on credit information. Ind. Code § 27-2-21-16(2), (3) (2003). In other words, an insurer may consider credit information but only along with other traditional rating factors such as age or driving record.

The Commissioner is charged with regulating the insurance industry in this state. Ind. Code § 27-1-1-1 (1985). She issued Bulletin 123 which interprets the phrase "solely on the basis" 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." Bull. 123 (emphasis added). The question becomes whether the Commissioner, by interpreting the statute in such a manner, has expanded the scope of the legislation beyond that envisioned by the General Assembly.

The Commissioner's interpretation of the legislative enactment is entitled to great weight because she is charged with the duty of enforcing it. However, the interpretation must be consistent with the statute. *LTV Steel Co. v. Griffin*, 730 N.E.2d 1251, 1257 (Ind. 2000). When a law is clear and unambiguous on its face, interpretation is not required and the statute will be held to its clear and plain meaning. *Cotton v. Ellsworth*, 788 N.E.2d 867, 869-70 (Ind. Ct. App. 2003). In adopting Public Law Number 201-2003 the General Assembly clearly mandated insurers who consider credit information in making underwriting decisions to also use other rating factors. Bulletin 123 instructs insurers how the factors are to be used in that one of the rating factors used by an insurer, other than credit information, *must* change to justify denying, canceling, declining to renew or increasing a renewal rate. The General Assembly, however, did not mandate *how* the amalgam of rating factors is to be used and the statute is silent on what action the insurer may take after considering the rating factors. After a review of at least one other rating factor, the insurer may make the business decision it deems appropriate whether the credit score is the only demonstrable change in the calculation or not.

CONCLUSION

Bulletin 123 places restrictions on insurers that were not intended by the General Assembly when it adopted Public Law Number 201-2003.

Sincerely,

Stephen Carter
Attorney General

Gordon White
Deputy Attorney General

¹ Available at <http://www.in.gov/idoi/bulletins/Bulletin123.html>.

² Brent Kabler, Mo. Statistics Section, Mo. Dep't of Ins., Insurance-Based Credit Scores: Impact on Minority and Low Income Populations in Missouri (2004).

³ Testimony of the Nat'l Assoc. of Ins. Comm'rs before the Subcomm. on Fin. Inst. and Consumer Credit on the Fair Credit Reporting Act (June 4, 2003) (available at <http://www.ins.state.ny.us/acrobat/ty030610.pdf>).

⁴ NCOIL Clarifies Insurance Scoring "Sole Use" Provisions, NCOILetter (Nat'l Conference of Ins. Legislators, Albany N.Y.) Jan. 2004, at 1.

⁵ Me. Bureau of Ins., Implementation of the Act to Ensure Fairness Regarding Use of Consumer Credit Reports in Insurance Underwriting, Bull. 321 (2003) (available at <http://www.state.me.us/pfi/ins/bulletin.htm>).

⁶ Letter from Representative George Keiser, ND, Chair, NCOIL Property-Casualty Insurance Committee to the Co-chairs of the Credit Scoring Working Group of the National Association of Insurance Commissioners (Dec. 22, 2003) (available at <http://www.namic.org/pdf/031222NCOILCreditScoring.pdf>).

OFFICE OF THE ATTORNEY GENERAL

February 9, 2005

Originally issued August 11, 2003

OFFICIAL OPINION 2004-9

The Honorable Joseph W. Harrison
Majority Floor Leader
P.O. Box 409
Attica, IN 47918-0409

RE: Compensation for Elected City Officer

Dear Senator Harrison:

This letter is in response to your recent request for an advisory opinion on the following question:

Subsequent to a local clerk treasurer resigning his position and an appointment to that vacancy, may the salary for the position be reduced by the council at the request of the mayor under Indiana Code section 36-4-7-2?

BRIEF ANSWER

The salary may not be reduced. It is clear from legislative amendments that the legislature intended to clarify the statutory language at Indiana Code section 36-4-7-2 in order to prohibit such a reduction in compensation. By amendment, the legislature added statutory language to prohibit reducing compensation from a set amount. *See* Pub. L. No. 15-1933, § 3; Acts 1980, Pub. L. No. 212; Acts 1981, Pub. L. No. 17, §21. The compensation of a city officer may not be reduced or increased in the year fixed, nor may it be reduced to less than the salary of the *prior* year, regardless of the timing. Ind. Code §36-4-7-2(c).

ANALYSIS

Indiana Code section 36-4-7-2 provides guidelines for when the salary of an elected official may be changed, and the parameters for those changes:

- (a) As used in this section, "compensation" means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.
- (b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers. The ordinance must be published under IC 5-3-1, with the first publication at least thirty (30) days before final passage by the legislative body.
- (c) The compensation of an elected city officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

This Code section has been amended several times, with the most significant, relevant changes taking place in the 1981 amendment. The changes to the statute indicate an intention by the legislature to add clarification to statutory language concerning compensation. The legislature added "nor may it be reduced below the amount fixed for the year 1980." Acts 1980, Pub. L. No. 212; Acts 1981, Pub. L. No. 17, §21. An additional amendment in 1993 changed "year 1980" salary language to "the previous year," thus changing the salary floor to change during each successive year. Ind. Pub. L. No. 15-1933, § 3. That portion of the statute cannot be read as being redundant. The clause now reads in its entirety, "[t]he compensation of an elected city officer may not be changed

Attorney General's Opinions

in the year for which it is fixed, *nor may it be reduced below the amount fixed for the previous year.*” Ind. Code§36-4-7-2(c) (emphasis added). Therefore, the compensation cannot be reduced or increased in the year fixed, and cannot be reduced to less than the salary of the *prior* year, regardless of the timing.

The rules of statutory construction, outlined in Indiana Supreme Court cases, support this interpretation. “[I]t is presumed that the General Assembly did not intend to enact a superfluous statutory provision, and therefore, the Court, when interpreting a statute, will endeavor to give meaning to every word in that statute.” *Mynsberge v. Dep’t of State Revenue*, 716 N.E.2d 629, 633 (Ind. Tax 1999) (citations omitted).

The 1981 amended version included two significant changes. First, the compensation of an elected official was amended from remaining unchanged “during his term of office” to “in the year for which it is fixed.” Acts 1980, Pub. L. No. 212; Acts 1981, Pub. L. No. 17, §21. In addition to that change, the phrase “nor may it be reduced below the amount fixed for the previous year” was added, being offset from the first clause by a comma. Acts 1981, Pub. L. No. 17, §21. This offset and the fact the clause was added, demonstrates an intent by the legislature for this clause to have a distinct importance. When “the Court must read a statute to give effect to every word [and] [t]he Court will avoid an interpretation that renders any part of the statute meaningless or superfluous,” the interpretation above is the only possible interpretation. *Enterprise Leasing Co. of Chicago v. Ind. Dept. of State Revenue*, 779 N.E.2d 1284, 1294 (Ind. 2002) (citations omitted). The addition of the second clause was made with the intent to keep the salary from ever dropping below a set amount. “The Court will strive to give words and phrases in a statute their plain, ordinary and usual meaning.” *Id.* Any strange or extraordinary interpretation of this statute will thus not be read, as the plain and usual meaning is clear. “[T]he introduction of a new word or words into a statute indicates an intent to cure a defect in and suppress an evil not covered by the former law. It will be presumed in such a case that the Legislature intended to change or add to the existing law.” *Sherfey v. City of Brazil*, 13 N.E.2d 568, 570 (Ind. 1938) (citations omitted).

CONCLUSION

In reviewing the statutory language of Indiana Code section 36-4-7-2, in light of its history of legislative amendments, it is my opinion that the salary of the local clerk treasurer may not be reduced. The compensation of a city officer may not be reduced or increased in the year fixed, nor may it ever be reduced to less than the salary of the prior year, regardless of the timing.

Sincerely,

Stephen Carter
Attorney General

Gregory F. Zoeller
Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

February 9, 2005
Originally issued August 6, 2003

OFFICIAL OPINION 2004-10

The Honorable Tim Berry
Treasurer of State
Indianapolis, Indiana 46204

Re: Distribution of wagering tax under Indiana Code section 4-33-13-5

Dear Treasurer Berry:

This letter responds to your request for an advisory opinion on the appropriate interpretation of Indiana Code section 4-33-13-5 relating to the distribution of riverboat wagering taxes. That statute directs your office to pay certain expenses and gives detailed instructions for the distribution of the money in the state gaming fund. Your offices is also required to certify a “base year revenue”

figure that puts a cap or upper limit on the total amount of wagering taxes annually distributed to a city or county having a riverboat.

We have also received correspondence from a number of legislators representing districts in which riverboats are located suggesting that the legislative intent was that base year revenue be calculated before making deductions for the Commission's expenses, and that the statute is ambiguous in this regard.

It is our opinion that the statute is not ambiguous, and that base year revenue is calculated after deducting from the state gaming fund the amount necessary to cover the Gaming Commission's expenses of administering riverboat gambling.

ANALYSIS

Money from riverboat gambling authorized by Indiana Code, title 4, article 33 flows to the state, its agencies, or its local units of government from two sources: the riverboat admissions tax and the riverboat wagering taxes.

The riverboat admissions tax, authorized and described at Indiana Code section 4-33-12-6, is distributed primarily to the local units of government where the riverboat is located, with additional allocations also made to the State Fair Commission, to the Division of Mental Health and Addiction, and to the Horse Racing Commission. This guarantees the designated entities an annual, stable, recurring amount of revenue generated by admissions taxes. If the amount of admissions taxes available for distribution falls below the base amount, the entity receives a supplemental distribution pursuant to Indiana Code section 4-33-13-5(g).

The tax on adjusted gross receipts from riverboat gambling (the "wagering tax") is authorized by Indiana Code section 4-33-13-1. Indiana Code section 4-33-13-2 establishes the state gaming fund, and Indiana Code section 4-33-13-3 requires the department of revenue "to deposit tax revenue collected under this chapter in the state gaming fund." It is from this fund that the State's costs of administering riverboat gambling are paid:

Sufficient funds are annually appropriated to the [Indiana gaming] commission from the state gaming fund to administer this article [Indiana Code article 4-33, Riverboat Gambling].

Ind. Code § 4-33-13-4.

The General Assembly has enacted a very detailed statute covering how these wagering taxes are to be distributed. For purposes of our analysis the relevant sections of Indiana Code section 4-33-13-5, as amended by Public Law Number 192-2003, provides (emphasis added):¹

(a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A) [Michigan City]; or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) [Lake County]; or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A) [counties adjoining the Ohio River].

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district [West Baden Springs]...

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the

Attorney General's Opinions

treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

Although it is long and exceptionally detailed, we find no ambiguity in the distribution instructions of the foregoing statute, which we summarize as follows:

1. All revenues from the wagering tax are deposited in the State Gaming Fund. Ind. Code § 4-33-13-3.
2. Sufficient funds are annually appropriated from the Fund to the Commission to administer the whole of Title 4, Article 33. Ind. Code § 4-33-13-4.
3. After funds are appropriated under section 4-33-13-4, the Treasurer is required by Indiana Code section 4-33-13-5(a)(1) to distribute \$33,000,000 to non-riverboat cities and counties.
4. After funds are appropriated under section 4-33-13-4, and subject to subsection 4-33-13-5(c), the Treasurer is required by Indiana Code section 4-33-13-5(a)(2)(A) and (B) to distribute "25% of the remaining tax revenue remitted" to the city or county that "is designated as the home dock of the riverboat from which the tax revenue was collected."
5. Indiana Code section 4-33-13-5(c) explicitly states that for each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C)2, the treasurer shall determine the total amount of money paid by the treasurer to the city or county, and that amount "is the base year revenue for the city or county."

Courts will construe and interpret a statute only if it is unclear and ambiguous, *Enterprise Leasing Company of Chicago v. Indiana Department of Revenue*, 779 N.E.2d 1284, 1293 (Ind. Tax Ct. 2003), but a statute whose language is clear and unambiguous is not subject to judicial interpretation. *Romine v. Gagle*, 782 N.E.2d 369, 379 (Ind. App. 2003). "If a statute is unambiguous, that is, susceptible to but one meaning, [the court] must give the statute its clear and plain meaning." *Bolin v. Wingert*, 764 N.E.2d 201, 204 (Ind. 2002). When construing a statute, the court's function is to give effect to the intent of the legislature in enacting the statutory provision, and generally the best evidence of that intent is found in the language of the statute itself. *Enterprise Leasing*, 779 N.E.2d at 1294 (citing *Mynseberge v. Ind. Dep't of Revenue*, 716 N.E.2d 629, 632 (Ind. Tax Ct. 1999)).

It is our opinion that Indiana Code section 4-33-13-5(c) is clear and unambiguous. The initial distribution of the wagering tax is to be made after the funds necessary to cover administrative costs are appropriated. The base year revenue is determined by the amount paid by the treasurer. While Indiana Code section 4-33-12-6 relating to the admissions tax specifically provides for a supplement if an entity will receive a lower distribution than the base year revenue under that section, there is no language contemplating such a supplement for a lower distribution under the wagering tax.

The General Assembly can, of course, amend Indiana Code section 4-33-13-5 to provide that base year revenue is determined by adding the amount paid to the city or county plus that entity's pro-rata share of the funds appropriated under section 4-33-13-4. Perhaps this was what was intended. But the statute, as it was passed and signed into law, can only be interpreted one way, and that is that base year revenue is determined by the total amount of money paid.

CONCLUSION

It is our opinion that Indiana Code section 4-33-13-5 is not ambiguous, and that base year revenue is calculated after deducting from the state gaming fund the amount necessary to cover the Gaming Commission's expenses of administering riverboat gambling.

Sincerely,

Stephen Carter
Attorney General

Gregory F. Zoeller
Deputy Attorney General

cc: Representative Becker
Representative Duncan

Representative Lytle
Representative Pelath
Senator Nugent
Senator Server

¹ The full text of the statute is contained in the Appendix to this letter.

² Public Law Number 92-2003 amended Indiana Code section 4-33-13-5 by deleting clause (a)(2)(B) relating to Patoka Lake; clause (a)(2)(C) [which authorizes distributions to certain riverboat counties] was then re-numbered (a)(2)(B). However, the corresponding change was not made in Indiana Code section 4-33-13-5(c). We view this as a purely technical error, and clause (a)(2)(C) no longer exists, but was renumbered as (a)(2)(B).

Appendix A
Full Text of IC 4-33-13-5.

(a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars (\$20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-

1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. The county treasurer shall distribute the money received by the county under this subsection as follows:

- (1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.
- (f) Money received by a city, town, or county under subsection (e) may be used only:

- (1) to reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);
- (2) for deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas;
- (3) to fund sewer and water projects, including storm water management projects; or
- (4) for police and fire pensions.

However, not more than twenty percent (20%) of the money received under subsection (e) may be used for the purpose described in subdivision (4).

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money

received by the county under subsection (d) as follows:

- (1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.
 - (2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.
 - (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.
-
-

Nonrule Policy Documents

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT Nonrule Policy Documents

A nonrule policy document is a policy or statement that interprets, supplements, or implements a statute or rule. It is not intended by the department to have the effect of law and is not related solely to internal department organization. Per Indiana Code 13-14-1-11.5, a nonrule policy document may not be put into effect until 30 days after the policy or statement is made available for public inspection and comments and presented to the Water Pollution Control Board.

Nonrule policy documents that are open for inspection and comment are denoted by "comment period deadline: date" in the 'ADOPTED' column of the table below. Comments on a nonrule policy document that is open for comment may be submitted by the comment period deadline to: Nonrule Policy Document ID #: _____, Lawrence Wu, Chief, Rules Development Section, Office of Water Quality; Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana 46204. If you have questions about any of the documents found on this page, please contact the IDEM staff person or section listed at the end of each nonrule policy document. All documents are in PDF format. Click on a highlighted ID# to view the document.

ID#	POLICY TITLE	POLICY DESCRIPTION	ADOPTED	LAST REVISED	CITATION	CONTACTS
Water-001-NRD	Constructed Wetland Wastewater Treatment Facilities Guidance	Policy and technical guidance for the design, construction and operation of constructed wetland type sanitary wastewater treatment facilities	May 1, 1997	N/A	327 IAC 2,3,5,8 410 IAC 6-10	Jay Hanko (317) 233-8283
Water-002-NRD	Antidegradation Requirements for Outstanding State Resource Waters Inside the Great Lakes Basin	Provides a definition of significant lowering of water quality applicable to Outstanding State Resource Waters Inside the Great Lakes Basin	March 23, 1998	N/A	327 IAC 5-2-11.7(a)(2)(B)	Lonnie Brumfield (317) 233-2547 Dennis Clark (317) 308-3235
Water-003-NRD	Combined Sewer Overflow (CSO) Long-Term Control Plan Use Attainability Analysis Guidance	This document fulfills the mandates of Senate Enrolled Act 431 by providing guidance to municipal National Pollutant Discharge Elimination System (NPDES) permittees with combined sewer collection systems.	December 14, 2001	N/A	327 IAC 2,5	Bruno Pigott (317) 232-8631
Water-005-NRD	Review of Sanitary Sewer Construction Permit Applications For Communities with Combined Sewer Overflow Outfalls	This document outlines IDEM's procedures for review of sewer construction permit applications for communities with combined sewer overflow outfalls	April 9, 2003	N/A	327 IAC 3-1-1 through 327 IAC 3-6-32	Ken Lee (317) 232-8660

Adobe Acrobat is required to view PDF files

Please click on the image above to download the latest version. (Many state forms and documents require version 4.0 or later.)

Page URL: <http://www.in.gov/idem/rules/policies/index.html#water>

Updated: Feb. 10, 2005

NATURAL RESOURCES COMMISSION
Information Bulletin #48

**RESOLUTION OF THE NATURAL RESOURCES COMMISSION IN SUPPORT OF THE CONCEPTS
EMBODIED IN THE MARQUETTE GREENWAY PROJECT AND EXPANSION OF THE PROJECT TO
INCLUDE THE EASTERN PORTION OF THE COASTAL ZONE**

WHEREAS, Northwest Indiana includes a diversity of plant and animal species unmatched in the state, including the Karner blue butterfly, sea rocket, Pitcher's thistle, Kalm's St. John's wort, beach pea, dune goldenrod, and Peregrine falcon;

WHEREAS, Northwest Indiana displays ecosystems of special significance, portions of which are preserved within the Indiana Dunes National Lakeshore and the Indiana Dunes State Park, and portions of which are outside these preserves;

WHEREAS, Northwest Indiana contains the Port of Indiana, the busiest port on Lake Michigan and a critical element of Indiana commerce;

WHEREAS, Northwest Indiana maintains a steel industry with state-of-the-art technology that produces 25% of the nation's steel;

WHEREAS, Northwest Indiana possesses a major oil refinery and other critical energy generating industries;

WHEREAS, Northwest Indiana is located adjacent to Chicago, a great metropolitan center, establishing both opportunities for tourism and challenges for providing adequate infrastructure and community services;

WHEREAS, Northwest Indiana includes Lake Michigan, an unparalleled water resource within the state, for boating, sport fishing, and commercial fishing;

WHEREAS, Northwest Indiana shares Lake Michigan, its major source of drinking water, with industrial and other usages within and outside Indiana;

WHEREAS, Northwest Indiana concentrates these diverse and sometimes competing uses within 45 miles of shoreline;

WHEREAS, Northwest Indiana is challenged by environmental degradation, much of it dating from the beginning of the 20th Century, including one of 43 areas of concern designated in the United States and Canada by the International Joint Commission;

WHEREAS, Northwest Indiana is experiencing population growth which both enhances opportunities and exacerbates challenges requiring increased planning;

WHEREAS, Northwest Indiana is governed by a multiplicity of statutory and regulatory standards, some of which are exclusive to the region, and these are administered by a multiplicity of federal, state, and local agencies;

WHEREAS, the Department of Natural Resources through the Lake Michigan Coastal Program funded the Marquette Greenway Project to address regional planning issues in Northwest Indiana;

WHEREAS, five communities in Northwest Indiana through Memorandum of Agreement agreed to support three guiding principles to be incorporated into the project;

WHEREAS, the Marquette plan embodies concepts key to the protection of natural, cultural, and historic resources while incorporating wise redevelopment of industrial sites and builds a foundation for these protections to be included in local planning; and

WHEREAS, the Northwest Indiana Quality of Life Council and the Northwestern Indiana Regional Planning Commission passed resolutions supporting the current efforts embodied in the Marquette Greenway project and encourage the expansion of the project to the full 45 miles of coastline;

***NOW BE IT HEREBY RESOLVED BY THE NATURAL RESOURCES COMMISSION
THAT***

The Natural Resources Commission supports the concepts and ideas regarding resource protection and improved planning for Northwest Indiana put forth by the Marquette Greenway Project.

The Department of Natural Resources is urged to encourage the expansion of this project to include additional areas in the Lake Michigan Coastal Area not already included.

The Department of Natural Resources is urged to work with citizens of Northwest Indiana to help identify and prioritize social and environmental needs addressed in this planning effort.

The Department of Natural Resources is urged to actively pursue improved communication and coordination within the agency and with other state, federal, and Northwest Indiana agencies and governmental units.

The Department of Natural Resources is urged to assure that the Marquette Project adheres to all laws pertaining to environmental management and protection of the Lake Michigan Coastal Area.

The Department of Natural Resources is urged to support the participating local, state, and regional entities as they adopt the planning principles contained in the project.

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 01-0288
Sales and Use Tax

For the Years 1997-Present

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

Sales and Use Tax—Imposition of Sales Tax on Purchase of Aircraft

Authority: IC 6-6-6.5; IC 6-8.1-5-1; IC 6-2.5-5-8; IC 6-8.1-5-1(b); IC 6-2.5-2-1; IC 6-2.5-3-6(d)(2); IC 6-2.5-5-8(b); IC 6-6-6.5-2; Ind. Dep't of Revenue v. Interstate Warehousing, 783 N.E.2d 248, 250 (Ind. Tax 2003)

Taxpayer protests the imposition of sales tax on the purchase of an aircraft. Taxpayer asserts is used for leasing.

STATEMENT OF FACTS

Taxpayer purchased an aircraft in a governmental surplus property auction on January 2, 1997. The aircraft previously had been seized in a drug bust—and because of this, a considerable amount of the aircraft's records and documentation was missing.

On May 15, 1997, the Compliance Division sent a letter to Taxpayer noting that the aircraft had yet to be registered with the State of Indiana—as is required by law within 10 days after the purchase date, under IC 6-6-6.5. Taxpayer also was informed that, pursuant to IC 6-8.1-5-1, either the sales/use tax was to be paid or a written protest was to be filed within 60 days.

On May 23, 1997, taxpayer completed and submitted an *Application for Aircraft Registration or Exemption*, **Form 7695**. Taxpayer checked the box to claim the sales/use tax exemption.

On October 1, 1997, Taxpayer notified the Department that he was waiting for the FAA to award clear title of the aircraft. Taxpayer also informed the Department that lease arrangements had been negotiated—but held in abeyance until title and airworthiness were certified. Taxpayer informed the Department that extensive work would be required to make the aircraft airworthy.

The next correspondence noted in the Taxpayer's file is dated four years later on February 14, 2001. The Compliance Division informed Taxpayer that the sales/use tax exemption was denied on the basis that no sales or use tax had been remitted.

The Taxpayer asserts that he purchased the aircraft for resale, rental, or leasing and that the aircraft was not purchased for personal use.

According to a copy of the lease provided to the Department—on June 1, 1998, Taxpayer signed a lease agreement with Lessee No. 1. Lessee No. 1 acquired the aircraft for rental or leasing in the ordinary course of business. On that basis, the Taxpayer asserts that its collection of sales tax is exempted under I.C. 6-2.5-5-8. Taxpayer has provided the Department with a copy of the *Indiana General Sales Tax Exemption Certificate*, **Form ST-105**, signed by Lessee No. 1. The lease was for one year—with an automatic renewal provision unless 30 days notice is provided. According to Taxpayer, the lease renewed in June 1999 and was terminated June 2000. Taxpayer asserts that the aircraft only was flown 24 hours in the two years of the lease and asserts that \$5,520 in gross revenue was generated from the lease.

According to a copy of the lease provided to the Department—in June 2000, Taxpayer signed a lease agreement with Lessee No. 2. According to Taxpayer, the lease generated the minimum guaranteed revenue of \$30,000. No sales tax was remitted to the Department and no copy of an *Indiana General Sales Tax Exemption Certificate* signed by Lessee No. 2 was provided to the Department as evidence that sales tax is not due to be paid by Taxpayer.

DISCUSSION

Under Indiana code, all tax assessments are presumed to be valid and accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). The state of Indiana imposes a sales tax on the transfer of property in a retail transaction. IC 6-2.5-2-1. In the case of aircraft, taxpayers are to pay the tax directly to the department when registering the aircraft—unless the aircraft qualifies for an exemption. IC 6-2.5-3-6(d)(2). In this case, Taxpayer contends that the aircraft qualifies for an exemption from the sales tax because the taxpayer is a retail merchant in the business of leasing aircraft to the public in the ordinary course of business without changing the form of the aircraft. IC 6-2.5-5-8(b).

Taxpayer has stated to the Department that he has a background in the field of aviation and aircraft. The Department notes this assertion.

Taxpayer was contacted by the Department four months after he acquired the aircraft and the Department notified Taxpayer that his aircraft was not properly registered with the State of Indiana. Code section 6-6-6.5-2 requires that an aircraft be registered with the state—something Taxpayer had neglected to do. The statute makes no mention of registration upon receiving clear title—it refers solely to the purchase of an aircraft. The Purchase Letter provided to the Department states that Taxpayer's auction bid had been accepted and that the Government Agency requires that payment be received within 10 days. The lack of registration is mentioned to evidence the business habits of Taxpayer. Taxpayer knew he had purchased an aircraft, yet neglected to communicate to the Department that he was awaiting clear title. The point of mentioning this event is to evidence that Taxpayer did not act with

due diligence—a shortcoming that has continued for seven years in his dealings with the Department.

The Department consistently and persistently has requested that Taxpayer provide documentation to substantiate the sales tax exemption sought by Taxpayer. Taxpayer has been on notice of the nature and character of the documentation sought—but has chosen to provide incomplete, inconclusive, and scattered pieces of documentation.

It is well established that exemption statutes are strictly construed against a taxpayer; as such, Taxpayer has the burden of establishing entitlement to the exemption. *See, Ind. Dep't of Revenue v. Interstate Warehousing*, 783 N.E.2d 248, 250 (Ind. Tax 2003). The Department contacted Taxpayer in 1997—right after Taxpayer acquired the aircraft. Taxpayer has been on notice since 1997 that complete and accurate documentation would be needed to substantiate an exemption. Yet, Taxpayer has not been proactive in collecting and preserving documentation. Numerous and repeated letters sent by Taxpayer state that he cannot find—or has not requested from parties—sufficient substantiating documentation.

Direct and to the point—Taxpayer finally did secure a favorable lease—with Lessee No. 2—and earned \$30,000. That lease expired in 2001. As of 2004, the Department has not received sales tax due from that lease—nor has the Department been provided a copy of the General Sales Tax Exemption Certificate signed by Lessee No. 2 evidencing why sales tax was not collected and is not due from Taxpayer.

After seven years of pursuing this matter, the Department is unmoved and unpersuaded by Taxpayer's efforts at providing documentation to prove entitlement to an exemption. Based on this—Taxpayer has yet to submit sales/use tax or demonstrate an exemption from sales/use tax.

FINDING

Taxpayer's protest is denied. Sales tax is due for the purchase of the aircraft in 1997. Penalties and interest are due.

DEPARTMENT OF STATE REVENUE

03-20020068.LOF

LETTER OF FINDINGS NUMBER: 02-0068

Nonresident Withholding Tax

For Tax Periods: 1998-1999

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 this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUES

I. Nonresident Withholding Tax-Addback of income taxes

Authority: Ind Code. § 6-3-1-3.5; *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

Taxpayer protests the addback of riverboat wagering taxes in determining the adjusted gross income of shareholders for withholding tax purposes.

II. Nonresident Withholding Tax-Applicability

Authority: I.R.C. § 702; I.R.C. § 1366(b); Ind. Code § 6-3-2-2; Ind. Code § 6-3-4-12; Ind. Code § 6-3-4-13; *Dupee v. Tracy*, 708 N.E.2d 698 (Ohio 1999); *Agley v. Tracy*, 719 N.E.2d 951 (Ohio 1999).

Taxpayer argues that the income that is subject to withholding is not Indiana source income, and that it cannot be subject to withholding tax obligations based on its lack of presence in Indiana

III. Nonresident Withholding Tax-Computation

Authority: Ind. Code § 6-3-4-13.

Taxpayer argues that any losses incurred by it prior to adjustments be used to offset the adjustments for determining its ultimate withholding tax liability.

STATEMENT OF FACTS

Taxpayer, an S corporation, is a part-owner of an LLC that operates a casino in Indiana. During the years in question, taxpayer computed its withholding tax liability without adding back riverboat wagering taxes in computing the income subject to withholding. Audit assessed withholding tax liability based on the share of riverboat wagering tax paid by taxpayer. Taxpayer protested the add back of riverboat wagering taxes, the applicability of withholding liability to it, and the computation of its liability.

I. Nonresident Withholding Tax-Addback of income taxes

DISCUSSION

With respect to the validity of the assessment, the Indiana Tax Court has determined that the riverboat wagering tax is a tax “based on or measured by income and levied at the state level by any state of the United States.” *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381, 386 (Ind. Tax 2004). Accordingly, with respect to individuals, the tax must be

added back per Ind. Code § 6-3-1-3.5(a)(2) in order to determine the individual's adjusted gross income-the basis for withholding tax liability.

FINDING

Taxpayer's protest is denied.

II. Nonresident Withholding Tax-Applicability

Taxpayer has also argued that it is not subject to tax based on either the character of the income was not Indiana source income, or, in the alternative, that the Department did not have jurisdiction to assess taxpayer for the years in question.

First, taxpayer argues that the character of the income in the hands of the taxpayer was that of holding a membership interest in an LLC, not from doing business in Indiana. However, in the case of a partnership or S corporation, the character of the income for federal purposes is determined at the source, and then taxed to the individual recipient. *See* I.R.C. §§ 702(b), 1366(b). The character of the income in this case was determined at the partnership level-namely, the operation of a riverboat casino within Indiana, clearly subject to Indiana tax per Ind. Code § 6-3-2-2(a)(2). This character remains the same at the S corporation level. *See, e.g., Dupee v. Tracy*, 708 N.E.2d 698, 700 (Ohio 1999) (Florida residents subject to Ohio income tax as a result of S corporation operations in Ohio, based on income being Ohio business income). The income, contrary to taxpayer's argument, does not magically transform from "casino revenues" in the hands of the partnership to "intangible income" (e.g., dividends or interest) in the hands of the taxpayer. It retains its initial character-income from a business conducted in Indiana- as it passes through the various entities until it reaches a taxpayer.

Further, taxpayer's argument creates a legal absurdity. Indiana's non-resident withholding statutes, Ind. Code §§ 6-3-4-12 and -13 are rendered non-existent by taxpayer's arguments. A pass-through entity could always argue that its owners' incomes from the entity was merely income from an intangible (i.e., an ownership interest in the entity doing business in Indiana) and never be subject to Indiana tax, effectively resulting in a situation in which a nonresident who owns a business in Indiana is subject to income tax, but a nonresident who puts a pass-through entity between the individual and the business is insulated from all tax liabilities to Indiana.

Second, taxpayer further argues that Indiana cannot constitutionally tax the income because the taxpayer did not have nexus in Indiana. Taxpayer notes that the LLC and taxpayer are separate entities, and the LLC activities cannot be attributed to the taxpayer generally.

While Indiana has not directly addressed the issue, the highest court of at least one other state has noted that the taxpayer has sought, via the LLC, to invoke valuable rights that were provided to it. *Agley v. Tracy*, 719 N.E.2d 951 (Ohio 1999). In that case, the taxpayers were owners of an S Corporation that conducted business in Ohio; however, the taxpayers did not participate in any activities in Ohio. The taxpayers argued that, since they were not present in Ohio nor had any contacts with Ohio beyond their ownership of the S corporation, they could not be subject to personal income tax in Ohio. However, the court found that the S corporation availed itself of the benefits of Ohio, and that the taxpayers, through that corporation, had sufficient contacts to justify taxation by Ohio on the income derived from the business.

In this protest, the LLC that operated the casino availed itself of the protections and benefits of Indiana. It received one of the rare and extremely difficult to obtain licenses to operate a riverboat casino in Indiana, and proceeded to operate the riverboat. It further utilized the resources of Indiana to allow customers to reach the casino and has had full access to the courts of Indiana in order to seek protection at the casinos and protection in its everyday operations. By extension, the LLC used those protections to earn business income from Indiana, just as the S corporation in *Agley* used the protections of Ohio to earn its income. Taxpayer in this case has utilized those protections provided by Indiana-a separate legal identity and a highly valuable license, among others-to earn its income through the LLC, just as the shareholders in *Agley* used the protections conferred by Ohio to earn their income. Accordingly, taxpayer has sufficient contacts to justify its withholding obligations in Indiana.

FINDING

Taxpayer's protest is denied.

III. Nonresident Withholding Tax-Computation

DISCUSSION

Taxpayer has also protested the amount of the assessment. Taxpayer's argument is that the losses at the withholding entity level (in this case, S corporation) must be considered in determining its withholding liability. For example, if a taxpayer incurred a \$10,000,000 loss, but had \$4,000,000 of taxes added back, then its liability would be based on a \$6,000,000 loss rather than \$4,000,000. If a taxpayer incurred a \$10,000,000 loss but had \$19,000,000 of taxes added back, its liability would be based on \$9,000,000 rather than \$19,000,000.

Ind. Code § 6-3-4-13(a) states in relevant part that "[e]very corporation which is exempt from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it pays or credits amounts to any of its nonresident shareholders as dividends or as their share of the corporation's undistributed taxable income, withhold the amount prescribed by the department."

Here, the net income for withholding tax purposes is its "dividends or undistributed taxable income" within the meaning of the statute. Accordingly, the corporation's liability for withholding is limited to its net income rather than the total amount of taxes added back, if the corporation had a loss prior to the taxes added back. However, if the corporation had a profit or zero income prior to add

back, then the full amount of taxes added back are subject to withholding obligations.

FINDING

Taxpayer's protest is sustained subject to audit review of the amount of net income.

DEPARTMENT OF STATE REVENUE

04-20020216.LOF

LETTER OF FINDINGS NUMBER: 02-0216

Sales and Use Tax for the Year 1998

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 and Use Tax- Use tax on purchase of riverboat

Authority: I.C. 6-2.5-5-27; *Grand Victoria Casino & Resort LP v. Indiana Department of State Revenue*, 789 N.E.2d 1041(Ind. Tax 2003); *Indiana Department of State Revenue v. Trump Indiana, Inc.*, 814 N.E.2d 1017(Ind. Supreme Court 2004)

Taxpayer protests the assessment of use tax on the purchase of a riverboat.

STATEMENT OF FACTS

Taxpayer owned and operated a gambling casino on a riverboat located on the Ohio River. Taxpayer opened for business in 1998. Taxpayer was assessed use tax on its purchases of the riverboat for its casino operation and related operational items. Taxpayer protested the assessment, and this letter of findings results.

I. Sales and Use Tax- Use tax on purchase of riverboat

DISCUSSION

Taxpayer argued that the riverboat was engaged in public transportation and thus its purchase, and purchases related to its operation, were not subject to use tax pursuant to IC 6-2.5-5-27. By mutual agreement, the Department and Taxpayer deferred the resolution of this protest until two cases addressing this issue were resolved. Both *Grand Victoria Casino & Resort LP v. Indiana Department of State Revenue*, 789 N.E.2d 1041(Ind. Tax 2003) and *Indiana Department of State Revenue v. Trump Indiana, Inc.*, 814 N.E.2d 1017(Ind. Supreme Court 2004) upheld the Department's position. Taxpayer now suggests that the respective courts did not explicitly review their arguments- submitted as amicus curiae briefs in both cases- and thus the issue is not resolved. The Department does not agree.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020497.LOF

LETTER OF FINDINGS NUMBER: 02-0497

Sales Tax

For Tax Years 1999-00

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—Allocation Percentage

Authority: IC 6-8.1-5-1; 45 IAC 2.2-5-4; 45 IAC 2.2-5-5

Taxpayer protests the imposition of sales tax on a manure spreader and the taxable allocation percentage of a tractor.

STATEMENT OF FACTS

Taxpayer operates a horse riding business. The Indiana Department of Revenue ("Department") determined that several items purchased for the farm during this taxable period should have been subject to sales tax at the time of purchase, but no sales tax had been paid. The Department issued a preliminary report to taxpayer, who then hired a representative to deal with the Department. The representative contacted the Department, claiming that several of the items were not subject to sales tax. Taxpayer's representative

sent invoices to support the claim, and the Department removed all but two of the disputed items from the proposed assessment. Several items remained which were never disputed, plus the two which the Department determined were still taxable. These two items are the focus of this protest.

One of the items at issue is a manure spreader, which the Department determined was subject to sales tax. The other item is a tractor, which the Department determined was used four percent (4%) of the time for exempt purposes, and ninety-six percent (96%) for non-exempt purposes. The Department imposed sales tax on ninety-six percent (96%) of the purchase price of the tractor. Taxpayer believes that the allocation percentage on the tractor is incorrect and that the manure spreader should also be subject to allocation.

Taxpayer explains that the size of the property is seventy-eight point five (78.5) acres, with fifteen (15) acres used for the horses and fifteen (15) acres used to grow hay for the horses. Taxpayer believes that only the use of the tractor and manure spreader on the thirty (30) horse-related acres should be taxable, and offers the alternate taxable percentage of thirty-eight point twenty-one (38.21%) for the tractor and manure spreader. Further facts will be supplied as needed.

I. Sales Tax—Allocation Percentage

DISCUSSION

Taxpayer operates a horse riding business. In addition to the horse riding operations, taxpayer grows some grain which it sells. Taxpayer protests imposition of sales tax allocation percentage on a tractor and on a manure spreader. Four percent (4%) of taxpayer's revenues arise from the sale of grain. Ninety-six percent (96%) of taxpayer's revenues arise from the horse riding business. The Department allocated four percent (4%) of the tractor's cost as exempt and ninety-six percent (96%) as taxable based on revenues generated by the use of the tractor. The Department did not allocate sales tax on the manure spreader, which was treated as fully subject to sales tax. As explained in the protest letter, taxpayer believes that allocating on revenues is clearly a decision that is in favor of the Department and one that is not based upon sound accounting principals. Taxpayer believes that the taxable percentage should be based on the percentage of land used for taxable purposes. Taxpayer offers thirty-eight point twenty-one percent (38.21%) as the taxable percentage for the tractor and manure spreader.

In the audit report, the Department refers to 45 IAC 2.2-5-4, which states in relevant part:

- (a) Agricultural exemption certificates may be used only if the purchaser is occupationally engaged in the business of producing food or commodities for human, animal, or poultry consumption for sale or for further use in such production.
- (b) The department has determined that persons occupied in producing food and commodities as used in the Indiana sales and use tax act, shall mean and include only those persons, partnerships, or corporations whose intention it is to operate a farm at a profit and not those persons who intend to operate a farm for pleasure as a hobby. Operations similar to those of a pony farm, riding stable, or the production and raising of dogs and pets, are not classified as farms for the purpose of the state gross retail tax act.

...

The Department also refers to 45 IAC 2.2-5-5, which states:

- (a) The raising of saddle horses, harness horses, ponies, donkeys, or any other similar animals not used directly in direct agricultural production does not qualify as agricultural production for "human consumption" under the gross retail sales and use tax act. Consequently, the purchase of supplies, food, materials, and equipment used in raising or maintaining such animals are subject to the sales tax unless the items are directly used or consumed in the production of such animals for resale in the regular course of the purchaser's business.
- (b) The purchase of any of the above animals is subject to the sales tax unless the purchaser is a registered retail merchant and is buying such animal for resale in the regular course of his business.
- (c) A valid exemption certificate must be furnished by the purchaser setting out the reasons for any exemption.
- (d) An agricultural exemption certificate may be used only for the purchase of draft animals which are to be directly used in direct production of agricultural products.

Since taxpayer operates a horse riding business, 45 IAC 2.2-5-4(b) clearly provides that such a business is not classified as a farm for the state gross retail tax act. Also, 45 IAC 2.2-5-5(a) clearly provides that a horse riding operation does not qualify as agricultural production for human consumption under the gross retail sales and use tax act. The grain production does count as farming under 45 IAC 2.2-5-4(b).

Taxpayer states that acreage is a more accurate allocation method for the taxable percentage on the tractor and manure spreader. The Department refers to IC 6-8.1-5-1(a), which states:

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. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

While taxpayer has offered an alternate method of calculating the taxable percentage of the tractor, taxpayer has offered no

evidence or analysis explaining why that method is superior to the Department's method. Taxpayer believes that the Department's method is flawed because it assumes that all activities will generate the exact same amount of revenue for the time and effort expended on the activity.

A flaw with the proposed alternate allocation method is that it does not actually relate to the use of the tractor. Taxpayer's method does not explain what percentage the tractor is used on the thirty horse-related acres and what percentage the tractor is used for the exempt grain growing. Again, taxpayer has submitted no documentation supporting the claim that acreage is a more accurate method for determining allocation.

The Department was able to examine the documents explaining which revenues were raised from exempt sources and which were raised from non-exempt sources. With absolutely no evidence to the contrary, it is logical for the Department to allocate sales tax percentages on the same percentages as exempt and non-exempt revenues. As provided in IC 6-8.1-5-1(a), the Department used the best information available to make its proposed assessments.

Taxpayer also protests the imposition of sales tax on a manure spreader. Taxpayer has provided no evidence to establish that the manure spreader was used in an exempt manner. Unlike the tractor, which the Department agreed was partially used for tax exempt purposes, it has not been established that the manure spreader has been used in those exempt purposes. As previously explained, 45 IAC 2.2-5-5(a) establishes that equipment not directly used in direct agricultural production is subject to sales tax.

Finally, the Department refers to IC 6-8.1-5-1(b), which states in relevant part:

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.

In this case, taxpayer has presented insufficient documentation and analysis supporting the proposed alternate allocation method. Taxpayer has insufficiently explained why the manure spreader should be exempt for any percentage. Taxpayer has failed to meet the burden of proving the Department's proposed assessments wrong, as required by IC 6-8.1-5-1(b).

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020601.LOF

LETTER OF FINDINGS NUMBER: 02-0601

Adjusted Gross Income Tax

For Tax Period 1998- 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax-Expenses

Authority: IC 6-8.1-5-1(b), IC 6-8.1-5-4.

The taxpayer protests the disallowance of a deduction for certain expenses.

STATEMENT OF FACTS

The taxpayer is a shareholder of a sub chapter S corporation. In an investigation of the corporation, the Indiana Department of Revenue, hereinafter referred to as the "department," increased the corporation's gross receipts and disallowed the deduction of certain corporate expenses. As a result, the department assessed additional income tax, interest, and penalty against the taxpayer as a corporate shareholder. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. Adjusted Gross Income Tax-Expenses

DISCUSSION

All tax assessments are presumed to be accurate and taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b). Taxpayers are required to keep adequate records to allow the department to later determine the taxpayer's proper tax liability by reviewing those records. IC 6-8.1-5-4.

The S corporation manufactures floor and roof trusses used in the construction of buildings. It also preserves engines for another manufacturer by placing the engines and spare parts in sealed moisture proof metal containers. The S corporation deducted its cost of goods sold and engine expenses from its gross income on its federal adjusted gross income tax return. The department disallowed the separate deduction for engine expenses because it appeared that the engine expenses were deducted once in the cost of goods sold and again as separate engine expenses. This disallowance raised the S corporation's income. The higher S corporation income resulted in higher derivative income from the corporation for the taxpayer. The taxpayer protested the disallowance of the deduction

Nonrule Policy Documents

for engine expenses.

At the time of the audit, the taxpayer's records were in disarray. The taxpayer was unable to provide a summary schedule for both the cost of goods sold and the engine expense deduction with supporting invoices as requested by the department. Although the taxpayer did provide some documentation after the hearing, the taxpayer did not sustain its burden of proof.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020602.LOF

LETTER OF FINDINGS NUMBER: 02-0602

Adjusted Gross Income Tax For Tax Period 1998- 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Adjusted Gross Income Tax-Expenses

Authority: IC 6-8.1-5-1(b), IC 6-8.1-5-4.

The taxpayer protests the disallowance of a deduction for certain expenses.

STATEMENT OF FACTS

The taxpayer is a shareholder of a sub chapter S corporation. In an investigation of the corporation, the Indiana Department of Revenue, hereinafter referred to as the "department," increased the corporation's gross receipts and disallowed the deduction of certain corporate expenses. As a result, the department assessed additional income tax, interest, and penalty against the taxpayer as a corporate shareholder. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. Adjusted Gross Income Tax-Expenses

DISCUSSION

All tax assessments are presumed to be accurate and taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b). Taxpayers are required to keep adequate records to allow the department to later determine the taxpayer's proper tax liability by reviewing those records. IC 6-8.1-5-4.

The S corporation manufactures floor and roof trusses used in the construction of buildings. It also preserves engines for another manufacturer by placing the engines and spare parts in sealed moisture proof metal containers. The S corporation deducted its cost of goods sold and engine expenses from its gross income on its federal adjusted gross income tax return. The department disallowed the separate deduction for engine expenses because it appeared that the engine expenses were deducted once in the cost of goods sold and again as separate engine expenses. This disallowance raised the S corporation's income. The higher S corporation income resulted in higher derivative income from the corporation for the taxpayer. The taxpayer protested the disallowance of the deduction for engine expenses.

At the time of the audit, the taxpayer's records were in disarray. The taxpayer was unable to provide a summary schedule for both the cost of goods sold and the engine expense deduction with supporting invoices as requested by the department. Although the taxpayer did provide some documentation after the hearing, the taxpayer did not sustain its burden of proof.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020603.LOF

LETTER OF FINDINGS NUMBER: 02-0603

Adjusted Gross Income Tax For Tax Period 1998- 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Adjusted Gross Income Tax-Deduction**

Authority: IC 6-8.1-5-1(b), IC 6-8.1-5-4.

The taxpayer protests the disallowance of a deduction for certain expenses.

STATEMENT OF FACTS

The taxpayer is a shareholder of a sub chapter S corporation. In an investigation of the corporation, the Indiana Department of Revenue, hereinafter referred to as the "department," increased the corporate gross income and disallowed the deduction of certain corporate expenses. As a result, the department assessed additional adjusted gross income tax, interest, and penalty against the taxpayer as a corporate shareholder. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. Adjusted Gross Income Tax-Expenses**DISCUSSION**

All tax assessments are presumed to be accurate and taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b). Taxpayers are required to keep adequate records to allow the department to later determine the taxpayer's proper tax liability by reviewing those records. IC 6-8.1-5-4.

The S corporation manufactures floor and roof trusses used in the construction of buildings. It also preserves engines for another manufacturer by placing the engines and spare parts in sealed moisture proof metal containers. The S corporation deducted its cost of goods sold and engine expenses from its gross income on its federal adjusted gross income tax return. The department disallowed the separate deduction for engine expenses because it appeared that the engine expenses were deducted once in the cost of goods sold and again as separate engine expenses. This disallowance raised the S corporation's income. The higher S corporation income resulted in higher derivative income from the corporation for the taxpayer. The taxpayer protested the disallowance of the deduction for engine expenses.

At the time of the audit, the taxpayer's records were in disarray. The taxpayer was unable to provide a summary schedule for both the cost of goods sold and the engine expense deduction with supporting invoices as requested by the department. Although the taxpayer did provide some documentation after the hearing, it the taxpayer did not sustain its burden of proof.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20030090.LOF

LETTER OF FINDINGS NUMBER: 03-0090**Sales and Use Tax and Allen County Food & Beverage Tax****For 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 specific issues.

ISSUES**I. Sales and Use Tax – Like Kind Exchanges**

Authority: Ind. Code § 6-2.5-1-5(a)(1).

Taxpayer protests the lack of credit for sales and use taxes with respect to goods exchanged as partial consideration for other goods in its business.

II. Sales and Use Tax – Software Support Maintenance Agreements

Authority: Ind. Code 6-2.5-3-2, Sales Tax Information Bulletin #2 dated August, 1991.

Taxpayer protests the assessment of tax on software support maintenance agreements.

III. Sales and Use Tax-Purchases for Use Outside Indiana

Authority: Ind. Code § 6-2.5-3-2; Ind. Code § 6-2.5-3-7

Taxpayer protests sales tax assessments with respect to software licenses that taxpayer maintains were used solely outside Indiana.

IV. Sales and Use Tax -Rentals

Authority: Ind. Code § 6-2.5-4-4; Ind. Code § 6-2.5-5-26

Taxpayer protests the assessment of sales and use tax with respect to charges for rental of a room at a not-for-profit museum.

V. Sales and Use Tax - Catering Charges

Authority: 45 IAC 2.2-5-45(b)

Taxpayer protests the assessment of sales tax with respect to service charges at various catered events.

VI. Allen County Food & Beverage Tax-Applicability

Authority: Ind. Code § 6-9-23-4

Taxpayer protests the imposition of Allen County Food and Beverage Tax with respect to several items

VII. Sales and Use Tax- Lawn Services

Authority: None

Taxpayer protests the assessment of sales tax with respect to charges that it maintains are for lawn maintenance services rather than tangible personal property.

STATEMENT OF FACTS

Taxpayer is a company engaged in a number of different businesses. Taxpayer was audited by the Department for sales and use tax for the years 1999 to 2001. As a result of the audit, taxpayer was assessed use tax with respect to a number of items, and also protested a number of payments of sales and use tax that taxpayer had claimed were in error.

First, taxpayer claimed that it had erroneously paid sales and use tax with respect to two items for which taxpayer had traded another piece of property. Taxpayer has claimed that the trade-in-value of the property was part of a like-kind exchange, and therefore was exempt from sales and use tax.

Second, taxpayer protested the imposition of use tax with respect to several software contracts. In particular, taxpayer maintained that the largest portion of the contracts used for sampling consisted of maintenance contracts without the provision of automatic upgrades or only for upgrades if they became available, and therefore these contracts were exempt from use tax.

Third, taxpayer has claimed that it erroneously paid sales and use tax with respect to several software licenses under two contracts. Taxpayer has claimed that a significant number of the licenses that it purchased and for which it remitted Indiana sales and use tax were in fact used in other states.

Fourth, taxpayer protested the imposition of use tax with respect to a rental of a museum for a corporate function. In particular, taxpayer has noted that the museum was a not-for-profit entity, and claimed that the rental was consistent with the overall charitable purpose of the museum.

Fifth, taxpayer protested the imposition of use tax with respect to service charges for catered events. In particular, taxpayer maintained that the charges were not for the sale of tangible personal property, and thus not subject to sales and use tax. Taxpayer has also protested the imposition of a food & beverage tax imposed by Allen County with respect to the food and other items.

Lastly, taxpayer protested the imposition of sales tax with respect to certain lawn services. Taxpayer maintained that the transaction was only for lawn mowing services, and not for any tangible personal property.

I. Sales and Use Tax - Like Kind Exchanges

DISCUSSION

Taxpayer's first contention is that sales tax was improperly assessed on amounts that represented the trade-in value for property in a like-kind exchange, which would not be considered a retail transaction under Ind. Code § 6-2.5-1-5(a)(1).

While taxpayer has provided sufficient information to indicate that the amount paid to the vendor was reduced by the value of the trade-in, taxpayer has not provided the necessary information to substantiate that the property used in the trade-in was of a like kind to that which taxpayer purchased. Accordingly, the full value of the transaction is considered a retail transaction subject to tax.

FINDING

Taxpayer's protest is denied.

II. Sales and Use Tax - Software Support Maintenance Agreements

DISCUSSION

Taxpayer's second point of protest concerns the assessment of use tax on software support maintenance agreements pursuant to Ind. Code § 6-2.5-3-2. Taxpayer purchased software support and maintenance agreements for several software programs. Generally, taxpayer has maintained that the agreements did not constitute licenses otherwise taxable. Some of those agreements, according to taxpayer, include software upgrades if any became available. Other agreements, according to taxpayer, did not include software upgrades, or upgrades with a value of less than 10% of the total value under the contract.

The Indiana Department of Revenue policy concerning warranties and maintenance agreements is stated in Sales Tax Information Bulletin #2 dated August, 1991 as follows:

Optional extended warranties and maintenance agreements are offered as a separate added amount to the purchase price of property being sold and a fixed sum is charged for the furnishing of tangible personal property throughout the term of the warranty or the agreement. Optional warranties and maintenance agreements are not subject to sales or use tax. Optional warranties and maintenance agreements are not subject to tax because the purchase of the warranty or maintenance agreement is the purchase of an intangible right to have property supplied and there is no certainty that property will be supplied. However, if the agreement includes a charge for property to be periodically supplied the agreement would be subject to tax.

Taxpayer submitted a questionnaire to the various software companies that had supplied taxpayer with the software in question. Taxpayer bases its protest on the answers provided by the vendors in the questionnaire.

As a general rule, while taxpayer has provided voluminous evidence in support of its point, mainly consisting of answers to the questionnaires, the critical information to rebut the auditor's presumption of correctness—the contracts between taxpayer and the vendors—appears nowhere in the file. Thus, the assessment must stand.

With respect to one contract with Microsoft, taxpayer has provided a copy of the relevant contract in question. With respect to that contract, the contract provided that taxpayer received extensive technical documentation, source code, and other software and technical information on CD-ROM.

With respect to another contract with Hewlett-Packard, it appears that the amount in controversy was not listed as part of audit's assessment, and thus this portion of the protest is moot.

FINDING

Taxpayer's protest is denied with the exception of the contract with Hewlett-Packard. The portion of the assessment with respect to Hewlett-Packard is moot due to the lack of assessment.

III. Sales and Use Tax - Purchases for Use Outside Indiana

DISCUSSION

Taxpayer further protests the portion of sales tax due with respect to two contracts that taxpayer maintains represent licenses for property used outside Indiana.

With respect to this, Ind. Code § 6-2.5-3-2(d)(3) provides that use tax is not imposed whenever tangible personal property is "subsequently transported out of state for use solely outside Indiana".

Taxpayer maintains that for two contracts, a significant portion of the price paid for software licenses were in fact used in other states. To support their argument, taxpayer has provided information from internal sources relating to how many licenses are used in Indiana and other states. However, taxpayer has not provided an exact breakdown by user and user's location, and accordingly the protest is denied.

Furthermore, when taxpayer contracted for the software licenses, taxpayer contracted for use in Indiana, with out-of-state use (if any) only occurring after the receipt of those licenses. This is presumed to be taxable in Indiana under Ind. Code § 6-2.5-3-7, and taxpayer has provided insufficient information that the contracts were not for taxpayer's use in Indiana at the time of purchase.

FINDING

Taxpayer's protest is denied.

IV. Sales and Use Tax-Rentals

DISCUSSION

Taxpayer protests the assessment of sales tax with respect to the rental of a museum. The museum was operated as a not-for-profit corporation; however, the museum did rent its space for a dinner and private showing to taxpayer for one evening. No sales tax was paid with respect to the rental.

Taxpayer maintains that the rental of the museum was consistent with the overall not-for-profit purpose of the museum, and thus would be tax-exempt.

Ordinarily, the rental of real estate for less than 30 days is taxable. Ind. Code § 6-2.5-4-4. In reviewing the Indiana statutes, tax-exempt organizations do enjoy an exemption from most sales of tangible personal property. Ind. Code § 6-2.5-5-26. However, taxpayer has not provided sufficient information to allow the Department to conclude that such provision was in furtherance of the charity's overall charitable purpose, and accordingly the protest should be denied.

FINDING

Taxpayer's protest is denied.

V. Sales and Use Tax - Catering Charges

DISCUSSION

Taxpayer protests the imposition of sales and use tax with respect to charges for catering services. In the case of each receipt, the service charges were set forth separately from the charges for concededly taxable items.

Under 45 IAC 2.2-5-45(b), "The [sales] tax applies to the entire charge made by caterers for serving meals, food and drink, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for labor of serving meals." This regulation applies to the full cost of the catering, not just the portions that taxpayer concedes are taxable, and accordingly the full value is taxable.

FINDING

Taxpayer's protest is denied.

VI. Allen County Food and Beverage Tax-Applicability

DISCUSSION

Taxpayer also protests the imposition of Allen County Food and Beverage Tax with respect to various items purchased at catered events.

Ind. Code § 6-9-23-4(a) provides that the tax "applies to any transaction in which food and beverage is furnished, prepared, or served: (1) for consumption at a location, or on equipment, provided by a retail merchant; (2) in the county in which the tax is imposed; and (3) by a retail merchant for consideration."

Nonrule Policy Documents

Here, taxpayer's own receipts indicate that the items in question were food and beverage charges at catered events-either at a location or on equipment provided by the caterer for consideration, and in Allen County. Accordingly, taxpayer has not established that it is exempt from the tax.

FINDING

Taxpayer's protest is denied.

VII. Sales and Use Tax - Lawn Services

DISCUSSION

Taxpayer argues that sales tax was improperly assessed with respect to lawn mowing services provided to taxpayer. Taxpayer provided adequate documentation to sustain its argument.

FINDING

Taxpayer's protest is sustained

DEPARTMENT OF STATE REVENUE

0120030118.LOF

LETTER OF FINDINGS NUMBER: 03-0118

Adjusted Gross Income Tax For Tax Period 1998- 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax-Deduction

Authority: IC 6-8.1-5-1(b), IC 6-8.1-5-4.

The taxpayer protests the disallowance of a deduction for certain expenses.

STATEMENT OF FACTS

The taxpayer is a shareholder of a sub chapter S corporation. In an investigation of the corporation, the Indiana Department of Revenue, hereinafter referred to as the "department," increased the corporate gross income and disallowed the deduction of certain corporate expenses. As a result, the department assessed additional adjusted gross income tax, interest, and penalty against the taxpayer as a corporate shareholder. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. Adjusted Gross Income Tax-Deduction

DISCUSSION

All tax assessments are presumed to be accurate and taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b). Taxpayers are required to keep adequate records to allow the department to later determine the taxpayer's proper tax liability by reviewing those records. IC 6-8.1-5-4.

The S corporation manufactures floor and roof trusses used in the construction of buildings. It also preserves engines for another manufacturer by placing the engines and spare parts in sealed moisture proof metal containers. The S corporation deducted its cost of goods sold and engine expenses from its gross income on its federal adjusted gross income tax return. The department disallowed the separate deduction for engine expenses because it appeared that the engine expenses were deducted once in the cost of goods sold and again as separate engine expenses. This disallowance raised the S corporation's income. The higher S corporation income resulted in higher derivative income from the corporation for the taxpayer. The taxpayer protested the disallowance of the deduction for engine expenses.

At the time of the audit, the taxpayer's records were in disarray. The taxpayer was unable to provide a summary schedule for both the cost of goods sold and the engine expense deduction with supporting invoices as requested by the department. Although the taxpayer did provide some documentation after the hearing, the taxpayer did not sustain its burden of proof.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120030224.LOF

LETTER OF FINDINGS: 03-0224 Indiana Adjusted Gross Income Tax For 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. Disallowed Business Expenses – Adjusted Gross Income Tax.

Authority: IC 6-3-1-3.5; IC 6-8.1-5-1(b); 45 IAC 3.1-1-1; Treas. Reg. § 1.162.

Taxpayer challenges the Department of Revenue Decision disallowing certain claimed business expenses.

STATEMENT OF FACTS

Taxpayer operated a lawn care and landscaping business as a sole proprietorship. The Department of Revenue (Department) conducted an audit review of taxpayer's income tax returns and business records. As a result of that audit, a number of adjustments were made whereby items claimed as business expenses were disallowed. Accordingly, taxpayer was assessed additional Indiana income tax. Taxpayer disagreed with the assessments and submitted a protest to that effect. An administrative hearing was conducted during which taxpayer's representative explained the basis for the protest and submitted additional information in support of taxpayer's argument. This Letter of Findings results.

DISCUSSION

I. Disallowed Business Expenses – Adjusted Gross Income Tax.

The audit disallowed expenses claimed on taxpayer's "Schedule C" on the ground that there was insufficient information to verify that the amounts claimed were business and not personal expenses. The audit report stated that there were no "income statements or general ledgers" and that the 1999 and 2000 returns "were based on the check book which included personal expenses."

Following completion of the audit report, taxpayer provided additional information including "Quick Book" and "Profit and Loss" summary statements for 1999 and 2000. These summary statements include listings for items such as supplies, repairs, maintenance, and utilities. In support of the summary statements, taxpayer supplied copies of its check registers. The check registers list amounts paid for both personal and business expenses.

IC 6-3-1-3.5 states as follows: "When used in IC 6-3, the term 'adjusted gross income' shall mean the following: (a) In the case of all individuals 'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code)...." The Department's regulation restates the principal. 45 IAC 3.1-1-1 defines individual adjusted gross income as follows:

Adjusted Gross Income for Individuals Defined. For individuals, "Adjusted Gross Income" is "Adjusted Gross Income as defined in Internal Revenue Code § 62 modified as follows:

- (1) Begin with gross income as defined in section 61 of the Internal Revenue Code.
- (2) Subtract any deductions allowed by section 62 of the Internal Revenue Code.
- (3) Make all modifications required by IC 6-3-1-3.5(a).

Under Treas. Reg. § 1.162, a taxpayer, whether a corporation, an individual, partnership, or a trust or estate, generally may deduct from its gross income the ordinary and necessary expenses of carrying on a trade or business that are paid or incurred during the tax year.

In arriving at the amount of its adjusted gross income, taxpayer – as the sole proprietor of the lawn care and landscaping business – was entitled to deduct "ordinary and necessary expenses" incurred in carrying on that business.

However, the audit disallowed certain of the claimed business expenses on the ground that taxpayer failed to properly distinguish between personal and business expenses. For example, the audit disallowed cable television, credit card, utility, and clothing store expenses. Afterwards, taxpayer supplied "Quick Books" and "Profit and Loss" summaries which were offered to verify the amount of claimed business expenses. In addition, taxpayer provided photocopies of its check ledgers delineating business expenses for each of the two years here at issue.

Under IC 6-8.1-5-1, taxpayer has the responsibility for demonstrating that the proposed assessments were incorrect. In relevant part, the section provides, "The notice of proposed assessment is prima facie evidence 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).

The audit was correct in initially disallowing certain of the claimed expenses; it is unlikely that the costs of cable television service were associated with operating taxpayer's lawn care and landscaping business. However, there is no doubt that taxpayer incurred "ordinary and necessary expenses" in running its lawn care and landscaping business. The problem is in reconciling taxpayer's claimed business expenses with the original documentation offered to support those amounts. For example, taxpayer – on its "Quick Books" summary – claims approximately \$60,000 in supply expenses for 1999. Taxpayer's "Profit and Loss" statement for that year, breaks down that amount into more specific categories such as "landscaping," "equipment," and "legal." However, there is not sufficient information or original documentation upon which to verify these totals. The only original materials are photocopies of the check registers. However, the check registers only show amounts paid, to whom the check was issued, and – in some cases – a notation as to the reason for the payment. In some instances, the check registers lists amounts which are plainly personal and not

business such as medical expenses, church donations, and payments made to shoe stores. Other amounts are simply listed under a generic heading such as "fuel" or "utility" making it impossible to determine if this amount is a business or a personal expense. Similarly, numerous checks are made payable to credit card companies; because the check register freely mixes personal and business payments, it is not possible to determine with any assurance whether a particular credit payment is for a business or for a personal purpose.

There is no reason to doubt taxpayer's good faith or honesty. There is no doubt that taxpayer incurred expenses in its lawn care and landscaping business, that taxpayer paid these expenses, and that taxpayer has a general notion as to the total amount of business expenses for each of the two years. However, taxpayer's informal method of intermingling personal and business records and the failure to retain original invoices, makes it difficult – if not impossible – to determine with any degree of precision the actual business expenses for 1999 and 2000. Pursuant to IC 6-8.1-5-1, taxpayer has not met its burden of demonstrating that the proposed assessments are incorrect.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420030285.LOF

LETTER OF FINDINGS NUMBER: 03-0285

Sales and Use Tax

For the Year 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales and Use Tax-Print and Copy Center

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-3-2(a), IC 6-2.5-4-10(a), IC 6-2.5-5-3(b), IC 6-2.5-5-5.1, IC 6-2.5-5-3(a)(2), IC 6-2.1-2-4(7),

The taxpayer protests the assessment of use tax on certain machines and supplies.

II. Sales and Use Tax-Phone Cards

Authority: IC 6-2.5-4-13.

The taxpayer protests the exclusion of the phone cards from the sample.

III. Sales and Use Tax-Uniforms and Doormats

Authority: IC 6-2.5-4-10(a), IC 6-2.5-2-1.

The taxpayer protests the imposition of use tax on uniforms and doormats.

IV. Sales and Use Tax-Exempt Sales Error Percentage

Authority: IC 6-8.1-5-1(b).

The taxpayer protests the computation of the exempt sales error percentage.

V. Tax Administration-Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b)

The taxpayer protests the imposition of the ten (10%) percent negligence penalty.

STATEMENT OF FACTS

The taxpayer is a retailer and distributor of office supplies with a number of retail stores throughout Indiana. Until December 27, 1998, the taxpayer was a corporation. On that date, the corporation transferred all of its Indiana assets to a limited partnership and maintained a 1 % interest as a general partner. Sales and use tax audits were performed on both entities. Since operations for sales and use tax purposes remained identical for both entities and the tremendous volume of records involved, one sampling of 34 store days for the period 1998-2000 was chosen to examine exempt sales for both taxpayers. The audits resulted in an assessment of sales and use tax, interest, and penalty. The taxpayer protested a portion of the assessment. A hearing was held. This Letter of Findings results.

I. Sales and Use Tax-Print and Copy Center

DISCUSSION

The department assessed use tax on certain items of machinery purchased for the taxpayer's print and copy center. The department also assessed use tax on the lease of three machines for the print and copy center. The taxpayer protested the following assessments.

The taxpayer protested the use tax assessed on the following items:

Fastback Model II	Tape binding machine to create bound books
Starter Kit #1	Supplies for binding units
Triumph 3905	Manual heavy duty paper cutter
Multi 1217	Paper folding machine
General Graphic Kit	Consumable supplies
EP10 System, 1 dye	Coil binding unit with a dye (paper punch)
Martin Yale Stack Wagon	Steel rolling wagon to store, stage, and compile paper jobs
Rapid 106	Stand mounted stapler that is used to staple booklets
Spiral bind OD new store package	Supplies for spiral bonding
Fastfold 22 folder	Paper folder-automatic
Powis printer	Printer that enables putting printing on the spines of the Fastback II bound copies
Baum 714	High speed heavy duty folding unit

The taxpayer also protested the use tax assessed on several photocopiers rented from Eastman Kodak. The photocopiers were for use in the copy and print center.

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).

Indiana imposes an excise tax on tangible personal property stored, used or consumed in Indiana when no sales tax was paid at the time of purchase. IC 6-2.5-3-2(a). The sales and use taxes are also imposed on the use of tangible personal property that is leased. IC 6-2.5-4-10(a). A number of exemptions are available from use tax. IC 6-2.5-5-3(b) provides for the exemption of “manufacturing machinery, tools and equipment which is to be directly used by the purchaser in the direct production, manufacture, fabrication... of tangible personal property.” IC 6-2.5-5-5.1 provides exemption to property consumed “in the direct production of other tangible personal property.” Commercial printing is “treated as the production and manufacture of tangible personal property.” IC 6-2.5-5-3(a)(2). Commercial printing is defined at IC 6-2.1-2-4(7) as follows:

The business of commercial printing that results in printed materials, excluding the business of photocopying.

The taxpayer’s operations separate the business of photocopying from the business of producing printed materials. The self service photocopying machines are located outside the full service copy centers. The taxpayer properly paid sales tax on its self service photocopiers when purchased.

In contrast, the taxpayer offers full service print and copy centers in each of its retail establishments. The copy centers are in partially enclosed separate areas of the facility. Patrons bring their materials to the copy centers where the materials can be photocopied in color or black and white, bound, and tabs attached. A common sort of job includes one hundred (100) copies of a fifty (50) page document. It is not unusual for orders to cost \$1,000.00. Jobs are paid for at a register in the center or an invoice is prepared and paid for at the general store registers. Sales tax is charged to patrons and remitted to the state on all jobs completed in the copy center. In this situation, the taxpayer is producing printed materials for sale. Machines that are directly used in the direct production of these printed materials qualify for exemption. Supplies that are consumed in the direct production of these printed materials also qualify for exemption. Each of the protested items is either a machine used in the direct production of the taxpayer’s product or supplies consumed in the direct production of the taxpayer’s product and exempt from Indiana use tax.

FINDING

The taxpayer’s protest is sustained.

II. Sales and Use Tax-Phone Cards

DISCUSSION

The taxpayer protests two issues concerning the assessment of sales tax on the sale of phone cards. First the taxpayer contends that the separate assessment related to the phone card sales should be removed and the phone card transactions should be included in the random sample. The sale of phone cards is subject to Indiana sales tax. IC 6-2.5-4-13. The taxpayer acknowledged that it had at times not charged sales tax on the sale of phone cards. Further the taxpayer could not determine when the taxability of phone cards had been changed in its registers and billing systems. Therefore it was appropriate for the auditor to exclude the sales of phone cards from the sampling method used in the audit and tax the sales of phone cards as a “stand alone” item. The taxpayer was unable to provide the auditor with documentation concerning the exact amount of phone card sales. Therefore the auditor made an appropriate and reasonable estimate of the transactions selling phone cards.

FINDING

The taxpayer’s protest is denied.

III. Sales and Use Tax-Rental of Uniforms and Door Mats

DISCUSSION

The taxpayer protests the assessment of sales tax on the rentals of uniforms and door mats.

Retail transactions made in Indiana are subject to sales tax. IC 6-2.5-2-1. Leases of tangible personal property are defined as

Nonrule Policy Documents

a taxable retail transaction. IC 6-2.5-4-10(a). The taxpayer agrees that it rented uniforms and doormats and that sales tax was due on the transactions. The taxpayer argues that it actually paid the sales taxes due at the time of the rentals. In support of this contention, the taxpayer submitted statements of the amounts paid to the rental company. These statements, however, do not indicate that sales taxes were paid. Therefore, the taxpayer did not sustain its burden of proving that the assessment is incorrect.

FINDING

The taxpayer's protest is denied.

IV. Sales and Use Tax-Exempt Sales Error Percentage

DISCUSSION

The taxpayer protests the auditor's determination of the denominator for the error percentage calculation. The auditor used the figures provided by the taxpayer to determine the denominator of the error percentage. However the auditor dropped the cents which made the denominator a smaller number and increased the final amount of tax due. An estimate of the denominator should not be used when accurate figures are available.

Secondly the taxpayer contends that the auditor should have excluded the value of untaxed phone card sales from the denominator of the error percentage calculation. The taxpayer provided listings of figures to be deducted from the denominator of the error percentage calculation. There is, however, no back up information or other way to verify these figures. This submission does not sustain the taxpayer's burden of proving that the assessment was incorrect. IC 6-8.1-5-1(b).

FINDING

The taxpayer's protest concerning the accurate calculation of the denominator of the error percentage calculation is sustained. The taxpayer's protest concerning the exclusion of the untaxed phone card sales from the denominator of the error percentage calculation is denied.

V. Tax Administration-Imposition of Penalty

DISCUSSION

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer's carelessness and inattention to details caused it to fail to pay sales or use tax on many clearly taxable items such as business cards, uniform rental, hand trucks, and ladders. Further, many of the assessments resulted from issues similar to those in a previous audit. This breach of the taxpayer's duty to pay the proper amount of taxes constitutes negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030286.LOF

LETTER OF FINDINGS NUMBER: 03-0286

Sales and Use 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.

ISSUES

I. Sales and Use Tax-Print and Copy Center

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-3-2(a), IC 6-2.5-4-10(a), IC 6-2.5-5-3(b), IC 6-2.5-5-5.1, IC 6-2.5-5-3(a)(2), IC 6-2.1-2-4(7),

The taxpayer protests the assessment of use tax on certain machines and supplies.

II. Sales and Use Tax-Phone Cards

Authority: IC 6-2.5-4-13.

The taxpayer protests the exclusion of the phone cards from the sample.

III. Sales and Use Tax-Uniforms and Doormats

Authority: IC 6-2.5-4-10(a), IC 6-2.5-2-1.

The taxpayer protests the imposition of use tax on uniforms and doormats.

IV. Sales and Use Tax-Exempt Sales Error Percentage

Authority: IC 6-8.1-5-1(b).

The taxpayer protests the computation of the exempt sales error percentage.

V. Tax Administration-Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b)

The taxpayer protests the imposition of the ten (10%) percent negligence penalty.

STATEMENT OF FACTS

The taxpayer is a retailer and distributor of office supplies with a number of retail stores throughout Indiana. Until December 27, 1998, the taxpayer was a corporation. On that date, the corporation transferred all of its Indiana assets to a limited partnership and maintained a 1 % interest as a general partner. Sales and use tax audits were performed on both entities. Since operations for sales and use tax purposes remained identical for both entities and the tremendous volume of records involved, one sampling of 34 store days for the period 1998-2000 was chosen to examine exempt sales for both taxpayers. The audits resulted in an assessment of sales and use tax, interest, and penalty. The taxpayer protested a portion of the assessment. A hearing was held. This Letter of Findings results.

I. Sales and Use Tax-Print and Copy Center

DISCUSSION

The department assessed use tax on certain items of machinery purchased for the taxpayer's print and copy center. The department also assessed use tax on the lease of three machines for the print and copy center. The taxpayer protested the following assessments.

The taxpayer protested the use tax assessed on the following items:

Fastback Model II	Tape binding machine to create bound books
Starter Kit #1	Supplies for binding units
Triumph 3905	Manual heavy duty paper cutter
Multi 1217	Paper folding machine
General Graphic Kit	Consumable supplies
EP10 System, 1 dye	Coil binding unit with a dye (paper punch)
Martin Yale Stack Wagon	Steel rolling wagon to store, stage, and compile paper jobs
Rapid 106	Stand mounted stapler that is used to staple booklets
Spiral bind OD new store package	Supplies for spiral bonding
Fastfold 22 folder	Paper folder-automatic
Powis printer	Printer that enables putting printing on the spines of the Fastback II bound copies
Baum 714	High speed heavy duty folding unit

The taxpayer also protested the use tax assessed on several photocopiers rented from Eastman Kodak. The photocopiers were for use in the copy and print center.

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).

Indiana imposes an excise tax on tangible personal property stored, used or consumed in Indiana when no sales tax was paid at the time of purchase. IC 6-2.5-3-2(a). The sales and use taxes are also imposed on the use of tangible personal property that is leased. IC 6-2.5-4-10(a). A number of exemptions are available from use tax. IC 6-2.5-5-3(b) provides for the exemption of "manufacturing machinery, tools and equipment which is to be directly used by the purchaser in the direct production, manufacture, fabrication... of tangible personal property." IC 6-2.5-5-5.1 provides exemption to property consumed "in the direct production of other tangible personal property." Commercial printing is "treated as the production and manufacture of tangible personal property." IC 6-2.5-5-3(a)(2). Commercial printing is defined at IC 6-2.1-2-4(7) as follows:

The business of commercial printing that results in printed materials, excluding the business of photocopying.

The taxpayer's operations separate the business of photocopying from the business of producing printed materials. The self service photocopying machines are located outside the full service copy centers. The taxpayer properly paid sales tax on its self service photocopiers when purchased.

In contrast, the taxpayer offers full service print and copy centers in each of its retail establishments. The copy centers are in partially enclosed separate areas of the facility. Patrons bring their materials to the copy centers where the materials can be photocopied in color or black and white, bound, and tabs attached. A common sort of job includes one hundred (100) copies of a fifty (50) page document. It is not unusual for orders to cost \$1,000.00. Jobs are paid for at a register in the center or an invoice is prepared and paid for at the general store registers. Sales tax is charged to patrons and remitted to the state on all jobs completed in

the copy center. In this situation, the taxpayer is producing printed materials for sale. Machines that are directly used in the direct production of these printed materials qualify for exemption. Supplies that are consumed in the direct production of these printed materials also qualify for exemption. Each of the protested items is either a machine used in the direct production of the taxpayer's product or supplies consumed in the direct production of the taxpayer's product and exempt from Indiana use tax.

FINDING

The taxpayer's protest is sustained.

II. Sales and Use Tax-Phone Cards

DISCUSSION

The taxpayer protests two issues concerning the assessment of sales tax on the sale of phone cards. First the taxpayer contends that the separate assessment related to the phone card sales should be removed and the phone card transactions should be included in the random sample. The sale of phone cards is subject to Indiana sales tax. IC 6-2.5-4-13. The taxpayer acknowledged that it had at times not charged sales tax on the sale of phone cards. Further the taxpayer could not determine when the taxability of phone cards had been changed in its registers and billing systems. Therefore it was appropriate for the auditor to exclude the sales of phone cards from the sampling method used in the audit and tax the sales of phone cards as a "stand alone" item. The taxpayer was unable to provide the auditor with documentation concerning the exact amount of phone card sales. Therefore the auditor made an appropriate and reasonable estimate of the transactions selling phone cards.

FINDING

The taxpayer's protest is denied.

III. Sales and Use Tax-Rental of Uniforms and Door Mats

DISCUSSION

The taxpayer protests the assessment of sales tax on the rentals of uniforms and door mats.

Retail transactions made in Indiana are subject to sales tax. IC 6-2.5-2-1. Leases of tangible personal property are defined as a taxable retail transaction. IC 6-2.5-4-10(a). The taxpayer agrees that it rented uniforms and doormats and that sales tax was due on the transactions. The taxpayer argues that it actually paid the sales taxes due at the time of the rentals. In support of this contention, the taxpayer submitted statements of the amounts paid to the rental company. These statements, however, do not indicate that sales taxes were paid. Therefore, the taxpayer did not sustain its burden of proving that the assessment is incorrect.

FINDING

The taxpayer's protest is denied.

IV. Sales and Use Tax-Exempt Sales Error Percentage

DISCUSSION

The taxpayer protests the auditor's determination of the denominator for the error percentage calculation. The auditor used the figures provided by the taxpayer to determine the denominator of the error percentage. However the auditor dropped the cents which made the denominator a smaller number and increased the final amount of tax due. An estimate of the denominator should not be used when accurate figures are available.

Secondly the taxpayer contends that the auditor should have excluded the value of untaxed phone card sales from the denominator of the error percentage calculation. The taxpayer provided listings of figures to be deducted from the denominator of the error percentage calculation. There is, however, no back up information or other way to verify these figures. This submission does not sustain the taxpayer's burden of proving that the assessment was incorrect. IC 6-8.1-5-1(b).

FINDING

The taxpayer's protest concerning the accurate calculation of the denominator of the error percentage calculation is sustained. The taxpayer's protest concerning the exclusion of the untaxed phone card sales from the denominator of the error percentage calculation is denied.

V. Tax Administration-Imposition of Penalty

DISCUSSION

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer's carelessness and inattention to details caused it to fail to pay sales or use tax on many clearly taxable items such as business cards, uniform rental, hand trucks, and ladders. Further, many of the assessments resulted from issues similar to those in a previous audit. This breach of the taxpayer's duty to pay the proper amount of taxes constitutes negligence.

FINDING

The taxpayer's protest is denied.

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0314****Sales Tax****For the Year 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**Sales Tax—Assessment**

Authority: IC 6-8.1-5-1(b); IC 6-2.5-2-1; IC 6-2.5-6-1; IC 6-2.5-4-1(g); IC 6-2.5-5-20; IC 6-2.5-6-6; 45 IAC 2.2.

Taxpayer protests the additional assessment of sales tax on January 2001 sales income.

STATEMENT OF FACTS

Taxpayer operates a family restaurant. Discrepancies existed between the amount of sales income Taxpayer reported in January 2001 as income for sales tax purposes and the amount of sales income reported for income tax purposes.

DISCUSSION

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). Indiana retail transactions are subject to the imposition of an excise tax—known as the state gross retail tax; the retailer merchant shall collect the tax as agent for the state. IC 6-2.5-2-1 and IC 6-2.5-6-1. Generally, meals served in a restaurant are taxable retail transactions. *See* IC 6-2.5-4-1(g) and IC 6-2.5-5-20. The payment and reporting of sales tax is coordinated with the payment and reporting of income tax. *See* IC 6-2.5-6-6. A retail merchant is required to create and keep records of sales transactions. *See* 45 IAC 2.2.

Taxpayer entered sales into a computer spreadsheet program—programmed by Taxpayer. When Taxpayer ran a recap report for tax year 2001, Taxpayer made a programming error in the parameters of the report dates. Sale from the first thirteen days of January 2002 were included in the sales of January 2001. Taxpayer filed an income tax return that included the additional thirteen dates. When the error was discovered, Taxpayer chose not to amend the return to correct the additional inclusion—citing as a reason that it was not worth the bother to do so. This discrepancy between reported sales for sales tax purposes and reported sale for income tax purposes explains the concern of the Department.

A tax protest hearing was held and the Hearing Officer received a copy of the spreadsheet programming code. As well, the Hearing Officer received a copy of the monthly sales for the tax years 1999 – 2004. After reviewing the spreadsheet code and the monthly sales trend, the Department is satisfied that the discrepancy is an aberrant error—despite the fact Taxpayer did not amend the income tax returns to correct the error.

FINDING

Taxpayer's protest is sustained. The assessment of additional sales tax is not due.

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0324****Income Tax****For the Years 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**Corporate Income Tax—Assessment**

Authority: IC 6-8.1-5-1(b); 45 IAC 3.1-1-1-1; 45 IAC 3.1-1-1-3; IRC § 62; IRC § 162 Enterprise Leasing Co. v. Ind. Dep't of State Revenue, 779 N.E.2d 1284 (Ind. Tax 2002)

Taxpayer protests the denial of a payroll deduction—resulting in an assessment of income tax.

STATEMENT OF FACTS

Taxpayer is incorporated and operates a family restaurant. The previous owner of the restaurant was in financial trouble and stepped aside from all ownership. Taxpayer incorporated the business and began paying the previous owner from payroll. Taxpayer deducted payroll expenses in 1999 and 2000 for the previous owner and the net salary was sent to a bankruptcy trustee assigned to the previous owner's bankruptcy. The Auditor for the Department deemed these deducted payroll expenses not to be necessary and ordinary as required by Internal Revenue Code Section 162. The Department levied an income tax assessment on the denied deduction. Audit increased the adjusted gross income by the amount of direct payroll, employer social security, and federal unemployment tax that was deducted by Taxpayer. The audit report states that the previous owner confirmed to the department that the amounts paid to him were for his interest in the business.

DISCUSSION

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). Adjusted gross income is defined according to IRC § 62—with subsequent adjustments. *See* 45 IAC 3.1-1-1. In arriving at Adjusted Gross Income, Indiana allows a deduction for business expenses permitted under IRC § 162. *See* 45 IAC 3.1-1-3. IRC § 62 permits the deduction of qualified business expenses allowed under IRC § 162. IRC § 162 permits the deduction of a reasonable allowance for salaries or other compensation for personal services actually rendered.

Taxpayer states that the previous owner of the restaurant was in financial trouble and that the restaurant was going to close operations because the debts could not be paid. Previous Owner had no income to pay the debts he owed and he filed Chapter 13 bankruptcy. Among the debts owed were priority claims of Indiana back-taxes of over \$24,000. The total base amount of the bankruptcy plan was over \$30,000. The bankruptcy plan decreed that Previous Owner—himself—directly make payments of \$607 per month of future earnings into the plan fund. Taxpayer agreed to help Previous Owner pay this debt by making payments from Taxpayer's payroll, on behalf of Previous Owner—at the suggestion of Taxpayer's accountant. The net payroll salary was sent to Previous Owner's bankruptcy trustee. Of important note is the fact that Taxpayer would be paying Previous Owner's tax obligation to the Department through the use of a reduction and deduction of Taxpayer's tax liability to the department. This is a self-feeding transaction producing no sustainable gain.

Taxpayer asserts that Previous Owner provided consulting services to Taxpayer. According to Previous Owner as stated in the audit report, Previous Owner lived over 700 miles away in South Carolina. The net pay derived from the W-2 statements issued to Previous Owner for 1999 and 2000 sum to \$31,800. This amount is similar to the over \$30,000 due under the bankruptcy plan.

Indiana determines tax consequences based on the substance, not the form, of a transaction. Enterprise Leasing Co. v. Ind. Dep't of State Revenue, 779 N.E.2d 1284, 1291 (Ind. Tax 2002). Purchases of an ownership interest are not deductible. While assets may depreciate and a deduction may be taken for depreciation—no deduction exists allowing a purchase of an ownership interest to be deductible. More importantly—a corporation may not and cannot purchase itself—but must be owned by others, namely shareholders. The substance of Taxpayer corporation's payroll deduction is an attempt by Taxpayer to have the corporation purchase the restaurant on behalf of the shareholder(s) of the corporation. Since Previous Owner has stated that the payroll salary he was receiving is for his ownership interest—it becomes evident that this is the substance of the transaction.

FINDING

Taxpayer's protest is denied. The assessment of income tax on the denied deduction is due.

DEPARTMENT OF STATE REVENUE

04-20030468.LOF

LETTER OF FINDINGS NUMBER: 03-0468**Sales and Withholding Tax****Responsible Officer****For the Tax Period 1993-2001**

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**1. Sales and Withholding Tax-Responsible Officer Liability**

Authority: IC 6-2.5-9-3, IC 6-8.1-5-1(b), IC 6-3-4-8(f), Indiana Department of Revenue v. Safayan 654 N.E. 2nd 279 (Ind.1995).

The taxpayer protests the assessment of responsible officer liability for unpaid corporate sales and withholding taxes.

STATEMENT OF FACTS

The taxpayer was the President of a corporation that did not properly remit sales and withholding taxes to the state during the

tax period 1993-2001. The Indiana Department of Revenue, hereinafter referred to as the "department," assessed the unpaid sales taxes, withholding taxes, interest, and penalty against the taxpayer as a responsible officer of that corporation. The taxpayer protested the assessment of tax. A hearing was held and this Letter of Findings results.

1. Sales and Withholding Tax-Responsible Officer Liability

DISCUSSION

Indiana Department of Revenue assessments are prima facie evidence that the taxes are owed by the taxpayer who has the burden of proving that the assessment is incorrect. IC 6-8-1-5-1(b).

The proposed sales tax liability was issued under authority of IC 6-2.5-9-3 that provides as follows:

An individual who:

(1) is an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant; and

(2) has a duty to remit state gross retail or use taxes to the department;

holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

The proposed withholding taxes were assessed against the taxpayer pursuant to IC 6-3-4-8(f), which provides that "In the case of a corporate or partnership employer, every officer, employee, or member of such employer, who, as such officer, employee, or member is under a duty to deduct and remit such taxes shall be personally liable for such taxes, penalties, and interest."

Pursuant to Indiana Department of Revenue v. Safayan 654 N.E. 2nd 279 (Ind.1995) any officer, employee, or other person who has the authority to see that they are paid has the statutory duty to remit sales and withholding taxes to the state. As the President of the corporation, the taxpayer had the responsibility to oversee the corporation. The taxpayer failed to insure that the corporation fulfilled its financial responsibilities by remitting trust taxes to the Indiana Department of Revenue. The taxpayer had the statutory duty to remit the sales and withholding taxes due during his term as President of the corporation. Therefore, he is personally liable for the payment of those taxes not remitted to the state during that period.

The taxpayer produced substantial documentation that he sold his interest in the corporation and was no longer President after March 31, 1996. Therefore the taxpayer is not personally responsible for the withholding and sales taxes that were due and not remitted after March 31, 1996.

FINDING

The taxpayer's protest is denied as to taxes due prior to or on March 31, 1996. The taxpayer's protest is sustained as to taxes not due until after March 31, 1996.

DEPARTMENT OF STATE REVENUE

04-20040019.LOF

LETTER OF FINDINGS NUMBER: 04-0019

Sales and Use Tax

Aircraft Excise Tax

For The Tax Period 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.

ISSUES

I. Sales and Use Tax and Aircraft Excise Tax - Imposition

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-3-2 (a), IC 6-2.5-2(c)(1), IC 6-6-6.5-12, IC 6-6-6.5-2, IC 6-6-6.5-3, IC 6-6-6.5-2, IC 6-6-6.5-8(d), IC 6-6-6.5-9, IC 6-2.5-2-1.

The taxpayer protests the assessment of use tax and aircraft excise tax on an airplane.

II. Tax Administration-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 corporate subsidiary of an Indiana corporation. The taxpayer purchased an airplane in 2002. The Indiana Department of Revenue, hereinafter referred to as the "department," assessed Indiana use tax and Indiana aircraft excise tax, interest, and penalty. The taxpayer protested the assessments. A hearing was held and this Letter of Findings results.

I. Sales and Use Tax and Aircraft Excise Tax-Imposition

DISCUSSION

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).

Indiana imposes a sales tax on the transfer of tangible personal property in a retail transaction. IC 6-2.5-2-1. Indiana imposes a complementary excise tax, the use tax, on tangible personal property purchased in a retail transaction and stored, used, or consumed in Indiana. IC 6-2.5-3-2 (a). Payment of sales tax at the time of purchase exempts the use of tangible personal property from the use tax. IC 6-2.5-2(c)(1).

IC 6-6-6.5-2 and IC 6-6-6.5-3 establish the necessity of registration and set the parameters of this requirement. IC 6-6-6.5-2 states in relevant part as follows:

(a) Except as otherwise provided in this chapter, any resident of this state who owns an aircraft shall register the aircraft with the department not later than thirty-one (31) days after the purchase date.

IC 6-6-6.5-3 also provides as follows:

(a) Any resident of this state who owns an aircraft, and any nonresident who has established a base in this state and bases an aircraft in this state for more than sixty (60) days, which is not exempt from registration under section 9 of this chapter, shall apply to the department for a certificate of registration for such aircraft. The application for such certificate of registration shall be made upon a form to be provided by the department and shall contain such information as the department may require.

IC 6-6-6.5-8(d) provides for the payment of sales and use tax on an airplane as follows:

A person shall pay the gross retail tax or use tax to the department on the earlier of:

- (1) The time the aircraft is registered; or
- (2) not later than thirty-one (31) days after the purchase date;

unless the person presents proof to the department that the gross retail tax or use tax has already been paid with respect to the purchase of the aircraft as proof that the taxes are inapplicable because of an exemption.

The taxpayer bases its claim for exemption on the following provisions of IC 6-6-6.5-9 which states as follows:

(a) The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following:

...

(6) An aircraft owned by a resident of this state that is not a dealer and this is not based in this state at any time, if the owner files the required form not later than thirty-one (31) days after the date of purchase; and furnishes the department with evidence, satisfactory to the department, verifying where the aircraft is based during the year.

This statute offers exemption from the subject taxes if 1. an airplane is owned by an Indiana resident; 2. the airplane is not based in this state at any time; 3. and the taxpayer files a required form within thirty-one (31) days after the date of purchase. In this case the airplane was owned by an Indiana resident. The taxpayer produced some evidence that the plane was not based in Indiana at least at certain times. This evidence included statements by airport employees, receipts for hangar rentals at an Illinois airport, and an Illinois Aircraft Registration dated March 8, 2004. This evidence did not, however, fulfill the taxpayer's burden of proving that the plane was never based in Indiana. Even if it had risen to that standard, however, the taxpayer did not file the proper form within the statutorily prescribed time period.

The taxpayer argued that it did not know that it needed to file the form. A review of the timeline from the purchase of the airplane to the time of hearing contradicts this contention. The taxpayer purchased the airplane on September 19, 2002. The department sent the taxpayer a letter concerning registration of the plane in Indiana on November 8, 2002. That letter contained the following language.

We have received notification that you are the owner of the subject aircraft. In checking our records, your aircraft is not properly registered with the State of Indiana which is required by law within 31 days after the purchase date. (IC 6-6-6.5) We have enclosed an application which must be completed and returned with your remittance.

The enclosed application included the following language:

If your aircraft is not based in Indiana at any time, you may be entitled to a Based Out Of State Exemption. You must call for and complete Form AE-1 before 2-28.

Rather than requesting the form, the taxpayer sent a letter stating that the aircraft qualified for the out of state exemption on November 27, 2002. Upon receipt of this letter, the department mailed the taxpayer the form to be completed and returned. The taxpayer failed to do so. The department issued a proposed assessment of use tax, aircraft excise tax, interest and penalty on September 25, 2003. The taxpayer protested this assessment. The taxpayer did not submit the properly completed "Based Out Of State Certificate of Exemption For Aircraft" Form AE-1 until February 23, 2004.

The taxpayer did not complete the third requirement for exemption from the use tax and aircraft excise tax within the time period required by the law. Therefore, the department properly imposed the taxes.

The taxpayer also argues that the provisions in IC 6-2.5 et al control the imposition of use tax and exemptions from use tax. Therefore, the provisions of IC 6-6-6.5-8(d) cannot control the determination of whether use tax was properly imposed on or an exemption properly denied to a particular airplane. However, the provisions of IC 6-6-6.5-8(d), as previously cited, clearly state that

“A person shall pay the gross retail tax or use tax to the department...” The provision directly states that it applies to gross retail and use tax. The statutory provision provides the process for payment and determination of qualification for an exemption in this particular situation, the sale and use of an airplane. The statutory procedures requiring the completion of a form within thirty one (31) days confirm the intent and nature of the transaction transferring title to the airplane and the subsequent use of the airplane. Therefore, they do control in the instant case.

FINDING

The taxpayer's protest is denied.

II. Tax Administration-Penalty

DISCUSSION

The taxpayer protests the imposition of the ten percent (10%) negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer failed to complete the forms required by the department to establish the taxpayer's qualification for exemption from the use tax and aircraft excise tax. The taxpayer's inattention to its duty, constitutes negligence on the part of the taxpayer.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

41-20040032.LOF

42-20040031.LOF

LETTER OF FINDINGS NUMBERS: 04-0031 & 04-0032

International Fuel Tax Agreement (IFTA), Interstate Registration Program(IRP) and Single State Registration Tax

For the Years 2000 to 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.

ISSUES

I. IFTA – Sufficiency of documentation

Authority: IFTA Article VII R700; IFTA Article XII R12010.300

The taxpayer protested the auditor's calculation of fuel tax liability after an IFTA audit assessment was made based on taxpayer's records.

II. IRP – Sufficiency of documentation

Authority: IC 6-8.1-3-14; IC 6-6-4.1-14; IRP 1500; IRP 1502; IRP Audit Procedures Manual 603

The registrant protested the auditor's calculation of miles traveled after an IRP audit assessment was made based on registrant's records.

III. Single State Registration System Fee – Record keeping

Authority: IC 8-2.1-20-7; IC 8-2.1-22-39

Taxpayer protested the auditor's assessment on an unreported vehicle for the audit period.

STATEMENT OF FACTS

Taxpayer operated a trucking business hauling sand and gravel. Audit was conducted for the years 2000, 2001, and 2002 and resulted in additional assessments for IFTA. Taxpayer protested the assessment, hearing was held, and this LOF results.

I. IFTA – Sufficiency of documentation

DISCUSSION

The department, pursuant to an IFTA audit, requested taxpayer records pursuant to IFTA Article VII R700:

Every licensee shall maintain records to substantiate information reported on the quarterly and annual tax returns. Operational records shall be maintained or be made available for audit in the base jurisdiction. Recordkeeping requirements shall be specified in the IFTA Procedures Manual.

Taxpayer did not provide complete records for the audit review. The auditor was never provided records or receipts for the 2000

audit year period. The mileage records did not include jurisdictional miles, routes, or odometer readings. The taxpayer also failed to maintain monthly and/or quarterly vehicle mileage summaries. The taxpayer failed to maintain complete fuel purchase receipts. Taxpayer now argues that the assessment should have given credit for records not available and taxpayer has provided- during the protest- additional receipts from the audit periods at issue.

IFTA Article XII R12010.300 addresses this, stating in relevant part:

The base jurisdiction shall, after adding the appropriate penalties and interest, serve an assessment issued pursuant to 200.005 upon the licensee in the same manner as an audit assessment or in accordance with the laws of the base jurisdiction. The assessment made by a base jurisdiction pursuant to this procedure shall be presumed to be correct and in any case where the validity of the assessment is questioned, the burden shall be on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive.

Taxpayer indicated that his drivers did not keep complete records due to difficulties in stopping at state lines and writing mileage down. Taxpayer's contention has no merit. The above statute requires maintenance of books in a form amenable to review by the department for tax liability. The Department will review the additional receipts that have been provided and grant applicable credits to taxpayer, but will not otherwise adjust the audit results.

FINDINGS

Taxpayer's appeal is sustained subject to review by the audit division of new records provided during the protest process and denied as to any adjustments that are not supported by appropriate documentation.

II. IRP – Record Keeping

DISCUSSION

The issue is based on IRP 1500, 1502, and IRP Audit Procedures Manual 603.

The Indiana Code provides for the joining of Indiana to the IRP agreement via IC 6-6-4.1-14 and IC 6-8.1-3-14. IC 6-6-4.1-14 states in relevant part:

The commissioner or, with the commissioner's approval, the reciprocity commission created by IC 9-28-4 may enter into the International Registration Plan, the International Fuel Tax Agreement, or other reciprocal agreements with the appropriate official or officials of any other state or jurisdiction to exempt commercial motor vehicles licensed in the other state or jurisdiction from any of the requirements that would otherwise be imposed by this chapter...

The IRP manuals lend guidance in this area; IRP 1500 states:

The base jurisdiction shall require a registrant to preserve the records on which the registrant's application is based for a period of three years after the close of the registration year. The registrant shall be required to make the records available to the base jurisdiction at its request.

IRP 1502 states:

If a registrant fails to maintain records, or after 30 days from receiving written notice, fails to make records available to the member jurisdiction, the member jurisdiction may impose an assessment. The assessment must be based on the member jurisdiction's estimate of true liability established from:

1. information the registrant furnished;
2. information the member jurisdiction gathered;
3. information relative to other similar registrants based in the jurisdiction; or
4. any other information available to the member jurisdiction.

IRP Audit Procedures Manual 603 states in relevant part:

During the preliminary phase of the audit, the auditor will have made a request for records that support the apportioned registration application as filed. Records must be adequate and complete for each fleet being audited. If the records are not made available, or if the records made available are inadequate for examination purposes, an assessment of liability may be imposed in accordance with Article XV of the Plan. If an estimate of the registrant's true liability cannot be determined, the registrant may be assessed 100% registration fees for the jurisdiction. Any credits calculated for jurisdictions which are caused by the inadequacy of the records will not be reflected in the fees netted under Article XVII of the Plan.

Registrant protested that information he had received from some source indicated that he did not have to keep records for trips of less than 100 miles. Registrant did not cite to, nor are there any, IRP regulations to support this contention. If the registrant's records had included either route information or number of trips, an estimate of the miles traveled in each jurisdiction might have been possible. Absent information on both of these variables, no means exist to make a determination of the miles traveled in each jurisdiction. Consequently, the evaluation of the records as inadequate was supported by the audit findings.

FINDINGS

Registrant's protest is denied.

III. Single State Registration System Fee – Record keeping

Taxpayer protests that the Department incorrectly determined the number of vehicles that he was operating at any given time and incorrectly assessed Single State Registration fees against him. The Single State Registration system is established under IC 8-

2.1.20-7 and taxpayer was assessed under IC 8-2.1-22-39 which states in relevant part:

All registrations of motor vehicles required in this chapter expire on December 31 of each year, and each motor vehicle continued in service shall be registered for each such year.

The taxpayer has failed to demonstrate that this assessment was not correct. The records available to the auditor substantiate this assessment. Taxpayer protest is denied.

FINDINGS

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02-20040085P.LOF

LETTER OF FINDINGS NUMBER: 04-0085P

Income

For Tax Years 1997 through 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—Negligence Penalty

Authority: IC 6-8.1-10-1; IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests a ten percent (10%) negligence penalty.

STATEMENT OF FACTS

As the result of an audit, the Indiana Department of Revenue ("Department") issued proposed assessments, ten percent (10%) negligence penalty and interest. Taxpayer protests the imposition of penalty. Further facts will be provided as necessary.

I. Tax Administration—Negligence Penalty

DISCUSSION

The Department issued proposed assessments and the ten percent (10%) negligence penalty for the tax years in question. Taxpayer protests the imposition of penalty. The Department refers to IC 6-8.1-10-2.1(a), which states in relevant part:

If a person:

...

(3) incurs, upon examination by the department, a deficiency that is due to negligence;

...

the person is subject to a penalty.

The Department refers to 45 IAC 15-11-2(b), which 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 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.

45 IAC 15-11-2(c) provides in pertinent part:

The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. 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 under this section.

In this case, taxpayer incurred a deficiency which the Department determined was due to negligence under 45 IAC 15-11-2(b), and so was subject to a penalty under IC 6-8.1-10-2.1(a). In its protest letter, taxpayer states that it timely filed and timely paid all tax liabilities. Since the Department issued assessments for unpaid tax, and taxpayer paid the assessments except for the penalties, it stands to reason that taxpayer did not timely pay all tax liabilities. Taxpayer has not affirmatively established that its failure to pay the deficiency was due to reasonable cause and not due to negligence, as required by 45 IAC 15-11-2(c).

FINDING

Taxpayer's protest is denied.

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 04-0141
SALES TAX**

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.

ISSUE

I. Sales and Use Tax—Assessment of Sales/Use Tax on Computer

Authority: IC 6-8.1-5-1(b); Panhandle Eastern Pipeline Company v. Dept. of Revenue, 741 N.E.2d 816, 818 (Ind. Tax 2001).

Taxpayer protests the assessment of sales/use tax by the Department on the purchase of a computer. Taxpayer claims that the part of the purchase was for programming.

II. Sales and Use Tax—Direct Use in Direct Production

Authority: IC 6-8.1-5-1(b); IC 6-2.5-3-2 (a); IC 6-2.5-5-3; 45 IAC 2.2-5-10 (c); 45 IAC 2.2-5-8 (k); Panhandle Eastern Pipeline Company v. Dept. of Revenue, 741 N.E.2d 816, 818 (Ind. Tax 2001); Indiana Department of Revenue v. Cave Stone, 457 N.E. 2d 520 (Ind. 1983)

Taxpayer protests the assessment of sales/use tax by the Department on items Taxpayer claims are used in direct manufacturing.

III. Sales and Use Tax—Incorporation into Product for Sale

Authority: IC 6-8.1-5-1(b); IC 6-2.5-3-2 (a); IC 6-2.5-5-6; 45 IAC 2.2-5-14; Panhandle Eastern Pipeline Company v. Dept. of Revenue, 741 N.E.2d 816, 818 (Ind. Tax 2001)

Taxpayer protests the assessment of sales/use tax by the Department on items taxpayer claims are incorporated into finished goods or are directly consumed in direct manufacturing.

STATEMENT OF FACTS

Taxpayer operates a sign company. It manufactures and installs signs. The Department conducted an audit and assessed sales/use tax on the purchase of a computer and on the purchase of items that the Department considered not to be equipment directly used in direct production, tangible personal property incorporated into finished goods, or tangible personal property consumed in direct production. All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). A hearing was conducted and Taxpayer attended—but did not bring complete evidence to substantiate whether the various items met an applicable exemption. The Hearing Officer accepted oral testimony concerning the items.

I. Sales Tax—Assessment of Sales/Use Tax on Computer

DISCUSSION

Taxpayer purchased a computer. Taxpayer claims that part of the purchase price of the computer was for programming services. Taxpayer cannot produce an invoice to substantiate the billing of the purchase price. All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). Tax exemption statutes are construed strictly in favor of taxation. *See, e.g., Panhandle Eastern Pipeline Company v. Dept. of Revenue*, 741 N.E.2d 816, 818 (Ind. Tax 2001). Taxpayer has not produced documentation that part of the purchase price was for programming services; Taxpayer also has not presented convincing evidence that it is entitled to an exemption.

FINDING

Taxpayer's protest is denied.

II. Sales and Use Tax—Direct Use in Direct Production

DISCUSSION

The Department conducted an audit and assessed sales/use tax on the purchase of items that the Department considered not to have been acquired for direct use in direct production. All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-2.5-3-2 (a) imposes an excise tax on tangible personal property stored, used, or consumed in Indiana when the sales tax was not paid. A number of exemptions are available from sales/use tax, including those collectively referred to as the manufacturing exemptions. Tax exemption statutes are construed strictly in favor of taxation. *See, e.g., Panhandle Eastern Pipeline Company v. Dept. of Revenue*, 741 N.E.2d 816, 818 (Ind. Tax 2001). IC 6-2.5-5-3 provides for the exemption of manufacturing machinery, tools, and equipment which are to be directly used by the purchaser in the direct production, manufacture, or fabrication of tangible personal property.

In Indiana Department of Revenue v. Cave Stone, 457 N.E. 2d 520 (Ind. 1983), the Indiana Supreme Court found that a piece of equipment qualifies for the manufacturing exemption if it is essential and integral to the production process. 45 IAC 2.2-5-10 (c) further describes manufacturing machinery and tools as exempt if they have an immediate effect on the property in production. The manufacturing process starts when there is a change in a form, composition, or character different from that in which it was acquired. Pursuant to 45 IAC 2.2-5-8 (k), the use of the machinery and the time of its use then determines whether or not it qualifies for

exemption. The following are listed and named in the audit report.

Letter LOK 2000 Fastening machine

This machine produces fasteners from two pieces of aluminum. Lettering is attached to a sign with these fasteners. The Department determines that this machine can be used only in the production of signs and is part of the direct manufacturing of signs.

Paint System

This machine is used to mix base colors of different paints to come up with custom colors for the signs. The Department determines that this machine is used in the production of signs and is part of the direct manufacturing of signs.

Paint cabinet

This is a booth with infrared heating used to bake the signs that have been painted. The cabinet also keeps the signs clean while drying. The Department determines that this is used in the production of signs and is part of the direct manufacturing of signs.

Paint machine

This is a high volume, low-pressure sprayer used in the painting of certain signs. The Department determines that this is being used only in the production of signs and is part of the direct manufacturing process.

Indiana Oxygen—Welder

This is a welder used to connect two pieces of metal in the production of metal and plastic signs. The Department determines that this is being used only in the production of signs and is part of the direct manufacturing process.

¼ CED 80 Router bits Donai

These special bits are used to finish the edges of aluminum and plastic. The Department determines that these are being used in the production of signs and is part of the direct manufacturing process.

The above pieces of equipment are determined to be directly used in the direct manufacturing process of signs. The below items are determined to not be part of the direct manufacturing process because Taxpayer was unable to provide testimony and documentation to identify the items and to substantiate their use:

Neon accusizer

Cincinnati sign machine

Equipment Cincinnati sign

Gas—100% Argon & 12-liter flushing.

FINDING

Taxpayer's protest is sustained in part and denied in part—as named above.

III. Sales and Use Tax— Incorporation into Product for Sale

DISCUSSION

The Department conducted an audit and assessed sales/use tax on the purchase of items that the Department considered not to be items incorporated into products for sale. All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-2.5-3-2 (a) imposes an excise tax on tangible personal property stored, used, or consumed in Indiana when the sales tax was not paid. A number of exemptions are available from use tax, including those collectively referred to as the manufacturing exemptions. Tax exemption statutes are construed strictly in favor of taxation. *See, e.g., Panhandle Eastern Pipeline Company v. Dept. of Revenue*, 741 N.E.2d 816, 818 (Ind. Tax 2001). IC 6-2.5-5-6 provides an exemption for tangible personal property acquired for incorporation into a product for sale. The Department has promulgated 45 IAC 2.2-5-14 to address this exemption. The following are listed and named in the audit report.

Eurocom equipment

This is an electrode fastener for neon tubes to maintain electric current going through neon tubes. The Department determines that these are being incorporated into the signs for sale.

Eurocom EL 15MM 4565

This is an electrode fastener for neon tubes—named with a specific part number. The Department determines that these are being incorporated into the signs for sale.

Eurocom EL 50R60 12 MM

This is an electrode fastener for neon tubes—named with a specific part number. The Department determines that these are being incorporated into the signs for sale.

Eurocom, Inc.

This is an electrode fastener for neon tubes. The Department determines that these are being incorporated into the signs for sale.

FINDING

Taxpayer's protest is sustained—as named above.

DEPARTMENT OF STATE REVENUE

0320040190P.LOF

LETTER OF FINDINGS NUMBER: 04-0190P**Withholding Tax****For the month February 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 the late payment of a monthly withholding tax return for the month of February 2002.

The taxpayer is a company located out-of-state.

I. Tax Administration – Penalty**DISCUSSION**

The taxpayer argues the late penalty should be abated as (1) the taxpayer did not act with willful neglect, (2) there was a change in personnel, and (3) the Indiana tax laws allow waiver of penalty if the tax is paid within 30 days of the due date.

With regard to the change in personnel, the Department points out that Indiana tax regulations state the taxpayer is liable for the actions of any of the taxpayer's employees. This would include the completion of tax duties by new personnel. As such, the taxpayer fails to establish reasonable cause on this point.

The taxpayer has quoted a statute that states "The penalty may be waived if the return is filed or tax paid within 30 days after the due date." The taxpayer refers to IC 6-3-4-8, IC 6-3-6-10, IC 6-3-6-11, 45 IAC 1-1-218, and 45 IAC 3.1-1-146. 45 IAC 3.1-1-146 was repealed in 1987. The remaining cites make no mention of this "30 days". As such, the taxpayer fails to establish reasonable cause on this point.

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.

DEPARTMENT OF STATE REVENUE

0220040251.LOF

LETTER OF FINDINGS: 04-0251**Indiana Individual Income Tax****For the Year 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**I. Part-Time Residency Status.**

Authority: IC 6-3-1-12; IC 6-3-2-1(a); IC 6-8.1-5-1(b); 45 IAC 3.1-1-21(a); 45 IAC 3.1-1-22; 45 IAC 3.1-1-23(2).

Taxpayer argues that the Department of Revenue erred when it determined that taxpayer was not a part-time Indiana resident during 2000.

STATEMENT OF FACTS

Taxpayer filed a form IT-40 ("Indiana Full-Year Resident Individual Income Tax Return") reporting income received during 2000. Thereafter, taxpayer amended that return by filing a form IT-40X ("Indiana Amended Individual Income Tax Return"). Taxpayer did so believing that "according to the Indiana Tax Code, we should have filed Form IT-40PNR because in 2000 [taxpayer] was a part-year resident and [taxpayer's] wife was a full-year resident of Indiana, and we filed a joint federal return in 2000."

The Department of Revenue (Department) sent taxpayer notices of proposed assessment based upon a purported discrepancy between taxpayer's amended state return and taxpayer's joint federal returns. Taxpayer did not agree with the proposed assessments believing that the amended IT-40X was correct as submitted. After various communications with the Department attempting to resolve the issue, taxpayer submitted a protest. An administrative hearing was conducted during which taxpayer explained further the basis for the protest. This Letter of Findings results.

DISCUSSION

I. Part-Time Residency Status.

Indiana imposes a state income tax in the following manner. IC 6-3-2-1(a) states that, "Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every *resident* person, and that part of the adjusted gross income derived from sources within Indiana of every nonresident person." (*Emphasis added*).

Taxpayer maintains that he was not a full-time resident of Indiana during 2000. 45 IAC 3.1-1-21(a) defines the term "resident" and states that an Indiana resident is "Any individual who was domiciled in Indiana during the taxable year, or [] Any individual who maintains a permanent place of residence in this state and spends more than 183 days of the taxable year within this state...." *See also* IC 6-3-1-12 ("The term 'resident' includes [] any individual who was domiciled in this state during the taxable year, or [] any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state....")

45 IAC 3.1-1-22 defines "domicile" stating that,

For the purposes of this Act, a person has only one domicile at a given time even though that person maintains more than one residence at that time. Once a domicile has been established, it remains until the conditions necessary for a change of domicile occur. In order to establish a new domicile, the person must be physically present at a place, must have the simultaneous intent of establishing a home at that place. It is not necessary that the person intend to remain there until death; however, if the person, at the time of moving to the new location, has definite plans to leave that new location, then no new domicile has been established.

The determination of a person's intent in relocating is necessarily a subjective determination. There is no one set of standards that will accurately indicate the person's intent in every relocation. The determination must be made on the facts present in each individual case. Relevant facts in determining whether a new domicile has been established include, but are not limited to:

- (1) Purchasing or renting residential property.
- (2) Registering to vote
- (3) Seeking elective office
- (4) Filing a resident state income tax return or complying with the homestead laws of a state.
- (5) Receiving public assistance.
- (6) Titling and registering a motor vehicle.
- (7) Preparing a new last will and testament which includes the state of domicile.

The significance of the distinction lies in the effect that domiciliary status has on an individual's state income tax liability. 45 IAC 3.1-1-23(2) states that, "Any person who, on or before the last day of the taxable year, changes his residence or domicile from Indiana to a place without Indiana, with the intent of abiding permanently without Indiana, is subject to adjusted gross income tax on all taxable income earned while an Indiana resident. Indiana will not tax income of a taxpayer who moves from Indiana and becomes an actual domiciliary of another state or country except that income received from Indiana sources will continue to be taxable."

The Department's "2000 IT-40 PNR Forms and Instruction Booklet" states that, "If you were a part-year resident and received income while you lived in Indiana, you must file Form IT-40PNR, Part-Year Resident or Nonresident Individual Income Tax Return."

The issue is whether taxpayer was originally entitled to file an IT-40PNR return and to report his Indiana income in a manner which reflected taxpayer's purported part-time residency status.

Taxpayer moved to Israel in April 2000 and remained there for nine months. Taxpayer did so with the intention of purchasing an interest in a geriatric hospital and of making Israel his and his wife's retirement home. Taxpayer produced documentation indicating that taxpayer served as a volunteer at the geriatric hospital from April to December 2000.

As required by law, taxpayer obtained an Israeli passport. The passport was initially issued for a one year term. The passport term was later extended to five years.

Taxpayer registered to vote while in Israel; having done so, taxpayer voted in a local Israeli election.

While in Israel, taxpayer signed a one-year condominium lease. Taxpayer opened up an account with an Israeli bank. Taxpayer

purchased an automobile while in Israel; this vehicle was titled and licensed in Israel. Taxpayer obtained an Israeli driver's license. Taxpayer filed the Israeli equivalent of income tax returns but, because of the nature of his income – patent royalties, investment income, and Social Security benefits – was not required to pay Israeli income tax. Taxpayer did make monthly contributions to the "Israel National Medical Fund" which is equivalent to the American Medicaid/Medicare scheme.

Taxpayer's wife remained in Indiana during this nine month time with the intention of selling their home, completing her work at an Indiana geriatric hospital, selling the couple's possessions, and continuing to care for her elderly father.

The plans of taxpayer and his wife went astray when the wife became seriously ill and permanently disabled. Taxpayer returned to Indiana where he currently resides with his wife.

Taxpayer has the burden of demonstrating that he was a part-time Indiana resident during 2000, that he was originally entitled to file an IT-40 PNR return, and that he correctly filed an amended return reflecting his part-time residency status. IC 6-8.1-5-1(b) states in part 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 person against whom the proposed assessment is made."

Pursuant to IC 6-8.1-5-1(b), taxpayer has met his burden of demonstrating he moved to Israel with the expectation that Israel would become his permanent home. Taxpayer was physically present in Israel for approximately nine months, took steps which would lead a reasonable person to conclude he intended to make Israel his permanent home, and spent less than 183 days in Indiana during 2000.

Taxpayer was a part-time resident of Indiana during 2000. To the extent that the Department has found to the contrary, taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

04-20040254.LOF

LETTER OF FINDINGS NUMBER: 04-0254

Sales/Use Tax

For the Period: 2000-2002

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 6-8.1-5-1; 45 IAC 15-11-2

The taxpayer protests the assessment of a penalty.

STATEMENT OF FACTS

The taxpayer is a supplier of office imaging equipment.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer requests the penalty assessment be abated. The taxpayer states,

As a result of the recent audit of [the taxpayer], the Indiana Department of Revenue has issued a proposed assessment.... [Taxpayer] hereby formally requests the abatement of penalty....

And further:

Under unusually difficult circumstances [the taxpayer] cooperated fully with the auditor. During the audit examination [taxpayer] experienced the loss of its Sales Tax Manager. The key contact internally and externally for sales tax information. Additionally, during the audit examination [taxpayer] was in the process of implementing a new financial system.

The system implementation consumed a great deal of the sales tax staff time leaving limited resources to address the audit.... 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.

Under IC 6-8.1-5-1 the burden of proof is on the taxpayer and the Department's assessment is considered as *prima facie* valid. The taxpayer offers no real arguments or evidence. Cooperation with the auditor is to be expected from taxpayer, and staff loss is not a mitigating factor in the negligence examination. As such, the taxpayer's penalty protest is denied.

FINDING

The taxpayer's penalty protest is denied.

DEPARTMENT OF STATE REVENUE

04-20040256P.LOF

LETTER OF FINDINGS NUMBER: 04-0256P

Sales/Use Tax

For the Period: 1998-2002

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 6-8.1-5-1; 45 IAC 15-11-2

The taxpayer protests the proposed assessment of a penalty.

STATEMENT OF FACTS

The taxpayer is a distributor of paper and related products.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer requests the proposed penalty assessment be abated. The taxpayer states, I respectfully request that all associated penalties be abated, as there was no willful neglect to collect sales tax or self assess use tax during the audit period. Additional taxes were assessed due to normal human errors that sometime occur when dealing with very high volumes of transactions, customers and invoices.

And further:

It is due only to human error that all taxes were not collected and remitted during the audit period. At no time did [the taxpayer] have material disagreements as to the taxability of product for sale nor do we dispute our responsibility to collect the tax. As we all know, humans are fallible and sometimes make errors in judgment and performance.

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.

And 45 IAC 15-11-2(c) states:

The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. 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 under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- (1) the nature of the tax involved;
- (2) judicial precedents set by Indiana courts;
- (3) judicial precedents established in jurisdictions outside Indiana;
- (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.
- (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Under IC 6-8.1-5-1 the burden of proof is on the taxpayer and the Department's proposed assessment is considered as *prima facie* valid. The taxpayer states that, "It is due only to human error that all taxes were not collected and remitted during the audit

period.” The taxpayer has not met its burden of proof, nor has it shown under 45 IAC 15-11-2(c) that its failures were due to “reasonable cause” and “not due to negligence.”

FINDING

The taxpayer’s penalty protest is denied.

DEPARTMENT OF STATE REVENUE

0120040265.LOF

LETTER OF FINDINGS: 04-0265 Indiana Individual Income Tax For 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 the document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUES

I. Involuntary Servitude – Indiana Adjusted Gross Income Tax.

Authority: U.S. Const. amend. XIII; United States v. Drefke, 707 F.2d 978 (8th Cir. 1983); Ginter v. Southern, 644 F.2d 1226 (8th Cir. 1979); Kasey v. Commissioner, 457 F.2d 369 (9th Cir. 1972); Porth v. Brodrick, 214 F.2d 925 (10th Cir. 1954).

Taxpayer maintains that requiring him to pay state income tax constitutes “involuntary servitude” in violation of U.S. Const. amend. XIII.

II. Citizenship.

Authority: 26 U.S.C.S. § 7701(a)(14); United States v. Collins, 920 F.2d 619 (10th Cir. 1990); In re Becraft, 885 F.2d 547 (9th Cir. 1989); United States v. Ward, 833 F.2d 1538 (11th Cir. 1987).

Taxpayer argues that he is not required to pay federal or state income taxes because he is a “nonresident alien” and a “national of the United States.”

III. Applicability of the State Adjusted Gross Income Tax.

Authority: 26 U.S.C.S. § 7701(a)(1); 26 U.S.C.S. § 7701(a)(14); United States v. Karlin, 785 F.2d 90 (3d Cir. 1986); United States v. Studley, 783 F.2d 934 (9th Cir. 1986); McKeown v. Ott, No. H 84-169, 1985 WL 11176 (N.D. Ind. Oct. 30, 1985)

Taxpayer argues that he is not a “person” required to report his income for federal or state income tax purposes.

IV. State Income Tax Liability.

Authority: IC 6-3-2-1(a); Black’s Law Dictionary (7th ed. 1999).

Taxpayer maintains that there is nothing in Indiana law which makes him “liable” for paying income tax and that any tax payment made under Indiana law is a “donation.”

STATEMENT OF FACTS

The Department of Revenue (Department) determined that taxpayer owed additional state income taxes for 2001. Accordingly, notices of “Proposed Assessment” were sent to taxpayer at his out-of-state location. Taxpayer disagreed and sent a 15-page document outlining the basis for his disagreement. The Department treated the document as a protest of the 2001 assessment. Taxpayer was invited to participate in an administrative hearing and to further explain the basis for the protest. Taxpayer chose not to take part. This Letter of Findings is based upon the taxpayer’s protest letter.

This Letter of Findings refers to the petitioner as “taxpayer” a designation which taxpayer vigorously challenges. However, in the absence of a more suitable term, the Letter of Findings employs the term in its most generic sense and without any prejudice to the substance of taxpayer’s legal arguments.

DISCUSSION

I. Involuntary Servitude – Indiana Adjusted Gross Income Tax.

Taxpayer claims that imposition of the state’s adjusted gross income tax constitutes a form of involuntary servitude in violation of the U.S. Const. amend. XIII.

U.S. Const. amend. XIII provides that, “Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted shall exist within the United States, or any place subject to their jurisdiction.”

The courts have uniformly rejected arguments that income tax is a form of “involuntary servitude” forbidden under U.S. Const. amend. XIII. “If the requirements of the tax laws were to be classed as servitude, they would not be the kind of involuntary servitude referred to in the Thirteenth Amendment.” Porth v. Brodrick, 214 F.2d 925, 926 (10th Cir. 1954). *See also* United States v. Drefke, 707 F.2d 978, 983 (8th Cir. 1983); Ginter v. Southern, 644 F.2d 1226 (8th Cir. 1979); Kasey v. Commissioner, 457 F.2d 369 (9th Cir. 1972).

The Department does not agree with taxpayer's contention that imposition of the state's income tax places taxpayer in bondage; the Department concludes that taxpayer's argument is "clearly unsubstantial and without merit," as well as "far-fetched and frivolous." Porth, 214 F.2d at 926.

FINDING

Taxpayer's protest is denied.

II. Citizenship.

Taxpayer maintains that only those persons living in the District of Columbia or on land ceded to the federal government are subject to federal income tax or – by extension – Indiana income tax. In support of that contention, taxpayer cites to 26 U.S.C.S. § 7701(a)(10) which states that, "The term 'State' shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title."

The Internal Revenue Code imposes federal income tax upon all United States citizens and residents not simply those who reside in the District of Columbia, federal territories, and federal enclaves. United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990), *cert denied* 500 U.S. 920 (1991). "For seventy-five years, the Supreme Court has recognized that the sixteenth amendment authorizes a direct nonapportioned tax upon United States citizens throughout the nation, not just in federal enclaves." *See also In re Becraft*, 885 F.2d 547, 549-50 (9th Cir. 1989); United States v. Ward, 833 F.2d 1538, 1539 (11th Cir. 1987), *cert denied*, 485 U.S. 1022 (1988).

Taxpayer's reliance on 26 U.S.C.S. § 7701(a)(10) is misplaced; the cited provision means that the District of Columbia comes within the purview of the Internal Revenue Code. It does not mean that *only* residents of the District of Columbia are subject to the IRC. It is plain that the use of the term "include" within 26 U.S.C.S. § 7701(a)(1) is a term of enlargement not limitation, and the reference to the District of Columbia is not intended to exclude other jurisdictions.

FINDING

Taxpayer's protest is denied.

III. Applicability of the State Adjusted Gross Income Tax.

Taxpayer argues that he is not a "person" required to report his income or to pay tax on that income. Taxpayer predicates this proposition on the ground that he is not subject to the provisions of the Internal Revenue Code (IRC). Taxpayer errs. The IRC clearly defines "persons" and sets out which persons are subject to federal taxes. 26 U.S.C.S. § 7701(a)(14) defines "taxpayer" as any person subject to any internal revenue tax. 26 U.S.C.S. § 7701(a)(1) defines a "person" as any individual, trust, estate, partnership, or corporation. Taxpayer's argument that an individual – such as himself – is not a "person" within the meaning of the IRC has been uniformly rejected. In United States v. Karlin, 785 F.2d 90, 91 (3d Cir. 1986), the court affirmed the defendant's conviction for failing to file income returns and rejected the defendant's contention that he was "not a 'person' within the meaning of 26 U.S.C. § 7203" as "frivolous and require[ing] no discussion." In United States v. Studley, 783 F.2d 934, 937 n.3 (9th Cir. 1986), the court affirmed defendant's conviction for failing to file income tax returns on the ground that defendant was "an absolute freeborn, and natural individual" stating that "this argument has been consistently and thoroughly rejected by every branch of the government for decades." "[A]rguments about who is a 'person' under the tax laws, the assertion that 'wages are not income', and maintaining that payment of taxes is a purely voluntary function do not comport with common sense - let alone the law." McKeown v. Ott, No. H 84-169, 1985 WL 11176 at *2 (N.D. Ind. Oct. 30, 1985) (*Emphasis added*).

Taxpayer's argument, that he is not a "person" subject to the IRC or to the Indiana individual income tax, does not warrant serious consideration.

FINDING

Taxpayer's protest is denied.

IV. State Income Tax Liability.

Taxpayer states that nothing in Indiana law makes him "liable" for paying Indiana income taxes. Taxpayer is mistaken. IC 6-3-2-1(a) states that, "Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is *imposed* upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every non-resident person." (*Emphasis added*). The word "impose" means "to levy or exact a tax or duty." Black's Law Dictionary 759 (7th ed. 1999); "levy" means the "imposition of a fine or tax." *Id.* at 919. As a matter of law and simple common sense, whether a tax is levied or imposed, the person against whom the levy is made is "liable" for that amount.

Taxpayer set out other objections to the "Proposed Assessment" citing authorities such as former President Taft, the Congressional Record, the Copyright Act, Restatement (Second) Contracts, and Saint Paul's second letter to the apostle Timothy. Notwithstanding taxpayer's reliance on historical, legal, and Biblical authority, the Department will not expend further resources attempting to discern or refute taxpayer's wholly frivolous arguments.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

42-20040272.LOF

LETTER OF FINDINGS NUMBER: 04-0272**IFTA****For The Period: 2001 and 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.

ISSUES**I. IFTA: Sufficiency of documentation**

Authority: IFTA R1210.300; IC 6-8.1-5-1(b)

The taxpayer protests the proposed assessments regarding "Nevada calculated miles."

STATEMENT OF FACTS

The taxpayer is a "common contract carrier" that hauls "dump loads of various products...." More facts will be provided as needed.

I. IFTA: Sufficiency of documentation**DISCUSSION**

In correspondence from May of 2004 the taxpayer said its "Nevada operation consisted of transportation of solid waste for [Company R], a private carrier of municipal waste for the City of [X]. [Taxpayer] employed an average of 50 drivers and leased an average of 3 owner-operators to haul these loads."

The taxpayer also stated:

[Company R] garbage trucks would bring their waste to one of three transfer stations.... They would dump their loads into our larger trailers. Our tractor-trailers would then transport the waste to the [landfill]. Our units were of exceptional weight, 92,000 pounds. [Taxpayer] secured over weight permits from the State of Nevada for this hauling....

Further, the taxpayer stated that its tax accountant "went out to Arizona and found original records that will substantiate" that its M.P.G. should be lower for Nevada. The taxpayer shipped "two boxes" with "the original driver tickets that show both the miles traveled and gallons consumed on a daily basis. There are approximately 7,400 tickets. These tickets are grouped by the day with a summary sheet of the day's activity attached." The taxpayer stated that "[t]here is also a Four Page Summary of these daily reports...." The taxpayer noted that "[t]hese reports are not intended to be a full accounting of miles traveled and/or gallons consumed. They are strictly evidence to support the lower M.P.G. experienced in Nevada as this is the factor that the Auditor used to determine miles traveled in Nevada."

And in a recent document (October 2004), the taxpayer stated at length:

[O]ur protest of the audit findings is limited to the 'gross up' miles used to recalculate the miles traveled in Nevada. The auditor used our fleet MPG to recalculate the taxable miles in Nevada. Since the moves in Nevada actually experienced a much lower MPG, the miles assessed and the resulting tax computation is artificially inflated.

Our MPG factor in Nevada was much lower due to the numerous short hauls, the extra weight carried, the fuel consumed while the load was sitting idle in line at the [landfill] and while the load was being tarped for movement in Nevada. Although we could not produce the desired records requested, in May of 2004 I traveled to Arizona where any remaining records of 2001 for Nevada are stored. Working with 7,500 "Driver Tickets" I produced a four-page summary of dates, miles and gallons. A sample copy of this ticket and the Four-page summary is attached. The purpose of this exercise was not to determine total miles or gallons for the period, but to establish from original documents that these Nevada units experienced a much lower MPG that [sic.] experienced by our entire fleet.

In late June of 2004, the Department mailed the taxpayer a letter. The letter stated that, "The Department has reviewed the submitted driver tickets and compared these to the records viewed during the audit." The letter then stated several conclusions. Among them, that the "submitted miles and gallons (per the driver tickets) do not equal the miles and gallons" the taxpayer originally reported. That the "submitted driver tickets cannot be audited to determine if reasonable. There are no odometer readings, no origins or destinations by city and state, and no routes of travel." The Department's letter also noted:

A review of the units and unit totals for July, 2001 (per the submitted driver tickets) was conducted by the auditor. It was determined that the unit numbers recorded on the time sheets differ from the unit numbers recorded on the mileage summaries originally provided for the audit....

And:

Some of the driver tickets showed that the truck was operating but no miles or gallons were recorded for that activity. No estimation of miles and fuel was included for this omission. Sometimes only a portion of the unit's month's activity was recorded.

And the Department stated:

The quarterly MPGs (4.80, 4.88, and 4.47) utilized in the audit were calculated by using figures of terminal groups who had no missing miles or gallons. Your request to lower Nevada's MPGs does not include documentation of why the trucks operating in Nevada would get a significantly lower MPG than the remaining fleet.

The Department further noted in the letter that "MPGs calculated for the audit are a fleet MPG—not by jurisdiction (as you are requesting)...."

At the hearing the taxpayer provided "additional documentary information" which included (among other things): (1) a map "indicating the route traveled" from the transfer station to the landfill; (2) a description of the landfill; and a (3) a performance summary for the taxpayer's "tractor/trailer configuration."

Taxpayer basically recapitulates the argument that it initially made to the Department, but the taxpayer fails to address in a specific way the problems the Department raised in the June 2004 letter. The new "additional documentary information" the taxpayer submitted at hearing does not help in this regard either.

Under IFTA R1210.300 (in relevant part):

The assessment made by a base jurisdiction pursuant to this procedure shall be presumed to be correct and, in any case where the validity of the assessment is questioned, the burden shall be on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive.

And the Indiana Code 6-8.1-5-1(b) states in part:

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.

The taxpayer has not met its burden of proof. (It should be noted that a negligence penalty was also imposed; the taxpayer did not develop any arguments regarding the penalty and thus is denied regarding the penalty too).

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20040299P.LOF

LETTER OF FINDINGS NUMBER 04-0299P TAX ADMINISTRATION—NEGLIGENCE PENALTY FOR THE PERIOD COVERING CALENDAR YEARS 2001-2002

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—Negligence Penalty

Authority: IC §§ 6-8.1-5-1(b), -10-2.1 (1998) (2004); *United States v. Boyle*, 105 S.Ct. 687 (U.S. 1985); 45 IAC §§ 2.2-3-20 and -21, 15-5-3(b)(8) and 15-11-2 (1996) (2001)

The taxpayer protests the assessment of the negligence penalty.

STATEMENT OF FACTS

The taxpayer has been admitted to do business in Indiana as a foreign corporation since 1961. It is engaged in the wholesale distribution of chemicals to a variety of industrial customers. It maintains two storage and distribution centers in Indiana.

The Department of State Revenue (hereinafter "the Department") audited the taxpayer for gross retail (i.e., sales) and use taxes for calendar years 2001-2002 (hereinafter "the audit period") and issued Notices of Proposed Assessment of use taxes, including a proposed negligence penalty, based on the results of that audit. The taxpayer timely protested only the proposed negligence penalty, but not the respective proposed base taxes, which remain outstanding at this writing together with accrued and accruing interest. The Department will provide additional facts as needed.

I. Tax Administration—Negligence Penalty

DISCUSSION

The taxpayer argues that it exercised ordinary care and prudence in filing its Indiana sales and use tax returns and that based on its payment history, it did not willfully neglect to remit tax due.

The taxpayer's use tax self-assessment system missed purchases, made without remitting sales tax, of certain equipment in 2001 used to move product during loading and shipping, as well as fuel bought in both years and consumed in the loading and delivery vehicles at its Indiana locations. The discovery of the untaxed fuel purchases in particular prompted the field auditor and the taxpayer

to enter into an Agreement for Projecting Audit Results (Form AD-10A) for selected expense accounts of the taxpayer, mainly vehicle fuel purchase accounts. The use taxes calculated as due based on the Form AD-10A form the vast majority of the proposed assessments. The auditor cited 45 IAC § 2.2-3-20 (1996), which states that “[a]ll purchases of tangible personal property which are delivered to the purchaser for storage, use or consumption in the state of Indiana are subject to the use tax[.]” *id.*, as authority for both the equipment and expense adjustments. As additional authority for the expense adjustment, she also cited 45 IAC § 2.2-3-21, which states that “[a]ll purchases of tangible personal property which are accepted by the purchaser outside the state of Indiana but which are stored, used or otherwise consumed in Indiana are subject to the use tax[.]” *id.*

IC § 6-8.1-10-2.1 (1998) (current version at *id.* (2004)) is the statute that authorizes the Department to impose a penalty for any negligence of a taxpayer in failing to comply with the tax laws that the Department administers. These taxes are listed in IC § 6-8.1-1-1 and include the gross retail and use tax. IC § 6-8.1-10-2.1(a)(3) states that “(a) [i]f a person:... (3) [i]ncurs, upon examination by the department, a deficiency that is due to *negligence*... the person is subject to a penalty.” *Id.* (emphasis added). The amount is set by IC § 6-8.1-10-2.1(b)(4), which states that “(b) [e]xcept as provided in subsection (g) [.] [not in issue here], the penalty described in subsection (a) is ten percent (10%) of... (4) the amount of deficiency as finally determined by the department[.]” *Id.* However, IC § 6-8.1-10-2.1(d) states that “[i]f a person subject to the penalty imposed under this section can show that the failure to... pay the deficiency determined by the department was due to *reasonable cause* and not due to willful neglect, the department shall waive the penalty.” *Id.* (emphasis added).

Title 45 IAC § 15-11-2(b) states:

(b) “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.

Id. (emphasis added). The next subsection of the regulation sets out the standard of care a taxpayer must prove pursuant to IC § 6-8.1-10-2.1(e) to establish reasonable cause for failing to meet its tax compliance duties to the Department. Subsection (c) of 45 IAC § 15-11-2 reads in relevant part as follows:

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 [sic; should read IC 6-8.1-10-2, repealed and re-enacted in 1991 as IC 6-8.1-10-2.1] if the taxpayer affirmatively establishes that the failure to... pay a deficiency was due to reasonable cause and not due to negligence. *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 under this section.*....

...

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Id. (emphasis added).

Under IC § 6-8.1-5-1(b) (1998) (current version at *id.* (2004)) and 45 IAC § 15-5-3(b)(8) (1996) (2001), the person against whom a proposed assessment is made has the burden of proving that it is wrong. That burden applies to abatement of penalty assessments, as well as substantive tax assessments. *“A person who wishes to avoid the penalty imposed under [IC § 6-8.1-10-2.1(a) and (b)] must make an affirmative showing of all facts alleged as a reasonable cause* for the person’s failure to file the return, pay the amount of tax shown on the person’s return, pay the deficiency, or timely remit tax held in trust[.]” IC § 6-8.1-10-2.1(e) (emphasis added). Moreover, the legislature’s use of the conjunction “and” between the phrases “due to reasonable cause” and “not due to willful neglect” in IC § 6-8.1-10-2.1(d) means that a taxpayer protesting a proposed negligence penalty must prove both the existence reasonable cause and the absence of willful neglect, not just one of these elements. *Cf. United States v. Boyle*, 105 S.Ct. 687, 689-690 (U.S. 1985) (“To escape the penalty, the taxpayer bears the heavy burden of proving both (1) that the failure did not result from ‘willful neglect,’ and (2) that the failure was ‘due to ‘reasonable cause.’ 26 U.S.C. [I.R.C.] § 6651(a)(1) [the federal negligence penalty statute].”). The burden of proof is not on the Department to show negligence, willful or otherwise, by, or the absence of reasonable cause for the actions or inaction of, a taxpayer.

The taxpayer has been doing business in Indiana for over forty-three years and has been subject to the Gross Retail and Use Tax Act, chapter 30 (Special Session), 1963 Indiana Acts 60, codified as amended at IC article 6-2.5, for forty-one of those years. The Department promulgated the two regulations the auditor cited on December 1, 1982. LSA Doc. #82-86(F), 6 I.R. 8, 15 and 15 (Jan. 1, 1983), respectively. They thus have each been in effect for over twenty-two years. The taxpayer is charged with constructive knowledge of all of these authorities. Its failures to remit use tax on the assessed transactions is evidence of “carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code [and] department regulations” or “[i]gnorance of the listed tax laws, rules and/or regulations[.]” 45 IAC § 15-11-2(b). Those failures therefore constituted “negligence” as 45 IAC § 15-11-2(b) defines that word.

The taxpayer's argument that it exercised ordinary care and prudence in filing its Indiana sales and use tax returns, thereby implying that it had "reasonable cause" as 45 IAC § 15-11-2(c) defines that term, for its failures to remit use tax, is irrelevant to the present protest. The Department did not penalize the taxpayer under IC § 6-8.1-10-2.1(a)(1) or (2) for failing to file sales and use tax returns, or for failing to pay the full amount of tax shown on those returns. It was penalized under IC § 6-8.1-10-2.1(a)(3) for "[i]ncur[ring], upon examination by the department, a deficiency that is due to negligence[.]" *Id.* The fact that the taxpayer filed its returns promptly and paid all the tax it reported has no tendency to prove that the present deficiencies, resulting from its omissions of tax from those returns, were incurred for reasonable cause. Since the taxpayer has failed to sustain its burden of proof on the existence of reasonable cause, it is unnecessary for the Department to address the taxpayer's assertion that the incurring of the deficiencies was not due to willful neglect.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220040394.LOF

LETTER OF FINDINGS NUMBER: 04-0311

Corporate Income Tax

For the Years 1995-2002

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

Corporate Income Tax—Assessment

Authority: IC 6-8.1-5-1(b); IC 4-30; IC 4-31; IC 4-32; IC 4-33; IC 4-30-1-1; IC 4-30-18-1; IC 4-31-1-2; 4-31-6; IC 4-31-9; IC 4-32-1-2; IC 4-32-4-1; IC 4-32-4-2; IC 4-32-9; IC 4-32-9-16; IC 4-32-9-18; IC 4-32-9-30, -31, -32, -33; IC 4-33-1-1; IC 4-33-1-2; IC 4-33-6; IC 4-33-6-1; 4-33-6-3.5; IC 4-33-7; IC 4-33-8; IC 4-33-8-2; IC 4-33-8-4; IC 4-33-8-6; IC 4-33-8-3; IC 4-33-8-2; IC 4-33-8-4(2); IC 4-33-9-8; IC 4-33-9-12; 4-33-13-1; IC 4-33-13-1.5; IC 6-3-2-1(b); 68 IAC 2-6-29(1); IRC § 501(c)(19); IRS Publication 3386; IRS Publication 598; IRS Publication 3079

Taxpayer does not dispute the audit adjustment, but has submitted a request for additional losses to offset the income.

STATEMENT OF FACTS

Taxpayer is a tax exempt veterans organization under IRC § 501(c)(19). Taxpayer was assessed unrelated business income on receipts from nineteen unsanctioned slot machines operated by Taxpayer. The income was computed by deducting payouts and a portion of the business expenses from the gambling receipts. The building expenses were calculated based on the square footage of floor space covered by the slot machines.

Taxpayer does not dispute the audit adjustment, but has submitted a request for additional "losses" to offset the slot machine income. Taxpayer maintains that "losses" in the computation of food & beverage income is directly related to gambling receipts.

Taxpayer claims that total food & beverage operations exceed income. Taxpayer states that the food & beverage operations function at a loss so that food prices are kept low—which in turn brings people into the establishment to gamble.

DISCUSSION

Under Indiana code—passed into law by the Indiana General Assembly—all tax assessments are presumed to be valid and accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). The Indiana General Assembly has passed into law what is permitted and unpermissive gambling in the State of Indiana. IC 4-30 establishes an Indiana state lottery. IC 4-31 establishes pari-mutuel wagering on horse races. 4-32 establishes games of chance. And IC 4-33 establishes riverboat gambling. Gambling in Indiana is regulated—organizations are required to be registered and licensed.

The Indiana General Assembly has stated that the purpose of establishing state lottery games is to "enable the people of Indiana to benefit from significant additional money for capital improvements." IC 4-30-1-1. No person or organization may operate a lottery in Indiana; only the state lottery commission may operate a lottery. IC 4-30-18-1.

The Indiana General Assembly has stated that the purpose of permitting pari-mutuel wagering on horse races in Indiana is "to ensure that [it] will be conducted with the highest of standards and the greatest level of integrity." IC 4-31-1-2. Racetrack personnel and racing participants are required to be licensed. *See* 4-31-6. Taxation and distribution of pari-mutuel revenues is highly regulated. *See* IC 4-31-9.

The Indiana General Assembly has stated that the purpose of permitting games of chance is "to permit a licensed qualified organization (1) to conduct bingo events, charity game nights, door prize drawings, and raffles; and (2) to sell pull tabs, punchboards,

and tip boards; as a fund raising activity for lawful purposes of the organization.” IC 4-32-1-2. Organizers are required to withhold state income tax on prizes awarded to a winner and to submit that tax. *See* IC 4-32-4-1 and IC 4-32-4-2. Organizations are required to be licensed and are regulated in the conduct of the games. *See* IC 4-32-9. Under IC 4-32-9-16, the Department is permitted by rule to set the allowable expenditures of a qualified organization. This is significant to note—the Department has the authority, as granted by the Indiana General Assembly to set the guidelines for allowable expenditures. This directly implies that the Department also may set the guidelines for permissible deductions of expenses. All net proceeds from an allowable event and related activities may only be used for the lawful purposes of the qualified organization. *Id.* There are limits on the number and frequency of events that may be held. IC 4-32-9-18. There are limits on the value of prizes. IC 4-32-9-30, -31, -32, -33. There are many more statutes regulating charity gaming; these are named to demonstrate that strict regulations and statutes exist.

Then there is casino gambling. The people of Indiana—acting through the General Assembly—restrict casino gambling solely to licensed riverboats. Casino gambling is restricted to counties that border Lake Michigan, the Ohio River, or a historic hotel district. *See* IC 4-33-1-1. The General Assembly highly restricts where casino gambling may be conducted. The Indiana General Assembly has stated that the purpose of permitting riverboat casino gambling is “to benefit the people of Indiana by promoting tourism and assisting economic development. The public’s confidence and trust will be maintained only through: (1) comprehensive law enforcement supervision; and (2) the strict regulation of facilities, persons, associations, and gambling operations under this article.” IC 4-33-1-2, **Legislative intent**. Owners are to be licensed. *See* IC 4-33-6. There are restrictions on who may be an owner, *id.*, and how many licenses may be issued, IC 4-33-6-1 and 4-33-6-3.5. Suppliers are to be licensed. *See* IC 4-33-7. The occupational employees of a riverboat are to be licensed. *See* IC 4-33-8. The backgrounds of the employees are investigated and they are fingerprinted. *See* IC 4-33-8-2, IC 4-33-8-4, and IC 4-33-8-6. Felons are not permitted to hold an occupational license. IC 4-33-8-3. An occupational license is valid for only one year—it must be renewed annually. IC 4-33-8-2. The person only may be employed by one riverboat. IC 4-33-8-4(2). All of the above mentioned statutes have been named, so as to outline the strict regulatory guidelines established by the people of the State of Indiana—acting through their elected voice in the General Assembly.

Under IC 4-33-9-8 casino gambling equipment and supplies may be purchased or leased only from licensed suppliers. IC 4-33-9-12 does not permit those under the age of twenty-one to be in any area in which casino gambling is occurring. IC 4-33-13-1 and IC 4-33-13-1.5 state the tax schedules for revenues earned from casino gambling. This tax rate is as low as 15% and as high as 35%. Currently, the corporate income tax rate is 8.5%. *See* IC 6-3-2-1(b). The 8.5% corporate income rate is greatly less than the 15% minimum tax assessed against casino gambling on riverboats—at a little over one-half. Stated another way—were Taxpayer legally sanctioned to operate a casino, it would have to pay almost double the tax rate that the Department assessed for Taxpayer’s unsanctioned operation of slot machines. Were Taxpayer legally operating these slot machines, it would be held to the gaming regulations as to the payout requirements. *See* 68 IAC 2-6-29(1). According to the Indiana Gaming Commission, riverboat casinos payout—on average—around 93%. Taxpayer pays out at around 80%. Taxpayer states that the bartender at the post pays out any winnings.

It is important to note that tax assessments on activities are not based upon the morality or legality of the activities. The Department does not base an assessment upon whether the income earned by a taxpayer is earned legally; the Department simply applies the tax statutes and regulations. At issue in this case is income earned by Taxpayer from unrelated business activities. This requires a discussion as to the functions and purposes of an IRC § 501(c)(19) veterans organization.

The IRS has issued three publications useful to this discussion:

Publication 3386 Tax Guide—Veterans’ Organizations (6/99)

Publication 598 Tax on Unrelated Business Income of Exempt Organizations (3/00)

Publication 3079 Gaming Publication for Tax-Exempt Organizations (4/98).

The first thing that Publication 3386 states is: “Veterans’ organizations occupy a special place in the world of exempt organizations.” *Id.* at 3. Over the years, Congress has provided more flexible exemption provisions to veterans’ organizations to help keep them vibrant contributors to veterans and their communities at large. *See id.* Originally, veterans’ organizations were required to have a membership of at least 75% war veterans in order to be tax-exempt; but because of waning membership over the years, Congress changed the membership requirement to 75% veterans. *See id.*, and IRC § 501(c)(19)(B). However, Congress still requires that no more than 2.5% of the members be non-veteran related persons in order for the organization to maintain tax-exempt status. *See id.*

Congress has stated that appropriate purposes of an IRC 501(c)(19) veterans’ organization include:

- A. promoting the social welfare of the community,
- B. assisting needy and disabled veterans, widows, or orphans of deceased veterans,
- C. providing entertainment, care and assistance to hospitalized veterans or members of the Armed Forces of the United States,
- D. perpetuating the memory of veterans and comforting their survivors,
- E. conducting programs for religious, charitable, scientific, literary, or educational purposes,
- F. sponsoring or participating in patriotic activities,
- G. providing insurance benefits to members or members’ dependents, and
- H. providing social and recreational activities for members.

See IRS Pub. 3386 at 9. IRS Publication 3386 states that a veterans organization can jeopardize its tax-exempt status if it does not limit its activities and operations to post members—but instead opens its facilities to the general public. A post may operate a bar & restaurant and also may provide gambling—but these must be restricted to members and their invited guests. All expenses of an invited guest are to be paid by the post member.

Taxpayer openly states that it serves food to the general public at lunch—those who come in to eat without being an invited guest of a member. Taxpayer estimates that 75% of its lunch revenue is from meals served to these non-members who pay for their own lunches. It is worth noting that Taxpayer engages in many activities and opens its post to the general public for many reasons. In the Department's audit of Taxpayer, only the income from the unsanctioned slot machines was assessed tax as being unrelated business income. The income from the lunch sales was not assessed tax. Taxpayer's attempt to secure a double benefit is inequitable. Taxpayer has not been assessed income tax on the lunch sales to the general public and now it seeks a deduction for the cost of the lunch sales. General tax policy does not permit deductions for that which is not taxed. Taxpayer is seeking to blur the line between the income which is not taxed and the income which is taxed. Taxpayer may not do so. The Department has sought only to tax the unsanctioned gambling as unrelated business income. The Department has computed the reasonable deductions related to the generation of that income.

Expenses—but not losses—directly related to the earning of unrelated business income can be used as a deduction in calculating the income. There is no evidence to establish that any of the food & beverage related expenses are directly related to gambling receipts. Taxpayer's organizational purpose would have to be gambling in order for Taxpayer's position to be valid. The Department has allowed a reasonable estimate of building expenses to offset the unrelated business income. No evidence has been submitted to support further deductions for expenses.

FINDING

Taxpayer's protest is denied. The assessment of corporate income tax is due.

DEPARTMENT OF STATE REVENUE

0220040312P.LOF

LETTER OF FINDINGS NUMBER: 04-0312P

Income Tax

For the 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 late penalty.

STATEMENT OF FACTS

The late penalty was assessed on the late payment of an annual income tax return for the calendar year 2002.

The taxpayer is a company residing in Indiana.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer argues the late penalty should be abated as the taxpayer has an exemplary payment history, and, the error is an unusual error.

The Department points out the taxpayer was six months late in paying the deficiency.

The Department will waive penalty if the error is unusual, and, the taxpayer has an exemplary payment history.

The Department agrees the taxpayer has an exemplary payment history. However, the payment was six months late, and, a change in personnel is not considered an unusual error.

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.

DEPARTMENT OF STATE REVENUE

03-20040327.LOF

LETTER OF FINDINGS NUMBER: 04-0327

Nonresident Withholding Tax

For Tax Periods: 2000-2002

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 specific issues.

ISSUES

I. Nonresident Withholding Tax-Addback of income taxes

Authority: Ind Code. § 6-3-1-3.5; *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

Taxpayer protests the addback of riverboat wagering taxes in determining the adjusted gross income of shareholders for withholding tax purposes.

II. Nonresident Withholding Tax-Applicability

Authority: I.R.C. § 702; I.R.C. § 1366(b); Ind. Code § 6-3-2-2; Ind. Code § 6-3-4-12; Ind. Code § 6-3-4-13; *Dupee v. Tracy*, 708 N.E.2d 698 (Ohio 1999); *Agley v. Tracy*, 719 N.E.2d 951 (Ohio 1999).

Taxpayer argues that the income that is subject to withholding is not Indiana source income, and that it cannot be subject to withholding tax obligations based on its lack of presence in Indiana

III. Nonresident Withholding Tax-Computation

Authority: Ind. Code § 6-3-4-13.

Taxpayer argues that any losses incurred by it prior to adjustments be used to offset the adjustments for determining its ultimate withholding tax liability.

IV. Tax Administration-Penalty

Authority: 6-8.1-10-2.1; 45 IAC 15-11-2.

Taxpayer protests the imposition of the ten percent penalty for negligence.

STATEMENT OF FACTS

Taxpayer, an S corporation, is a part-owner of an LLC that operates a casino in Indiana. During the years in question, taxpayer computed its withholding tax liability without adding back riverboat wagering taxes in computing the income subject to withholding. Audit assessed withholding tax liability based on the share of riverboat wagering tax paid by taxpayer. Taxpayer protested the add back of riverboat wagering taxes, the applicability of withholding liability to it, the computation of its liability, and negligence penalties.

I. Nonresident Withholding Tax-Addback of income taxes

DISCUSSION

With respect to the validity of the assessment, the Indiana Tax Court has determined that the riverboat wagering tax is a tax "based on or measured by income and levied at the state level by any state of the United States." *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381, 386 (Ind. Tax 2004). Accordingly, with respect to individuals, the tax must be added back per Ind. Code § 6-3-1-3.5(a)(2) in order to determine the individual's adjusted gross income-the basis for withholding tax liability.

FINDING

Taxpayer's protest is denied.

II. Nonresident Withholding Tax-Applicability

Taxpayer has also argued that it is not subject to tax based on either the character of the income was not Indiana source income, or, in the alternative, that the Department did not have jurisdiction to assess taxpayer for the years in question.

First, taxpayer argues that the character of the income in the hands of the taxpayer was that of holding a membership interest in an LLC, not from doing business in Indiana. However, in the case of a partnership or S corporation, the character of the income for federal purposes is determined at the source, and then taxed to the individual recipient. *See* I.R.C. §§ 702(b), 1366(b). The character of the income in this case was determined at the partnership level-namely, the operation of a riverboat casino within Indiana, clearly subject to Indiana tax per Ind. Code § 6-3-2-2(a)(2). This character remains the same at the S corporation level. *See, e.g.,*

Dupee v. Tracy, 708 N.E.2d 698, 700 (Ohio 1999) (Florida residents subject to Ohio income tax as a result of S corporation operations in Ohio, based on income being Ohio business income). The income, contrary to taxpayer's argument, does not magically transform from "casino revenues" in the hands of the partnership to "intangible income" (e.g., dividends or interest) in the hands of the taxpayer. It retains its initial character-income from a business conducted in Indiana- as it passes through the various entities until it reaches a taxpayer.

Further, taxpayer's argument creates a legal absurdity. Indiana's non-resident withholding statutes, Ind. Code §§ 6-3-4-12 and -13 are rendered non-existent by taxpayer's arguments. A pass-through entity could always argue that its owners' incomes from the entity was merely income from an intangible (i.e., an ownership interest in the entity doing business in Indiana) and never be subject to Indiana tax, effectively resulting in a situation in which a nonresident who owns a business in Indiana is subject to income tax, but a nonresident who puts a pass-through entity between the individual and the business is insulated from all tax liabilities to Indiana.

Second, taxpayer further argues that Indiana cannot constitutionally tax the income because the taxpayer did not have nexus in Indiana. Taxpayer notes that the LLC and taxpayer are separate entities, and the LLC activities cannot be attributed to the taxpayer generally.

While Indiana has not directly addressed the issue, the highest court of at least one other state has noted that the taxpayer has sought, via the LLC, to invoke valuable rights that were provided to it. *Agley v. Tracy*, 719 N.E.2d 951 (Ohio 1999). In that case, the taxpayers were owners of an S Corporation that conducted business in Ohio; however, the taxpayers did not participate in any activities in Ohio. The taxpayers argued that, since they were not present in Ohio nor had any contacts with Ohio beyond their ownership of the S corporation, they could not be subject to personal income tax in Ohio. However, the court found that the S corporation availed itself of the benefits of Ohio, and that the taxpayers, through that corporation, had sufficient contacts to justify taxation by Ohio on the income derived from the business.

In this protest, the LLC that operated the casino availed itself of the protections and benefits of Indiana. It received one of the rare and extremely difficult to obtain licenses to operate a riverboat casino in Indiana, and proceeded to operate the riverboat. It further utilized the resources of Indiana to allow customers to reach the casino and has had full access to the courts of Indiana in order to seek protection at the casinos and protection in its everyday operations. By extension, the LLC used those protections to earn business income from Indiana, just as the S corporation in *Agley* used the protections of Ohio to earn its income. Taxpayer in this case has utilized those protections provided by Indiana-a separate legal identity and a highly valuable license, among others-to earn its income through the LLC, just as the shareholders in *Agley* used the protections conferred by Ohio to earn their income. Accordingly, taxpayer has sufficient contacts to justify its withholding obligations in Indiana.

FINDING

Taxpayer's protest is denied

III. Nonresident Withholding Tax-Computation

DISCUSSION

Taxpayer has also protested the amount of the assessment. Taxpayer's argument is that the losses at the withholding entity level (in this case, S corporation) must be considered in determining its withholding liability. For example, if a taxpayer incurred a \$10,000,000 loss, but had \$4,000,000 of taxes added back, then its liability would be based on a \$6,000,000 loss rather than \$4,000,000. If a taxpayer incurred a \$10,000,000 loss but had \$19,000,000 of taxes added back, its liability would be based on \$9,000,000 rather than \$19,000,000.

Ind. Code § 6-3-4-13(a) states in relevant part that "[e]very corporation which is exempt from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it pays or credits amounts to any of its nonresident shareholders as dividends or as their share of the corporation's undistributed taxable income, withhold the amount prescribed by the department."

Here, the net income for withholding tax purposes is its "dividends or undistributed taxable income" within the meaning of the statute. Accordingly, the corporation's liability for withholding is limited to its net income rather than the total amount of taxes added back, if the corporation had a loss prior to the taxes added back. However, if the corporation had a profit or zero income prior to add back, then the full amount of taxes added back are subject to withholding obligations.

FINDING

Taxpayer's protest is sustained subject to audit review of the amount of net income.

IV. Tax Administration-Penalty

DISCUSSION

Taxpayer also protests the imposition of the penalty for negligence for the years in question. Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC 6-8.1-10-2.1. The Indiana Administrative Code further provides:

(b) "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.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. 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 under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- (1) the nature of the tax involved;
- (2) judicial precedents set by Indiana courts;
- (3) judicial precedents established in jurisdictions outside Indiana;
- (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
- (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

45 IAC 15-11-2.

With respect to the penalty, Taxpayer has presented a case that it acted with reasonable care expected of taxpayers generally, and thus the penalty should be waived.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

02-20040329.LOF

02-20040330.LOF

LETTER OF FINDINGS NUMBER: 04-0329, 04-0330

Adjusted Gross Income Tax

For the Years 2000-2002

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. Adjusted Gross Income Tax- Addback of state and local income taxes

Authority: Ind. Code § 4-33-2-2; Ind. Code § 4-33-13-1; Ind. Code § 6-3-1-3.5(b); *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

Taxpayer protests the addback of riverboat wagering tax for adjusted gross income tax.

II. Tax Administration-Penalty

Authority: Ind. Code § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the imposition of the ten percent (10%) penalty for negligence.

STATEMENT OF FACTS

Taxpayer was a corporate member of an LLC that operated a casino in Indiana. Taxpayer was assessed additional corporate income tax based on the adding back of riverboat wagering tax. Taxpayer protested the assessment, and this letter of findings results.

I. Adjusted Gross Income Tax- Addback of state and local income taxes

DISCUSSION

Taxpayer argues that the riverboat wagering tax is not a "tax based on or measured by income" under Ind. Code § 6-3-1-3.5(b). Taxpayer noted the history of both taxes involved in this protest. Taxpayer also noted that the riverboat wagering tax under Ind. Code § 4-33-13-1 *et seq.*, limits the allowance for uncollectible receivables under Ind. Code § 4-33-2-2, which may have resulted in amounts not subject to federal income tax being subject to riverboat wagering tax. Thus, by taxpayer's argument, the riverboat wagering tax is one not "based on or measured by income". The Indiana Tax Court has considered the issue of adding back the riverboat wagering tax and concluded that the tax is subject to add back for corporate income tax in a published opinion. *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

FINDING

Taxpayer's protest is denied.

II. Tax Administration-Penalty.

Taxpayer also protests the imposition of the penalty for negligence for the years in question. Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC 6-8.1-10-2.1. The Indiana Administrative Code further provides:

(b) "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.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. 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 under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- (1) the nature of the tax involved;
- (2) judicial precedents set by Indiana courts;
- (3) judicial precedents established in jurisdictions outside Indiana;
- (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
- (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

45 IAC 15-11-2.

With respect to the penalty, Taxpayer has presented a case that it acted with reasonable care and thus, the penalty should be waived.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

04990557.SLOF

SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 99-0557**Sales Tax****For Calendar Years 1994, 1995, 1996, 1997, and 1998**

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 – Proposed Assessment of Tax**

Authority: IC 6-8.1-5-1

Taxpayer protests the assessment because it was made without an examination of the actual records and he asserts that he is not liable for sales tax because he is a broker.

STATEMENT OF FACTS

Taxpayer was originally assessed as part of an audit and protested, a hearing was held and taxpayer's protest of the best information available assessment was denied, taxpayer requested a rehearing and it was granted, this letter of finding results. Taxpayer sold- or arranged sales of- new and used medical equipment and medical supplies and operated out of his home. Taxpayer was organized as a sole proprietor for federal income tax purposes. Taxpayer did not register as a retail merchant with the State of Indiana, making purchases from his vendors claiming exemption for resale. During the field audit, the taxpayer indicated that he did not sell equipment and merely facilitated the sale of the equipment by matching up the sellers with the buyers. Taxpayer argued that he did not take title to any equipment, and was not a retail merchant, and did not need to be registered. Taxpayer further stated he acted as an agent and sold the equipment on behalf of the seller and received a commission from the sale. However, an entity sold equipment to the taxpayer, invoicing and shipping directly to the taxpayer's home in Indiana. This entity billed the taxpayer sales tax, but the taxpayer refused to pay it claiming exemption for resale. Taxpayer issued an improper exemption certificate to the entity

after several attempts were made by this entity to collect the sales tax.

Taxpayer was advised of the impending audit and initially agreed to provide records. However, the taxpayer failed to fulfill the initial records request and subsequently failed to respond to any of the auditor's requests for records and failed to reply to any of the auditor's contacts. The audit proposed a "Best Information Audit" assessment for sales tax on unreported sales. The assessment is based upon the average annual taxable sales of a local new and used medical equipment retailer believed to be about the same size and volume as the taxpayer.

I. Tax Administration – Proposed Assessment of Tax

DISCUSSION

Taxpayer has not filed Indiana income tax returns since 1993. Records examined include information obtained from the Internal Revenue Service on income reported for the years 1994, 1995, and 1996, and other working papers.

IC 6-8.1-5-1 (a) provides, in part: "[i]f the department 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." The statute also provides: "[t]he notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid, and the burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

Here, the Department proposed an assessment of tax that the taxpayer protested. The taxpayer merely sent a few copies of invoices and/or offers to buy and sell and stated he is a broker prior to the first hearing. As part of taxpayer's protest for the second hearing taxpayer's counsel has provided additional documentation.

Barron's Law Dictionary defines a broker as "one who for commission or fee, brings parties together and assists in negotiating contracts between them." At best, the taxpayer may be classed as a jobber. Barron's Law Dictionary defines a jobber or "a middleman in the sale of goods, or typically, one who buys goods from a wholesaler and then sells them to a retailer. A jobber is distinguished from a broker or agent, who sells goods on another's behalf; a jobber actually purchases the goods himself, and then resells them."

The evidence provided by the taxpayer indicates it made purchases to be resold. No other evidence was provided.

IC 6-8.1-5-1 (c) provides, in part: "{t}he department shall demand payment...of any part of the proposed tax assessment, interest and penalties that is finds owing because:...after consideration of the evidence presented in the protest or hearing, the department finds the person still owes the tax.

Here, the taxpayer failed to provide evidence either to the auditor or the initial hearing officer after subsequent opportunities to present evidence were afforded. The charging of sales tax against "best information available" income was appropriate because no alternative means for the tax assessment existed. The auditor used the best and only information available at the commencement of the audit and the taxpayer initially failed to present any viable evidence to rebut the presumptive validity of the assessment. At the rehearing, taxpayer repeated his earlier arguments but did not, despite an initial letter of findings that clearly outlined the department's position, address any of his numerous failures to provide documentation, to file personal returns for the years at issue, or to reconcile his asserted position that no products were shipped into Indiana with the receipts demonstrating shipment to his residence. As far as the documents provided by taxpayer, these did not substantiate taxpayer's assertions. The documents consisted of portions of sales agreements and potential contracts for purchase. At no point has taxpayer provided evidence that these transactions actually occurred out of state- indeed, if, as taxpayer asserts, these transactions occurred out of state, taxpayer has not provided proof of sales or income tax paid to the appropriate jurisdictions.

FINDING

Taxpayer's protest is denied.

Rules Affected by Volume 28

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION
25 IAC 6 N 04-172 27 IR 3595 *CPH (28 IR 234)

TITLE 28 STATE INFORMATION TECHNOLOGY OVERSIGHT
COMMISSION
28 IAC N 04-123 28 IR 986 *CPH (28 IR 1498)

TITLE 31 STATE PERSONNEL DEPARTMENT
31 IAC 1-9-4 A 04-170 27 IR 4049
31 IAC 2-11-4 A 04-170 27 IR 4049

TITLE 40 STATE ETHICS COMMISSION
40 IAC 2-1-5.5 N 04-198 28 IR 987
40 IAC 2-1-6 A 04-198 28 IR 987
40 IAC 2-1-7 A 04-198 28 IR 988

TITLE 45 DEPARTMENT OF STATE REVENUE
45 IAC 1.3 N 04-125 27 IR 3101
45 IAC 18 R 04-292 28 IR 1518
45 IAC 18-3-7 R 04-255 28 IR 624 *AWR (28 IR 971)
45 IAC 18-3-7.1 N 04-255 28 IR 623 *AWR (28 IR 971)
45 IAC 18-3-8 R 04-255 28 IR 624 *AWR (28 IR 971)
45 IAC 18-3-8.1 N 04-255 28 IR 623 *AWR (28 IR 971)
45 IAC 20 N 04-292 28 IR 1500

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE
50 IAC 20 N 04-174 27 IR 3603 *AROC (27 IR 3707)
28 IR 1458
50 IAC 21 N 02-297 27 IR 4050 **28 IR 1452**

TITLE 65 STATE LOTTERY COMMISSION
65 IAC 1-4-5.5 A 04-237 *ER (28 IR 217)
65 IAC 4-90 R 04-249 *ER (28 IR 227)
65 IAC 4-99 R 04-249 *ER (28 IR 227)
65 IAC 4-205 R 04-249 *ER (28 IR 227)
65 IAC 4-248 R 04-249 *ER (28 IR 227)
65 IAC 4-272 R 04-249 *ER (28 IR 227)
65 IAC 4-287 R 04-249 *ER (28 IR 227)
65 IAC 4-317 R 04-249 *ER (28 IR 227)
65 IAC 4-319 R 04-249 *ER (28 IR 227)
65 IAC 4-321 R 04-249 *ER (28 IR 227)
65 IAC 4-332 R 04-249 *ER (28 IR 227)
65 IAC 4-343 R 04-249 *ER (28 IR 227)
65 IAC 4-348 N 04-241 *ER (28 IR 221)
65 IAC 4-349 N 04-283 *ER (28 IR 975)
65 IAC 4-350 N 04-252 *ER (28 IR 229)
65 IAC 4-352 N 04-284 *ER (28 IR 978)
65 IAC 4-353 N 04-329 *ER (28 IR 1492)
65 IAC 4-354 R 04-249 *ER (28 IR 227)
65 IAC 4-359 R 04-249 *ER (28 IR 227)
65 IAC 4-367 R 04-249 *ER (28 IR 227)
65 IAC 4-383 R 04-249 *ER (28 IR 227)
65 IAC 4-390 R 04-249 *ER (28 IR 227)
65 IAC 4-401 R 04-249 *ER (28 IR 227)
65 IAC 4-402 R 04-249 *ER (28 IR 227)
65 IAC 4-403 R 04-249 *ER (28 IR 227)
65 IAC 4-404 R 04-249 *ER (28 IR 227)
65 IAC 4-405 R 04-249 *ER (28 IR 227)
65 IAC 4-406 R 04-249 *ER (28 IR 227)
65 IAC 4-408 R 04-249 *ER (28 IR 227)
65 IAC 4-437 R 04-249 *ER (28 IR 227)
65 IAC 4-439 R 04-249 *ER (28 IR 227)
65 IAC 4-440 R 04-249 *ER (28 IR 227)
65 IAC 4-441 R 04-249 *ER (28 IR 227)
65 IAC 4-442 R 04-249 *ER (28 IR 227)
65 IAC 4-443 R 04-249 *ER (28 IR 227)
65 IAC 4-445 R 04-249 *ER (28 IR 227)
65 IAC 4-446 R 04-249 *ER (28 IR 227)
65 IAC 4-447 R 04-249 *ER (28 IR 227)

65 IAC 4-448 R 04-249 *ER (28 IR 227)
65 IAC 4-450 R 04-249 *ER (28 IR 227)
65 IAC 4-453 R 04-249 *ER (28 IR 227)
65 IAC 5-13 R 04-249 *ER (28 IR 227)
65 IAC 5-14 R 04-249 *ER (28 IR 227)
65 IAC 5-15 R 04-249 *ER (28 IR 227)

TITLE 68 INDIANA GAMING COMMISSION
68 IAC 1-5-1 A 04-103 27 IR 3115 **28 IR 532**
68 IAC 2-3-5 A 04-103 27 IR 3115 **28 IR 533**
68 IAC 2-3-6 A 04-103 27 IR 3117 **28 IR 535**
68 IAC 2-3-9 A 04-103 27 IR 3118 **28 IR 535**
68 IAC 2-6-49 A 04-102 27 IR 3109 **28 IR 526**
68 IAC 2-7-12 A 04-102 27 IR 3109 **28 IR 526**
68 IAC 5-3-2 A 04-102 27 IR 3109 **28 IR 526**
68 IAC 5-3-7 A 04-102 27 IR 3109 **28 IR 527**
68 IAC 8-1-11 A 04-102 27 IR 3110 **28 IR 527**
68 IAC 8-2-29 A 04-102 27 IR 3110 **28 IR 527**
68 IAC 9-4-8 A 04-102 27 IR 3110 **28 IR 527**
68 IAC 10-1-5 A 04-102 27 IR 3110 **28 IR 527**
68 IAC 11-1-8 A 04-102 27 IR 3110 **28 IR 528**
68 IAC 11-3-1 A 04-102 27 IR 3110 **28 IR 528**
68 IAC 12-1-15 A 04-102 27 IR 3111 **28 IR 529**
68 IAC 14-4-8 A 04-102 27 IR 3112 **28 IR 529**
68 IAC 14-5-6 A 04-102 27 IR 3112 **28 IR 529**
68 IAC 15-1-8 A 04-102 27 IR 3112 **28 IR 530**
68 IAC 15-3-3 A 04-179 28 IR 237
68 IAC 15-5-2 A 04-179 28 IR 237
68 IAC 15-6-2 A 04-179 28 IR 238
68 IAC 15-6-3 A 04-179 28 IR 239
68 IAC 15-6-5 A 04-179 28 IR 240
68 IAC 15-9-4 A 04-102 27 IR 3112 **28 IR 530**
68 IAC 15-10-4.1 A 04-102 27 IR 3113 **28 IR 530**
68 IAC 15-13-2.5 N 04-102 27 IR 3113 **28 IR 531**
68 IAC 16-1-16 A 04-102 27 IR 3113 **28 IR 531**
68 IAC 17-1-5 A 04-102 27 IR 3114 **28 IR 531**
68 IAC 17-2-6 A 04-102 27 IR 3114 **28 IR 531**
68 IAC 18-1-2 A 04-102 27 IR 3114 **28 IR 531**
68 IAC 18-1-6 A 04-102 27 IR 3114 **28 IR 532**

TITLE 140 BUREAU OF MOTOR VEHICLES
140 IAC 4-4 RA 04-162 28 IR 323 **28 IR 1315**
140 IAC 8-4 RA 04-162 28 IR 323 **28 IR 1315**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION
170 IAC 1-4 RA 04-163 27 IR 4140 *CPH (28 IR 620)
28 IR 1315
170 IAC 1-5 RA 04-163 27 IR 4140 *CPH (28 IR 620)
28 IR 1315
170 IAC 4-1-15 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 4-1-16 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 4-1-16.5 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 4-1-16.6 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 4-1-17 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 4-1-23 A 04-68 27 IR 2765 **28 IR 789**
170 IAC 4-1-2 N 04-144 27 IR 4057 *CPH (28 IR 620)
170 IAC 4-4.2 N 03-305 27 IR 2312 **28 IR 786**
170 IAC 5-1-15 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 5-1-16 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 5-1-16.5 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 5-1-16.6 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 5-1-17 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 5-1-2 N 04-144 27 IR 4065 *CPH (28 IR 620)
170 IAC 6-1-15 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 6-1-16 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 6-1-17 R 04-144 27 IR 4095 *CPH (28 IR 620)
170 IAC 6-1-1 N 04-268 28 IR 1518 *CPH (28 IR 1710)
170 IAC 6-1-2 N 04-144 27 IR 4073 *CPH (28 IR 620)
170 IAC 7-1.3-2 A 04-144 27 IR 4080 *CPH (28 IR 620)

Rules Affected by Volume 28

170 IAC 7-1.3-3	A	04-144	27 IR 4081	*CPH (28 IR 620)
170 IAC 7-1.3-8	A	04-144	27 IR 4083	*CPH (28 IR 620)
170 IAC 7-1.3-9	A	04-144	27 IR 4084	*CPH (28 IR 620)
170 IAC 7-1.3-10	A	04-144	27 IR 4085	*CPH (28 IR 620)
170 IAC 8.5-2-1	A	04-144	27 IR 4086	*CPH (28 IR 620)
170 IAC 8.5-2-3	A	04-144	27 IR 4087	*CPH (28 IR 620)
170 IAC 8.5-2-4	A	04-144	27 IR 4089	*CPH (28 IR 620)
170 IAC 8.5-2-5	A	04-144	27 IR 4092	*CPH (28 IR 620)

TITLE 203 VICTIM SERVICES DIVISION

203 IAC	N	04-63	27 IR 2526	28 IR 6
---------	---	-------	------------	----------------

TITLE 207 CORONERS TRAINING BOARD

207 IAC 2	N	04-231	28 IR 624	
-----------	---	--------	-----------	--

TITLE 240 STATE POLICE DEPARTMENT

240 IAC 8	RA	04-164	27 IR 4140	28 IR 677
-----------	----	--------	------------	------------------

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

305 IAC 1-2-6	A	03-212	27 IR 216	*ARR (28 IR 215) 28 IR 12
305 IAC 1-3-4	A	03-212	27 IR 216	*ARR (28 IR 215) 28 IR 12
305 IAC 1-4-1	A	03-212	27 IR 217	*ARR (28 IR 215) 28 IR 12
305 IAC 1-4-2	A	03-212	27 IR 217	*ARR (28 IR 215) 28 IR 13
305 IAC 1-5	N	03-212	27 IR 217	*ARR (28 IR 215) 28 IR 13

TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2-4-6	A	04-215	28 IR 626	
312 IAC 2-4-12	A	04-67	27 IR 3604	28 IR 1460
312 IAC 2-4-14	N	04-215	28 IR 626	
312 IAC 3-1-7	A	04-263	28 IR 1203	
312 IAC 4-6-6	A	04-208	28 IR 625	
312 IAC 5-6-5	A	04-84	28 IR 240	28 IR 1680
312 IAC 5-6-5.5	N	04-210	28 IR 989	
312 IAC 5-14-1	A	04-155	27 IR 4100	28 IR 1461
312 IAC 5-14-2	A	04-155	27 IR 4100	28 IR 1461
312 IAC 5-14-4	A	04-155	27 IR 4101	28 IR 1462
312 IAC 5-14-5	R	04-155	27 IR 4109	28 IR 1470
312 IAC 5-14-5.1	N	04-155	27 IR 4101	28 IR 1462
312 IAC 5-14-6	R	04-155	27 IR 4109	28 IR 1470
312 IAC 5-14-6.1	N	04-155	27 IR 4102	28 IR 1463
312 IAC 5-14-7	A	04-155	27 IR 4102	28 IR 1463
312 IAC 5-14-8	A	04-155	27 IR 4102	28 IR 1464
312 IAC 5-14-9	A	04-155	27 IR 4103	28 IR 1464
312 IAC 5-14-11	A	04-155	27 IR 4103	28 IR 1464
312 IAC 5-14-15	A	04-155	27 IR 4103	28 IR 1465
312 IAC 5-14-16	A	04-155	27 IR 4104	28 IR 1465
312 IAC 5-14-17	A	04-155	27 IR 4104	28 IR 1465
312 IAC 5-14-18	A	04-155	27 IR 4105	28 IR 1466
312 IAC 5-14-19	A	04-155	27 IR 4105	28 IR 1467
312 IAC 5-14-20	A	04-155	27 IR 4106	28 IR 1467
312 IAC 5-14-21	A	04-155	27 IR 4106	28 IR 1467
312 IAC 5-14-22	A	04-155	27 IR 4106	28 IR 1468
312 IAC 5-14-24	A	04-155	27 IR 4107	28 IR 1468
312 IAC 5-14-25	A	04-155	27 IR 4108	28 IR 1469
312 IAC 5-14-26	R	04-155	27 IR 4109	28 IR 1470
312 IAC 5-14-27	N	04-155	27 IR 4109	28 IR 1470
312 IAC 6.2	N	04-66	27 IR 3119	28 IR 1459
312 IAC 6.5	N	04-3	27 IR 2767	28 IR 15
312 IAC 8	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 9-1-9.5	N	03-311	27 IR 1946	28 IR 536
312 IAC 9-1-11.5	N	03-311	27 IR 1946	28 IR 536
312 IAC 9-2-14	N	04-253	28 IR 1522	
312 IAC 9-2-15	N	04-253	28 IR 1522	

312 IAC 9-3-2	A	03-311	27 IR 1946	28 IR 536
312 IAC 9-3-3	A	03-311	27 IR 1947	28 IR 538
312 IAC 9-3-4	A	03-311	27 IR 1948	28 IR 538
	A	04-253	28 IR 1523	
312 IAC 9-3-5	A	04-253	28 IR 1523	
312 IAC 9-3-10	A	03-311	27 IR 1949	28 IR 539
312 IAC 9-3-11	A	03-311	27 IR 1949	28 IR 539
312 IAC 9-3-12	A	03-311	27 IR 1949	28 IR 539
312 IAC 9-3-13	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-14	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-15	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-17	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-4-7	R	03-311	27 IR 1966	28 IR 556
312 IAC 9-4-10	A	03-311	27 IR 1951	
312 IAC 9-4-11	A	03-311	27 IR 1951	28 IR 541
	A	04-253	28 IR 1524	
312 IAC 9-4-14	A	03-311	27 IR 1952	28 IR 542
312 IAC 9-5-4	A	03-311	27 IR 1953	28 IR 542
	A	04-253	28 IR 1526	
312 IAC 9-5-6	A	03-311	27 IR 1953	28 IR 543
312 IAC 9-5-7	A	03-311	27 IR 1953	28 IR 543
	A	04-253	28 IR 1526	
312 IAC 9-5-9	A	03-311	27 IR 1955	28 IR 545
	A	04-253	28 IR 1528	
312 IAC 9-5-11	N	03-311	27 IR 1956	28 IR 546
312 IAC 9-6-9	A	03-311	27 IR 1957	28 IR 547
312 IAC 9-7-2	A	03-311	27 IR 1957	28 IR 547
312 IAC 9-7-6	A	03-311	27 IR 1959	28 IR 549
312 IAC 9-7-13	A	03-311	27 IR 1960	28 IR 550
312 IAC 9-10-9	A	03-311	27 IR 1960	28 IR 550
312 IAC 9-10-9.5	N	03-311	27 IR 1961	28 IR 551
312 IAC 9-10-10	A	03-311	27 IR 1962	28 IR 552
312 IAC 9-10-13.5	N	03-311	27 IR 1963	28 IR 553
312 IAC 9-10-17	A	03-311	27 IR 1964	28 IR 554
312 IAC 9-11-1	A	03-311	27 IR 1964	28 IR 554
312 IAC 9-11-2	A	03-311	27 IR 1965	28 IR 555
312 IAC 9-11-14	A	03-311	27 IR 1965	28 IR 555
312 IAC 11-2-5	A	04-157	28 IR 1521	
312 IAC 11-2-11.5	N	04-94	27 IR 4095	28 IR 1681
312 IAC 11-3-1	A	04-94	27 IR 4095	28 IR 1681
312 IAC 16	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 16-3-2	A	04-121	27 IR 4097	28 IR 1682
312 IAC 16-3-8	A	04-121	27 IR 4099	28 IR 1684
312 IAC 16-5-14	A	04-23	27 IR 2532	28 IR 556
312 IAC 17	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 17-3-1	A	04-23	27 IR 2532	28 IR 557
312 IAC 17-3-2	A	04-23	27 IR 2532	28 IR 557
312 IAC 17-3-3	A	04-23	27 IR 2532	28 IR 557
312 IAC 17-3-4	A	04-23	27 IR 2533	28 IR 558
312 IAC 17-3-6	A	04-23	27 IR 2534	28 IR 558
312 IAC 17-3-8	A	04-23	27 IR 2534	28 IR 558
312 IAC 17-3-9	A	04-23	27 IR 2534	28 IR 558
312 IAC 18-3-12	A	04-270	28 IR 1203	
312 IAC 18-3-18	N	04-177	28 IR 1201	
312 IAC 18-3-19	N	04-127	28 IR 1521	
312 IAC 19	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 25-4-102				*ERR (28 IR 214)
312 IAC 25-4-114				*ERR (28 IR 214)
312 IAC 25-5-16				*ERR (28 IR 214)
312 IAC 25-6-20				*ERR (28 IR 214)
312 IAC 25-7-1				*ERR (28 IR 214)
312 IAC 26	RA	03-315	27 IR 2339	28 IR 1315

TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION

315 IAC 1	RA	04-71	27 IR 2879	28 IR 323
315 IAC 1-2-1	A	04-70	28 IR 990	*CPH (28 IR 1498)
315 IAC 1-3-1	A	04-70	28 IR 991	*CPH (28 IR 1498)
315 IAC 1-3-2	A	04-70	28 IR 991	*CPH (28 IR 1498)
315 IAC 1-3-2.1	N	04-70	28 IR 992	*CPH (28 IR 1498)

Rules Affected by Volume 28

315 IAC 1-3-3	A	04-70	28 IR 992	*CPH (28 IR 1498)	326 IAC 2-9-4	RA	04-44	27 IR 3157	28 IR 803
315 IAC 1-3-4	A	04-70	28 IR 993	*CPH (28 IR 1498)	326 IAC 2-9-5	RA	04-44	27 IR 3158	28 IR 805
315 IAC 1-3-5	A	04-70	28 IR 994	*CPH (28 IR 1498)	326 IAC 2-9-6	RA	04-44	27 IR 3159	28 IR 805
315 IAC 1-3-7	A	04-70	28 IR 994	*CPH (28 IR 1498)	326 IAC 2-9-7	A	02-337	26 IR 2009	*ARR (27 IR 2500)
315 IAC 1-3-8	A	04-70	28 IR 994	*CPH (28 IR 1498)					*CPH (27 IR 2521)
315 IAC 1-3-9	A	04-70	28 IR 995	*CPH (28 IR 1498)					28 IR 23
315 IAC 1-3-10	A	04-70	28 IR 995	*CPH (28 IR 1498)		RA	04-44	27 IR 3159	28 IR 805
315 IAC 1-3-12	A	04-70	28 IR 996	*CPH (28 IR 1498)	326 IAC 2-9-8	A	02-337	26 IR 2010	*ARR (27 IR 2500)
315 IAC 1-3-14	A	04-70	28 IR 996	*CPH (28 IR 1498)					*CPH (27 IR 2521)
315 IAC 1-3-15	N	04-70	28 IR 996	*CPH (28 IR 1498)					28 IR 25
TITLE 326 AIR POLLUTION CONTROL BOARD						RA	04-44	27 IR 3160	28 IR 806
326 IAC 1-1-3	A	02-337	26 IR 1997	*ARR (27 IR 2500)	326 IAC 2-9-9	A	02-337	26 IR 2012	*ARR (27 IR 2500)
				*CPH (27 IR 2521)					*CPH (27 IR 2521)
				28 IR 17		RA	04-44	27 IR 3162	28 IR 26
	A	04-299	28 IR 1815		326 IAC 2-9-10	A	02-337	26 IR 2013	28 IR 808
326 IAC 1-1-3.5	A	02-337	26 IR 1997	*ARR (27 IR 2500)					*ARR (27 IR 2500)
				*CPH (27 IR 2521)					*CPH (27 IR 2521)
				28 IR 18					28 IR 27
	A	04-299	28 IR 1815		326 IAC 2-9-11	RA	04-44	27 IR 3163	28 IR 809
326 IAC 1-1-6	N	04-180	28 IR 248		326 IAC 2-9-12	RA	04-44	27 IR 3164	28 IR 810
326 IAC 1-2-52	A	03-228	27 IR 3120	28 IR 1471	326 IAC 2-9-13	RA	04-44	27 IR 3165	28 IR 811
326 IAC 1-2-52.2	N	03-228	27 IR 3121	28 IR 1471		A	02-337	26 IR 2014	*ARR (27 IR 2500)
326 IAC 1-2-52.4	N	03-228	27 IR 3121	28 IR 1471					*CPH (27 IR 2521)
326 IAC 1-2-65	A	02-337	26 IR 1997	*ARR (27 IR 2500)		RA	04-44	27 IR 3165	28 IR 28
				*CPH (27 IR 2521)	326 IAC 2-9-14	RA	04-44	27 IR 3167	28 IR 811
				28 IR 18	326 IAC 3-4-1	A	02-337	26 IR 2016	28 IR 814
326 IAC 1-2-82.5	N	03-228	27 IR 3121	28 IR 1471					*ARR (27 IR 2500)
326 IAC 1-2-90	A	02-337	26 IR 1998	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 3-4-3	A	02-337	26 IR 2016	*ARR (27 IR 2500)
				28 IR 18					*CPH (27 IR 2521)
326 IAC 1-3-4	A	03-228	27 IR 3121	28 IR 1471					28 IR 31
326 IAC 1-4-1	A	04-148	27 IR 3606	28 IR 1182	326 IAC 3-5-2	A	02-337	26 IR 2017	*ARR (27 IR 2500)
326 IAC 2-2-13	A	02-337	26 IR 1998	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 3-5-3	A	02-337	26 IR 2019	28 IR 32
				28 IR 19					*ARR (27 IR 2500)
326 IAC 2-2-16	A	02-337	26 IR 1999	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)					28 IR 33
				28 IR 20	326 IAC 3-5-4	A	02-337	26 IR 2019	*ARR (27 IR 2500)
326 IAC 2-5.1-1	RA	04-44	27 IR 3144	28 IR 791					*CPH (27 IR 2521)
326 IAC 2-5.1-2	RA	04-44	27 IR 3145	28 IR 791					28 IR 34
326 IAC 2-5.5-1	RA	04-44	27 IR 3146	28 IR 792	326 IAC 3-5-5	A	02-337	26 IR 2020	*ARR (27 IR 2500)
326 IAC 2-5.5-2	RA	04-44	27 IR 3146	28 IR 793					*CPH (27 IR 2521)
326 IAC 2-5.5-3	RA	04-44	27 IR 3146	28 IR 793					28 IR 34
326 IAC 2-5.5-4	RA	04-44	27 IR 3147	28 IR 793	326 IAC 3-6-1	A	02-337	26 IR 2022	*ARR (27 IR 2500)
326 IAC 2-5.5-5	RA	04-44	27 IR 3147	28 IR 794					*CPH (27 IR 2521)
326 IAC 2-5.5-6	RA	04-44	27 IR 3147	28 IR 794					28 IR 36
326 IAC 2-6.1-1	RA	04-44	27 IR 3149	28 IR 795	326 IAC 3-6-3	A	02-337	26 IR 2022	*ARR (27 IR 2500)
326 IAC 2-6.1-2	RA	04-44	27 IR 3149	28 IR 795					*CPH (27 IR 2521)
326 IAC 2-6.1-3	RA	04-44	27 IR 3149	28 IR 795					28 IR 37
326 IAC 2-6.1-4	RA	04-44	27 IR 3150	28 IR 796	326 IAC 3-6-5	A	02-337	26 IR 2023	*ARR (27 IR 2500)
326 IAC 2-6.1-5	RA	04-44	27 IR 3150	28 IR 796					*CPH (27 IR 2521)
326 IAC 2-6.1-6	RA	04-44	27 IR 3151	28 IR 797					28 IR 37
326 IAC 2-6.1-7	RA	04-44	27 IR 3154	28 IR 801	326 IAC 3-7-2	A	02-337	26 IR 2024	*ARR (27 IR 2500)
326 IAC 2-7-3	A	02-337	26 IR 2006	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)					28 IR 38
				28 IR 20	326 IAC 3-7-4	A	02-337	26 IR 2025	*ARR (27 IR 2500)
326 IAC 2-7-8	A	02-337	26 IR 2006	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 5-1-2	A	02-337	26 IR 2026	28 IR 40
				28 IR 20					*ARR (27 IR 2500)
326 IAC 2-7-18	A	02-337	26 IR 2007	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 5-1-4	A	02-337	26 IR 2026	28 IR 40
				28 IR 21					*ARR (27 IR 2500)
326 IAC 2-8-3	A	02-337	26 IR 2008	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)					28 IR 41
				28 IR 22	326 IAC 5-1-5	A	02-337	26 IR 2027	*ARR (27 IR 2500)
326 IAC 2-9-1	RA	04-44	27 IR 3155	28 IR 801					*CPH (27 IR 2521)
326 IAC 2-9-2.5	RA	04-44	27 IR 3156	28 IR 802					28 IR 41
326 IAC 2-9-3	RA	04-44	27 IR 3156	28 IR 803	326 IAC 6-1-1	R	02-335	28 IR 1813	

Rules Affected by Volume 28

326 IAC 6-1-1.5	R	02-335	28 IR 1813		326 IAC 8-10-7	A	02-337	26 IR 2044	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-2	R	02-335	28 IR 1813						28 IR 58
326 IAC 6-1-3	R	02-335	28 IR 1813		326 IAC 8-11-2	A	02-337	26 IR 2044	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-4	R	02-335	28 IR 1813						28 IR 59
326 IAC 6-1-5	R	02-335	28 IR 1813		326 IAC 8-11-6	A	02-337	26 IR 2046	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-6	R	02-335	28 IR 1813						28 IR 61
326 IAC 6-1-7	R	02-335	28 IR 1813		326 IAC 8-11-7	A	02-337	26 IR 2050	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-8.1	R	02-335	28 IR 1813						28 IR 64
326 IAC 6-1-9	R	02-335	28 IR 1813		326 IAC 8-12-3	A	02-337	26 IR 2050	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-10.1	R	02-335	28 IR 1813						28 IR 65
326 IAC 6-1-10.2	R	02-335	28 IR 1813		326 IAC 8-12-5	A	02-337	26 IR 2052	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-11.1	R	02-335	28 IR 1813						28 IR 67
326 IAC 6-1-11.2	R	02-335	28 IR 1813		326 IAC 8-12-6	A	02-337	26 IR 2053	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-12	A	04-43	28 IR 242						28 IR 68
	R	02-335	28 IR 1813		326 IAC 8-12-7	A	02-337	26 IR 2054	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-13	A	03-195	27 IR 2318	28 IR 115	326 IAC 8-13-5	A	02-337	26 IR 2055	*ARR (27 IR 2500) *CPH (27 IR 2521)
	R	02-335	28 IR 1813						28 IR 69
326 IAC 6-1-14	R	02-335	28 IR 1813		326 IAC 10-1-2	A	02-337	26 IR 2056	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-15	R	02-335	28 IR 1813						28 IR 70
326 IAC 6-1-16	R	02-335	28 IR 1813		326 IAC 10-1-4	A	02-337	26 IR 2057	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6-1-17	R	02-335	28 IR 1813						28 IR 71
326 IAC 6-1-18	R	02-335	28 IR 1813		326 IAC 10-1-5	A	02-337	26 IR 2059	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6.5	N	02-335	28 IR 1714						28 IR 73
326 IAC 6.5-7-13	A	04-234	28 IR 1814		326 IAC 10-1-6	A	02-337	26 IR 2059	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 6.8	N	02-335	28 IR 1766						28 IR 74
326 IAC 7-1.1-1	A	00-236	28 IR 632	*CPH (28 IR 982) *CPH (28 IR 1710)	326 IAC 11-3-4	A	02-337	26 IR 2060	*ARR (27 IR 2500) *CPH (27 IR 2521)
				*CPH (28 IR 982) *CPH (28 IR 1710)					28 IR 74
326 IAC 7-1.1-2	A	00-236	28 IR 632	*ARR (27 IR 2500) *CPH (27 IR 2521)	326 IAC 11-7-1	A	02-337	26 IR 2061	*ARR (27 IR 2500) *CPH (27 IR 2521)
				28 IR 42					28 IR 75
326 IAC 7-2-1	A	02-337	26 IR 2028	*CPH (28 IR 982) *CPH (28 IR 1710)	326 IAC 13-1.1-1	A	02-337	26 IR 2062	*ARR (27 IR 2500) *CPH (27 IR 2521)
	A	00-236	28 IR 632	*CPH (28 IR 982) *CPH (28 IR 1710)					28 IR 76
326 IAC 7-4-1.1	R	00-236	28 IR 644	*CPH (28 IR 982) *CPH (28 IR 1710)	326 IAC 13-1.1-8	A	02-337	26 IR 2063	*ARR (27 IR 2500) *CPH (27 IR 2521)
				28 IR 117					28 IR 77
326 IAC 7-4-3	A	03-195	27 IR 2319	*ARR (27 IR 2500) *CPH (27 IR 2521)	326 IAC 13-1.1-10	A	02-337	26 IR 2063	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 7-4-10	A	02-337	26 IR 2029	28 IR 43					28 IR 78
				*CPH (27 IR 3591)	326 IAC 13-1.1-13	A	02-337	26 IR 2064	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 7-4-13	A	03-282	27 IR 2768	*CPH (28 IR 982)					28 IR 79
326 IAC 7-4.1	N	00-236	28 IR 633	*CPH (28 IR 1710) *ARR (27 IR 2500) *CPH (27 IR 2521)	326 IAC 13-1.1-14	A	02-337	26 IR 2065	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 8-1-4	A	02-337	26 IR 2030	28 IR 44					28 IR 80
				*ARR (27 IR 2500) *CPH (27 IR 2521)	326 IAC 13-1.1-16	A	02-337	26 IR 2066	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 8-4-6	A	02-337	26 IR 2032	28 IR 47					28 IR 81
				*ARR (27 IR 2500) *CPH (27 IR 2521)	326 IAC 14-1-1	A	02-337	26 IR 2066	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 8-4-9	A	02-337	26 IR 2035	28 IR 49					28 IR 81
				*ARR (27 IR 2500) *CPH (27 IR 2521)	326 IAC 14-1-2	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521)
326 IAC 8-7-7	A	02-337	26 IR 2036	*ARR (27 IR 2500) *CPH (27 IR 2521)					28 IR 81
				28 IR 51					
326 IAC 8-9-2	A	02-337	26 IR 2037	*ARR (27 IR 2500) *CPH (27 IR 2521)					
				28 IR 51					
326 IAC 8-9-3	A	02-337	26 IR 2037	*ARR (27 IR 2500) *CPH (27 IR 2521)					
				28 IR 51					
326 IAC 8-9-4	A	02-337	26 IR 2038	*ARR (27 IR 2500) *CPH (27 IR 2521)					
				28 IR 52					
326 IAC 8-9-5	A	02-337	26 IR 2040	*ARR (27 IR 2500) *CPH (27 IR 2521)					
				28 IR 54					
326 IAC 8-9-6	A	02-337	26 IR 2042	*ARR (27 IR 2500) *CPH (27 IR 2521)					
				28 IR 56					

Rules Affected by Volume 28

326 IAC 14-1-4	R	02-337	26 IR 2099	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 114	326 IAC 18-1-7	A	02-337	26 IR 2087	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 102
326 IAC 14-3-1	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82	326 IAC 18-1-8	A	02-337	26 IR 2088	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 103
326 IAC 14-4-1	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82	326 IAC 18-1-9	A	03-283	27 IR 3134	*CPH (27 IR 3591)
326 IAC 14-5-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82	326 IAC 18-2-2	A	02-337	26 IR 2088	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 103
326 IAC 14-7-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83	326 IAC 18-2-3	A	02-337	26 IR 2090	*CPH (27 IR 3591) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 104
326 IAC 14-8-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83	326 IAC 18-2-6	A	03-283	27 IR 3136	*CPH (27 IR 3591)
326 IAC 14-8-3	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83	326 IAC 18-2-7	A	02-337	26 IR 2097	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 111
326 IAC 14-8-4	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 20-25-1	A	03-264	27 IR 3123	*CPH (27 IR 3590)
326 IAC 14-8-5	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 20-25-2	A	03-264	27 IR 3124	*CPH (27 IR 3590)
326 IAC 14-9-5	A	02-337	26 IR 2070	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 20-56	N	03-264	27 IR 3126	*CPH (27 IR 3590)
326 IAC 14-9-8	A	02-337	26 IR 2071	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 85	326 IAC 20-57	N	03-284	27 IR 1618	*CPH (27 IR 1937) 28 IR 119
326 IAC 14-9-9	A	02-337	26 IR 2071	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 86	326 IAC 20-58	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
326 IAC 14-10-1	A	02-337	26 IR 2072	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 87	326 IAC 20-59	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
326 IAC 14-10-2	A	02-337	26 IR 2074	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 88	326 IAC 20-60	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
326 IAC 14-10-3	A	02-337	26 IR 2076	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 91	326 IAC 20-61	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120
326 IAC 14-10-4	A	02-337	26 IR 2078	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 93	326 IAC 20-62	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120
326 IAC 15-1-2	A	02-337	26 IR 2080	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 95	326 IAC 20-63	N	03-285	27 IR 2322	28 IR 121
326 IAC 15-1-4	A	02-337	26 IR 2083	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98	326 IAC 20-64	N	03-285	27 IR 2322	28 IR 121
326 IAC 16-3-1	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98	326 IAC 20-65	N	03-285	27 IR 2322	28 IR 121
326 IAC 18-1-1	A	03-283	27 IR 3128	*CPH (27 IR 3591)	326 IAC 20-66	N	03-285	27 IR 2323	28 IR 122
326 IAC 18-1-2	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 99	326 IAC 20-67	N	03-285	27 IR 2323	28 IR 122
326 IAC 18-1-3	A	03-283	27 IR 3128	*CPH (27 IR 3591)	326 IAC 20-68	N	03-285	27 IR 2323	28 IR 122
326 IAC 18-1-4	A	03-283	27 IR 3130	*CPH (27 IR 3591)	326 IAC 20-69	N	03-285	27 IR 2323	28 IR 122
326 IAC 18-1-5	A	02-337	26 IR 2086	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 101	326 IAC 20-70	N	03-284	27 IR 1620	*CPH (27 IR 1937) 28 IR 120
326 IAC 18-1-6	A	03-283	27 IR 3132	*CPH (27 IR 3591)	326 IAC 20-71	N	04-107	27 IR 3168	*CPH (27 IR 3592) *CPH (28 IR 234)
	A	03-283	27 IR 3133	*CPH (27 IR 3591)	326 IAC 20-72	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-73	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-74	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-75	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-76	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-77	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-78	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-79	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234)
					326 IAC 20-82	N	04-235	28 IR 997	
					326 IAC 20-83	N	04-236	28 IR 998	
					326 IAC 20-84	N	04-236	28 IR 998	
					326 IAC 20-85	N	04-236	28 IR 999	
					326 IAC 20-86	N	04-236	28 IR 999	
					326 IAC 20-87	N	04-236	28 IR 999	

Rules Affected by Volume 28

326 IAC 20-88	N	04-236	28 IR 999
326 IAC 20-90	N	04-300	28 IR 1816
326 IAC 20-91	N	04-300	28 IR 1816
326 IAC 20-92	N	04-300	28 IR 1817
326 IAC 20-93	N	04-300	28 IR 1817
326 IAC 20-94	N	04-300	28 IR 1817
326 IAC 22-1-1	A	02-337	26 IR 2098

*ARR (27 IR 2500)
*CPH (27 IR 2521)

28 IR 113

326 IAC 23-1-31	A	02-337	26 IR 2099
-----------------	---	--------	------------

*ARR (27 IR 2500)

*CPH (27 IR 2521)

28 IR 114

TITLE 327 WATER POLLUTION CONTROL BOARD

327 IAC 1-1-1	A	03-129	27 IR 3608
327 IAC 1-1-2	A	03-129	27 IR 3608
327 IAC 1-1-3	A	03-129	27 IR 3608
327 IAC 2-1-5	A	03-129	27 IR 3608
327 IAC 2-1-6	A	03-129	27 IR 3609
327 IAC 2-1-8	A	03-129	27 IR 3617
327 IAC 2-1-8.1	A	03-129	27 IR 3617
327 IAC 2-1-8.2	A	03-129	27 IR 3618
327 IAC 2-1-8.3	A	03-129	27 IR 3620
327 IAC 2-1-8.9	N	03-129	27 IR 3621
327 IAC 2-1-9	A	03-129	27 IR 3622
327 IAC 2-1-12	A	03-129	27 IR 3627
327 IAC 2-1-13	N	03-129	27 IR 3627
327 IAC 2-1.5-2	A	03-129	27 IR 3631
327 IAC 2-1.5-6	A	03-129	27 IR 3637
327 IAC 2-1.5-8	A	03-129	27 IR 3638
327 IAC 2-1.5-10	A	03-129	27 IR 3650
327 IAC 2-1.5-11	A	03-129	27 IR 3651
327 IAC 2-1.5-16	A	03-129	27 IR 3660
327 IAC 2-1.5-20	A	03-129	27 IR 3662
327 IAC 2-4-3	A	03-129	27 IR 3663
327 IAC 5-1.5-72	A	03-129	27 IR 3663
327 IAC 5-2-1.5	A	03-129	27 IR 3663
327 IAC 5-2-11.1	A	03-129	27 IR 3664
327 IAC 5-2-11.2	A	03-129	27 IR 3668
327 IAC 5-2-11.4	A	03-129	27 IR 3669
327 IAC 5-2-11.5	A	03-129	27 IR 3679
327 IAC 5-2-11.6	A	03-129	27 IR 3689
327 IAC 5-2-13	A	03-129	27 IR 3694
327 IAC 5-2-15	A	03-129	27 IR 3694
327 IAC 5-3.5	N	03-130	28 IR 650
327 IAC 8-2-1	A	04-13	28 IR 1206
327 IAC 8-2-4	A	04-13	28 IR 1210
327 IAC 8-2-4.1	A	04-13	28 IR 1212
327 IAC 8-2-4.2	A	04-13	28 IR 1217
327 IAC 8-2-5.1	A	04-13	28 IR 1220
327 IAC 8-2-5.2	A	04-13	28 IR 1222
327 IAC 8-2-5.5	A	04-13	28 IR 1225
327 IAC 8-2-8.5	A	04-13	28 IR 1228
327 IAC 8-2-8.7	A	04-13	28 IR 1229
327 IAC 8-2-9	A	04-13	28 IR 1230
327 IAC 8-2-10.1	A	04-13	28 IR 1230
327 IAC 8-2-10.2	A	04-13	28 IR 1233
327 IAC 8-2-10.3	N	04-13	28 IR 1237
327 IAC 8-2-13	A	04-13	28 IR 1239
327 IAC 8-2-34	A	04-13	28 IR 1239
327 IAC 8-2-34.1	N	04-13	28 IR 1240
327 IAC 8-2-45	A	04-13	28 IR 1240
327 IAC 8-2-46	A	04-13	28 IR 1242
327 IAC 8-2.1-3	A	04-13	28 IR 1244
327 IAC 8-2.1-4	A	04-13	28 IR 1247
327 IAC 8-2.1-6	A	04-13	28 IR 1248
327 IAC 8-2.1-8	A	04-13	28 IR 1255
327 IAC 8-2.1-9	A	04-13	28 IR 1256
327 IAC 8-2.1-14	A	04-13	28 IR 1257

*CPH (28 IR 1197)

327 IAC 8-2.1-16	A	04-13	28 IR 1257
327 IAC 8-2.1-17	A	04-13	28 IR 1261
327 IAC 8-2.6-1	A	04-13	28 IR 1268
327 IAC 8-2.6-2	A	04-13	28 IR 1269
327 IAC 8-2.6-2.1	N	04-13	28 IR 1271
327 IAC 8-2.6-3	A	04-13	28 IR 1273
327 IAC 8-2.6-4	A	04-13	28 IR 1274
327 IAC 8-2.6-5	A	04-13	28 IR 1274
327 IAC 15-14			
327 IAC 17	N	04-228	28 IR 1288

*ERR (28 IR 214)

TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

328 IAC 1-1-2	A	02-204	27 IR 2778	*CPH (27 IR 3095)
				28 IR 123
328 IAC 1-1-3	A	02-204	27 IR 2778	*CPH (27 IR 3095)
				28 IR 123
328 IAC 1-1-4	A	02-204	27 IR 2778	*CPH (27 IR 3095)
				28 IR 124
328 IAC 1-1-5.1	A	02-204	27 IR 2778	*CPH (27 IR 3095)
				28 IR 124
328 IAC 1-1-7.5	N	02-204	27 IR 2779	*CPH (27 IR 3095)
				28 IR 124
328 IAC 1-1-8	R	02-204	27 IR 2797	*CPH (27 IR 3095)
				28 IR 144
328 IAC 1-1-8.3	N	02-204	27 IR 2779	*CPH (27 IR 3095)
				28 IR 124
328 IAC 1-1-8.5	A	02-204	27 IR 2779	*CPH (27 IR 3095)
				28 IR 125
328 IAC 1-1-9	A	02-204	27 IR 2779	*CPH (27 IR 3095)
				28 IR 125
328 IAC 1-1-10	A	02-204	27 IR 2779	*CPH (27 IR 3095)
				28 IR 125
328 IAC 1-2-1	A	02-204	27 IR 2779	*CPH (27 IR 3095)
				28 IR 125
328 IAC 1-2-3	A	02-204	27 IR 2780	*CPH (27 IR 3095)
				28 IR 125
328 IAC 1-3-1	A	02-204	27 IR 2780	*CPH (27 IR 3095)
				28 IR 126
328 IAC 1-3-1.3	N	02-204	27 IR 2780	*CPH (27 IR 3095)
				28 IR 126
328 IAC 1-3-1.6	N	02-204	27 IR 2781	*CPH (27 IR 3095)
				28 IR 127
328 IAC 1-3-2	A	02-204	27 IR 2781	*CPH (27 IR 3095)
				28 IR 127
328 IAC 1-3-3	A	02-204	27 IR 2781	*CPH (27 IR 3095)
				28 IR 127
				*ERR (28 IR 608)
328 IAC 1-3-4	A	02-204	27 IR 2783	*CPH (27 IR 3095)
				28 IR 129
328 IAC 1-3-5	A	02-204	27 IR 2784	*CPH (27 IR 3095)
				28 IR 129
328 IAC 1-3-6	A	02-204	27 IR 2791	*CPH (27 IR 3095)
				28 IR 137
328 IAC 1-4-1	A	02-204	27 IR 2791	*CPH (27 IR 3095)
				28 IR 137
				*ERR (28 IR 608)
328 IAC 1-4-1.5	N	02-204		†† 28 IR 140
328 IAC 1-4-3	A	02-204	27 IR 2794	*CPH (27 IR 3095)
				28 IR 141
				*ERR (28 IR 608)
328 IAC 1-4-4	N	02-204	27 IR 2795	*CPH (27 IR 3095)
				28 IR 141
				*ERR (28 IR 608)
328 IAC 1-4-5	N	02-204		†† 28 IR 141
328 IAC 1-5-1	A	02-204	27 IR 2795	*CPH (27 IR 3095)
				28 IR 142
328 IAC 1-5-2	A	02-204	27 IR 2796	*CPH (27 IR 3095)
				28 IR 142

Rules Affected by Volume 28

328 IAC 1-5-3	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143	329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646)
328 IAC 1-6-1	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143					*CPH (26 IR 3073) *CPH (26 IR 3367)
328 IAC 1-6-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143					*CPH (26 IR 3671) *CPH (27 IR 2299)
328 IAC 1-7-2	A	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144					*CPH (27 IR 2300) *ARR (27 IR 2500)
328 IAC 1-7-3	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144				27 IR 3178 28 IR 146	*CPH (27 IR 2521) *CPH (26 IR 1962)
TITLE 329 SOLID WASTE MANAGEMENT BOARD					329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 2646)
329 IAC 3.1-1-7	A	03-312	27 IR 4110						*CPH (26 IR 3073)
329 IAC 3.1-6-2	A	03-312	27 IR 4111						*CPH (26 IR 3367)
329 IAC 3.1-6-3	A	03-312	27 IR 4112						*CPH (26 IR 3671)
329 IAC 3.1-7.5	N	03-312	27 IR 4112						*CPH (27 IR 2299)
329 IAC 3.1-12-2	A	03-312	27 IR 4113						*CPH (27 IR 2300)
329 IAC 3.1-13-2	A	03-312	27 IR 4114						*ARR (27 IR 2500)
329 IAC 9-1-1	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 145				27 IR 3178 28 IR 146	
			27 IR 3177 26 IR 1209		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) *CPH (27 IR 2299) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-4	A	01-161		*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 145				27 IR 3178 28 IR 146	
			27 IR 3177 26 IR 1239		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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-10.1	R	01-161		*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 177				27 IR 3209 28 IR 177	
			27 IR 3209 26 IR 1239		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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-10.2	R	01-161		*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 177				27 IR 3178 28 IR 146	
			27 IR 3209 26 IR 1209		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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-10.4	N	01-161		*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 177				27 IR 3178 28 IR 146	
			27 IR 3177		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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 146
								27 IR 3178 28 IR 146	

Rules Affected by Volume 28

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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3178	28 IR 146				27 IR 3179	28 IR 147
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3178	28 IR 147				27 IR 3209	28 IR 177
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3179	28 IR 147
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3179	28 IR 147
329 IAC 9-1-36.5	N	01-161	27 IR 3179	28 IR 147	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)					
			27 IR 3179	28 IR 147				27 IR 3179	28 IR 148
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3182	28 IR 150
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-2.1-1	A	01-161	26 IR 1215	*ERR (28 IR 608) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3183	28 IR 151

Rules Affected by Volume 28

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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-3-2	N	01-161	27 IR 3184 26 IR 1218	28 IR 152 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-1	A	01-161	27 IR 3189 26 IR 1221	28 IR 158 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-3.1-1	A	01-161	27 IR 3187 26 IR 1218	28 IR 155 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-2	A	01-161	27 IR 3190 26 IR 1223	28 IR 158 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-3.1-2	A	01-161	27 IR 3187 26 IR 1219	28 IR 155 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-3.1	R	01-161	27 IR 3191 26 IR 1239	28 IR 160 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-3.1-3	A	01-161	27 IR 3187 26 IR 1219	28 IR 155 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-3.2	N	01-161	27 IR 3209 26 IR 1223	28 IR 177 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-3.1-4	A	01-161	27 IR 3188 26 IR 1219	28 IR 156 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-4.1	R	01-161	27 IR 3192 26 IR 1239	28 IR 160 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-4-3	A	01-161	27 IR 3188 26 IR 1220	28 IR 156 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-4.2	N	01-161	27 IR 3209 26 IR 1224	28 IR 177 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3189	28 IR 157				27 IR 3192	28 IR 160

Rules Affected by Volume 28

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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3193	28 IR 161				27 IR 3204	28 IR 173
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-6-5	A	01-161	26 IR 1235	*ERR (28 IR 1184) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3196	28 IR 164				27 IR 3205	28 IR 173
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3196	28 IR 165				27 IR 3205	28 IR 173
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3199	28 IR 168				27 IR 3206	28 IR 174
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3209	28 IR 177				27 IR 3207	28 IR 175
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-7-5	A	01-161	27 IR 3209	28 IR 177
			27 IR 3200	28 IR 168	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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
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) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 10-2-112	A	04-256	27 IR 3209	28 IR 177
			27 IR 3204	28 IR 172	329 IAC 10-8.2			28 IR 1301	*ERR (28 IR 608)
					329 IAC 10-9-2				*ERR (28 IR 608)
					329 IAC 10-9-4				*ERR (28 IR 608)
					329 IAC 10-11-6.5	N	04-256	28 IR 1301	*ERR (28 IR 1485)
					329 IAC 10-20-14.1				*ERR (28 IR 608)

Rules Affected by Volume 28

329 IAC 10-36-19				*ERR (28 IR 608)
329 IAC 11-3-2				*ERR (28 IR 608)
329 IAC 11-8-2.5				*ERR (28 IR 608)
329 IAC 11-19-3				*ERR (28 IR 608)
329 IAC 11-20-1				*ERR (27 IR 4023)
329 IAC 12-8-4	A	03-286	27 IR 3696	
329 IAC 12-8-5	A	03-286	27 IR 3697	
329 IAC 12-9-2	A	03-286	27 IR 3698	
329 IAC 13-3-1	A	03-312	27 IR 4115	
329 IAC 13-3-4	N	03-312	27 IR 4116	
329 IAC 13-9-5	A	03-312	27 IR 4117	
329 IAC 15-1-1				*ER (28 IR 214)

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

345 IAC 1-2.5	N	04-248	28 IR 1818	
345 IAC 1-3-6.5	R	04-147	27 IR 4136	
345 IAC 1-3-7	A	04-147	27 IR 4120	
345 IAC 1-3-9	R	04-147	27 IR 4136	
345 IAC 1-3-10	A	04-147	27 IR 4121	
345 IAC 1-3-31	A	04-287	28 IR 1833	
345 IAC 2-4.1	R	04-147	27 IR 4136	
345 IAC 2.5	N	04-147	27 IR 4121	
345 IAC 4-4-1	A	04-135	27 IR 4118	28 IR 1473
345 IAC 6-2	N	04-158	28 IR 1000	
345 IAC 7-4.5	N	04-288	28 IR 1820	
345 IAC 7-5-12	A	04-147	27 IR 4135	
345 IAC 7-5-15.1	A	04-16	27 IR 2797	28 IR 559
345 IAC 7-5-22	A	04-16	27 IR 2798	28 IR 559
345 IAC 8-2-1.1	A	04-286	28 IR 1821	
345 IAC 8-2-1.5	A	04-286	28 IR 1823	
345 IAC 8-2-1.6	N	04-286	28 IR 1824	
345 IAC 8-2-1.7	A	04-286	28 IR 1824	
345 IAC 8-2-1.9	A	04-286	28 IR 1825	
345 IAC 8-2-4	A	04-286	28 IR 1826	
345 IAC 8-3-1	A	04-286	28 IR 1828	
345 IAC 8-3-2	A	04-286	28 IR 1829	
345 IAC 8-3-12	N	04-286	28 IR 1829	
345 IAC 8-4-1	A	04-286	28 IR 1830	
345 IAC 10-2-5	N	04-135	27 IR 4119	28 IR 1473
345 IAC 10-2.1-1	A	04-135	27 IR 4119	28 IR 1474

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

355 IAC 2-1-1	A	04-312	28 IR 1838
355 IAC 2-1-6	A	04-312	28 IR 1838
355 IAC 2-2-1	A	04-312	28 IR 1839
355 IAC 2-2-1.5	N	04-312	28 IR 1839
355 IAC 2-2-6	A	04-312	28 IR 1839
355 IAC 2-2-9	A	04-312	28 IR 1839
355 IAC 2-2-10	A	04-312	28 IR 1839
355 IAC 2-2-13	A	04-312	28 IR 1840
355 IAC 2-2-14	A	04-312	28 IR 1840
355 IAC 2-2-15	A	04-312	28 IR 1840
355 IAC 2-2-17	A	04-312	28 IR 1840
355 IAC 2-3-4	A	04-312	28 IR 1840
355 IAC 2-3-6	A	04-312	28 IR 1841
355 IAC 2-3-8	A	04-312	28 IR 1841
355 IAC 2-3-11	A	04-312	28 IR 1841
355 IAC 2-3-12	A	04-312	28 IR 1841
355 IAC 2-4-1	A	04-312	28 IR 1842
355 IAC 2-4-4	R	04-312	28 IR 1846
355 IAC 2-5-1	A	04-312	28 IR 1842
355 IAC 2-5-2	A	04-312	28 IR 1843
355 IAC 2-5-3	A	04-312	28 IR 1844
355 IAC 2-5-4	A	04-312	28 IR 1844
355 IAC 2-5-6	A	04-312	28 IR 1844
355 IAC 2-5-8	A	04-312	28 IR 1844
355 IAC 2-5-12	A	04-312	28 IR 1845
355 IAC 2-5-12.5	A	04-312	28 IR 1845
355 IAC 2-5-13	A	04-312	28 IR 1846

355 IAC 2-5-14	R	04-312	28 IR 1846
355 IAC 2-6-1.5	A	04-312	28 IR 1846
355 IAC 2-6-2	R	04-312	28 IR 1846
355 IAC 2-8	R	04-312	28 IR 1846
355 IAC 2-9-1	A	04-312	28 IR 1846
355 IAC 4-2-2	A	04-309	28 IR 1834
355 IAC 4-2-8	A	04-309	28 IR 1834
355 IAC 4-5-1	A	04-310	28 IR 1835
355 IAC 4-5-2	A	04-310	28 IR 1836
355 IAC 4-5-3	A	04-310	28 IR 1836
355 IAC 4-5-4	R	04-310	28 IR 1836
355 IAC 4-5-5	R	04-310	28 IR 1836
355 IAC 4-5-6	R	04-310	28 IR 1836
355 IAC 4-5-11	R	04-310	28 IR 1836
355 IAC 4-6-1	A	04-311	28 IR 1837
355 IAC 4-6-2	R	04-311	28 IR 1837
355 IAC 4-6-3	A	04-311	28 IR 1837
355 IAC 4-6-4	R	04-311	28 IR 1838
355 IAC 4-6-6	R	04-311	28 IR 1838
355 IAC 4-6-10	R	04-311	28 IR 1838

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

357 IAC 1-6-1	A	04-160	28 IR 253	28 IR 1689
357 IAC 1-6-2	A	04-160	28 IR 254	28 IR 1690
357 IAC 1-6-3	R	04-160	28 IR 257	28 IR 1693
357 IAC 1-6-4	A	04-160	28 IR 256	28 IR 1692
357 IAC 1-6-5	A	04-160	28 IR 256	28 IR 1692
357 IAC 1-6-6	A	04-160	28 IR 256	28 IR 1693
357 IAC 1-6-7	N	04-160	28 IR 257	28 IR 1693
357 IAC 1-6-8	N	04-160	28 IR 257	28 IR 1693
357 IAC 1-7-1	A	04-159	28 IR 249	28 IR 1685
357 IAC 1-7-2	A	04-159	28 IR 250	28 IR 1686
357 IAC 1-7-3	R	04-159	28 IR 252	28 IR 1689
357 IAC 1-7-4	A	04-159	28 IR 251	28 IR 1687
357 IAC 1-7-5	A	04-159	28 IR 252	28 IR 1688
357 IAC 1-7-6	A	04-159	28 IR 252	28 IR 1688
357 IAC 1-7-7	N	04-159	28 IR 252	28 IR 1688
357 IAC 1-7-8	N	04-159	28 IR 252	28 IR 1689

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

405 IAC 1-1-5	A	04-178	28 IR 258	*NRA (28 IR 1497)
405 IAC 1-1.5-1	A	04-142	27 IR 3699	*NRA (28 IR 619) 28 IR 815
				*ERR (28 IR 970)
405 IAC 1-1.5-2	A	04-178	28 IR 259	*NRA (28 IR 1497)
405 IAC 1-1-6	N	04-142	27 IR 3699	*NRA (28 IR 619) 28 IR 816
				*ERR (28 IR 970)
405 IAC 1-5-1	A	04-219	28 IR 655	*NRA (28 IR 1497)
405 IAC 2-2-3	A	04-319	28 IR 1847	
405 IAC 2-3-10	A	03-263	27 IR 1210	*ARR (27 IR 4024) *NRA (27 IR 4044) 28 IR 178
405 IAC 2-9-5	A	04-319	28 IR 1848	
405 IAC 5-1-5	A	04-178	28 IR 260	*NRA (28 IR 1497)
405 IAC 5-3-13	A	04-178	28 IR 260	*NRA (28 IR 1497)
405 IAC 5-9-1	A	04-178	28 IR 261	*NRA (28 IR 1497)
405 IAC 5-19-1	A	04-178	28 IR 261	*NRA (28 IR 1497)
405 IAC 5-19-3	A	03-207	27 IR 267	*AROC (27 IR 2342)
405 IAC 5-19-10	A	04-178	28 IR 262	*NRA (28 IR 1497)
405 IAC 5-26-5	A	04-178	28 IR 262	*NRA (28 IR 1497)
405 IAC 6-2-5	A	04-95	27 IR 3210	*NRA (27 IR 4044) 28 IR 179
405 IAC 6-3-3	A	04-95	27 IR 3210	*NRA (27 IR 4044) 28 IR 180
405 IAC 6-4-2	A	04-95	27 IR 3210	*NRA (27 IR 4044) 28 IR 180
405 IAC 6-4-3	A	04-95	27 IR 3211	*NRA (27 IR 4044) 28 IR 180

Rules Affected by Volume 28

405 IAC 6-5-1	A	04-95	27 IR 3211	*NRA (27 IR 4044) 28 IR 181
405 IAC 6-5-2	A	04-95	27 IR 3211	*NRA (27 IR 4044) 28 IR 181
405 IAC 6-5-3	A	04-95	27 IR 3211	*NRA (27 IR 4044) 28 IR 181
405 IAC 6-5-4	A	04-95	27 IR 3212	*NRA (27 IR 4044) 28 IR 181
405 IAC 6-5-6	A	04-95	27 IR 3212	*NRA (27 IR 4044) 28 IR 182

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 6-7.2-28				*ERR (28 IR 1695)
410 IAC 6-9-3				*ERR (28 IR 1695)
410 IAC 6-12-0.5	N	03-276	27 IR 3212	28 IR 818
410 IAC 6-12-1	A	03-276	27 IR 3212	28 IR 818
410 IAC 6-12-2	R	03-276	27 IR 3216	28 IR 821
410 IAC 6-12-3	A	03-276	27 IR 3213	28 IR 818
410 IAC 6-12-3.1	N	03-276	27 IR 3213	28 IR 818
410 IAC 6-12-3.2	N	03-276	27 IR 3213	28 IR 818
410 IAC 6-12-4	A	03-276	27 IR 3213	28 IR 818
410 IAC 6-12-5	R	03-276	27 IR 3216	28 IR 821
410 IAC 6-12-6	R	03-276	27 IR 3216	28 IR 821
410 IAC 6-12-7	A	03-276	27 IR 3213	28 IR 818
410 IAC 6-12-8	A	03-276	27 IR 3213	28 IR 819
410 IAC 6-12-9	A	03-276	27 IR 3214	28 IR 820
410 IAC 6-12-10	A	03-276	27 IR 3215	28 IR 820
410 IAC 6-12-11	A	03-276	27 IR 3215	28 IR 820
410 IAC 6-12-12	A	03-276	27 IR 3215	28 IR 820
410 IAC 6-12-13	A	03-276	27 IR 3215	28 IR 820
410 IAC 6-12-14	A	03-276	27 IR 3215	28 IR 821
410 IAC 6-12-15	R	03-276	27 IR 3216	28 IR 821
410 IAC 6-12-17	N	03-276	27 IR 3216	28 IR 821
410 IAC 7-20	R	04-60	27 IR 3301	28 IR 906
410 IAC 7-21-34				*ERR (28 IR 1695)
410 IAC 7-23-1	A	04-62	27 IR 3301	28 IR 908
410 IAC 7-24	N	04-60	27 IR 3216	28 IR 822
				*ERR (28 IR 1485)
				*ERR (28 IR 1695)
410 IAC 15-2.6-1				28 IR 189
410 IAC 16.2-1.1-19.3	N	04-7	27 IR 2542	28 IR 182
410 IAC 16.2-3.1-2	A	03-297	27 IR 2536	28 IR 189
	A	04-7	27 IR 2542	28 IR 189
410 IAC 16.2-3.1-21				*ERR (28 IR 1695)
410 IAC 16.2-3.1-53	N	04-7	27 IR 2545	28 IR 192
410 IAC 16.2-5-1.1	A	03-297	27 IR 2539	28 IR 185
410 IAC 16.2-5-1.4	A	04-7	27 IR 2547	28 IR 193
410 IAC 16.2-5-1.5				*ERR (28 IR 1695)
410 IAC 16.2-5-1.6				*ERR (28 IR 1695)
410 IAC 16.2-5-5.1				*ERR (28 IR 1695)
410 IAC 16.2-5-13	N	04-7	27 IR 2548	28 IR 194
410 IAC 21-3-6	R	04-161	28 IR 657	
410 IAC 21-3-8	A	04-161	28 IR 656	
410 IAC 21-3-9	A	04-161	28 IR 656	

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 7.5-1-1	A	04-229	28 IR 657	*NRA (28 IR 1497)
440 IAC 7.5-2-1	A	04-229	28 IR 660	*NRA (28 IR 1497)
440 IAC 7.5-2-8	A	04-229	28 IR 661	*NRA (28 IR 1497)
440 IAC 7.5-2-12	A	04-229	28 IR 661	*NRA (28 IR 1497)
440 IAC 7.5-2-13	A	04-229	28 IR 662	*NRA (28 IR 1497)
440 IAC 7.5-3-3	A	04-229	28 IR 663	*NRA (28 IR 1497)
440 IAC 7.5-3-4	A	04-229	28 IR 664	*NRA (28 IR 1497)
440 IAC 7.5-3-7	A	04-229	28 IR 664	*NRA (28 IR 1497)
440 IAC 7.5-4-7	A	04-229	28 IR 664	*NRA (28 IR 1497)
440 IAC 7.5-4-8	A	04-229	28 IR 665	*NRA (28 IR 1497)
440 IAC 7.5-5-1	A	04-229	28 IR 665	*NRA (28 IR 1497)
440 IAC 7.5-8-1	A	04-229	28 IR 666	*NRA (28 IR 1497)
440 IAC 7.5-8-2	A	04-229	28 IR 666	*NRA (28 IR 1497)
440 IAC 7.5-8-3	A	04-229	28 IR 666	*NRA (28 IR 1497)

440 IAC 7.5-9-1	A	04-229	28 IR 666	*NRA (28 IR 1497)
440 IAC 7.5-9-2	A	04-229	28 IR 666	*NRA (28 IR 1497)
440 IAC 7.5-9-3	A	04-229	28 IR 667	*NRA (28 IR 1497)
440 IAC 7.5-10-1	A	04-229	28 IR 667	*NRA (28 IR 1497)
440 IAC 7.5-10-2	A	04-229	28 IR 667	*NRA (28 IR 1497)
440 IAC 7.5-10-3	N	04-229	28 IR 667	*NRA (28 IR 1497)
440 IAC 7.5-11	N	04-229	28 IR 667	*NRA (28 IR 1497)

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-10	N	03-231	27 IR 3303	*NRA (28 IR 233) 28 IR 910
460 IAC 1.1	N	03-245	27 IR 2799	*AROC (27 IR 3344) *NRA (28 IR 233) 28 IR 912
460 IAC 1-3.4	N	04-75	28 IR 1002	*NRA (28 IR 1497)
460 IAC 1-8-3	A	04-199	28 IR 1007	*NRA (28 IR 1497)
460 IAC 1-8-11	N	04-199	28 IR 1007	*NRA (28 IR 1497)
460 IAC 1-8-12	N	04-199	28 IR 1008	*NRA (28 IR 1497)
460 IAC 1-8-13	N	04-199	28 IR 1008	*NRA (28 IR 1497)
460 IAC 1-11	N	04-136	28 IR 1004	*NRA (28 IR 1497)
460 IAC 2-2.1	N	04-76	27 IR 3701	*NRA (28 IR 233)
460 IAC 3.5-2-3	N	04-269	28 IR 1303	*AWR (28 IR 1697)

TITLE 470 DIVISION OF FAMILY AND CHILDREN

470 IAC 3-1.1-0.5	A	04-77	27 IR 2837	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-1	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-2	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-4	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-6	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-7.2	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-7.4	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-8	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-9	R	04-77	27 IR 2857	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-10	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-12	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-12.5	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-13	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-14	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-15	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-16	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-20	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-20.1	N	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-22.5	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-24	A	04-77	27 IR 2841	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-28	A	04-77	27 IR 2841	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-28.5	A	04-77	27 IR 2842	*NRA (28 IR 1196) *AROC (28 IR 1317)

Rules Affected by Volume 28

470 IAC 3-1.1-29	A	04-77	27 IR 2842	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.2-8	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-29.5	A	04-77	27 IR 2842	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-1	A	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-32	R	04-77	27 IR 2857	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-2	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-32.1	N	04-77	27 IR 2843	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-3	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-33	A	04-77	27 IR 2845	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-4	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-33.5	A	04-77	27 IR 2845	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-5	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-34	A	04-77	27 IR 2845	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-6	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-35	A	04-77	27 IR 2846	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-1.3-7	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317)
470 IAC 3-1.1-36.5	A	04-77	27 IR 2846	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-4.8	N	03-232	27 IR 1626	*AROC (27 IR 2882) *NRA (27 IR 4044)
470 IAC 3-1.1-36.6	N	04-77	27 IR 2846	*NRA (28 IR 1196) *AROC (28 IR 1317)					28 IR 196
470 IAC 3-1.1-37	A	04-77	27 IR 2846	*NRA (28 IR 1196) *AROC (28 IR 1317)	470 IAC 3-18	N	03-233	27 IR 1627	*AROC (27 IR 3345) *NRA (28 IR 233)
470 IAC 3-1.1-38	A	04-77	27 IR 2847	*NRA (28 IR 1196) *AROC (28 IR 1317)					28 IR 950
470 IAC 3-1.1-38.5	N	04-77	27 IR 2847	*NRA (28 IR 1196) *AROC (28 IR 1317)	TITLE 511 INDIANA STATE BOARD OF EDUCATION				
470 IAC 3-1.1-39	A	04-77	27 IR 2848	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 1-3-1	A	04-101	27 IR 3305	28 IR 965
470 IAC 3-1.1-40	A	04-77	27 IR 2848	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 1-9	RA	04-47	27 IR 2879	28 IR 323
470 IAC 3-1.1-41	A	04-77	27 IR 2848	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 5-2-4.5	N	04-214	28 IR 668	
470 IAC 3-1.1-41.1	N	04-77	27 IR 2848	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6-7-1	RA	04-47	27 IR 2879	28 IR 323
470 IAC 3-1.1-41.2	N	04-77	27 IR 2848	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6-7-6	RA	04-47	27 IR 2879	28 IR 323
470 IAC 3-1.1-42	A	04-77	27 IR 2849	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6-7-6.5	A	04-36	27 IR 2552	28 IR 959
470 IAC 3-1.1-44	A	04-77	27 IR 2849	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6-7.1	N	04-277	28 IR 1303	
470 IAC 3-1.1-44.5	N	04-77	27 IR 2850	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6-7.1-4.5	N	04-276	28 IR 1849	
470 IAC 3-1.1-45	A	04-77	27 IR 2850	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-2-2.5	RA	04-47	27 IR 2879	28 IR 323
470 IAC 3-1.1-45.5	N	04-77	27 IR 2850	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5-4	RA	04-47	27 IR 2879	28 IR 323
470 IAC 3-1.1-46	A	04-77	27 IR 2851	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-2	A	04-36	27 IR 2553	28 IR 960
470 IAC 3-1.1-47	A	04-77	27 IR 2852	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-3	A	04-36	27 IR 2553	28 IR 960
470 IAC 3-1.1-48	A	04-77	27 IR 2852	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-4	A	04-36	27 IR 2554	28 IR 961
470 IAC 3-1.1-50	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-5	A	04-36	27 IR 2555	28 IR 962
470 IAC 3-1.1-51	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-6	A	04-36	27 IR 2555	28 IR 962
470 IAC 3-1.2-2	A	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-8	A	04-36	27 IR 2556	28 IR 963
470 IAC 3-1.2-3	A	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-9	A	04-36	27 IR 2557	28 IR 964
470 IAC 3-1.2-3.2	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 6.1-5.1-10.1	A	04-22	27 IR 2550	28 IR 957
470 IAC 3-1.2-4	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317)	511 IAC 8	RA	04-47	27 IR 2879	28 IR 323
470 IAC 3-1.2-5	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317)	TITLE 514 INDIANA SCHOOL FOR THE DEAF BOARD				
470 IAC 3-1.2-6	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317)	514 IAC	N	03-298	27 IR 1634	28 IR 197
470 IAC 3-1.2-7	A	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317)	TITLE 515 PROFESSIONAL STANDARDS BOARD				
					515 IAC 1-4-1	A	03-320	27 IR 2558	*ARR (28 IR 610) 28 IR 1475
					515 IAC 1-4-2	A	03-320	27 IR 2558	*ARR (28 IR 610) 28 IR 1475
					515 IAC 8-1-23	A	03-321	27 IR 2330	*ARR (28 IR 610) 28 IR 1477
					515 IAC 8-1-42	A	03-321	27 IR 2330	*ARR (28 IR 610) 28 IR 1478
					515 IAC 9	N	03-11	26 IR 2451	*CPH (26 IR 2648) 27 IR 1169
					515 IAC 9-1-22	A	03-322	27 IR 2331	*ARR (28 IR 610) 28 IR 1479
					515 IAC 10	N	04-197	28 IR 263	
					515 IAC 12	N	04-141	27 IR 3703	
					TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY				
					540 IAC 1-1-11	RA	04-54	27 IR 2880	*CPH (27 IR 3096) 28 IR 324
					540 IAC 1-1-17	RA	04-54	27 IR 2880	*CPH (27 IR 3096) 28 IR 324

Rules Affected by Volume 28

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

646 IAC 3-1-12	N	03-317	27 IR 2858	28 IR 560
646 IAC 3-1-13	N	03-317	27 IR 2858	28 IR 561
646 IAC 3-4-11	N	03-317	27 IR 2858	28 IR 561
646 IAC 3-5-1	A	03-317	27 IR 2859	28 IR 561

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

655 IAC 1-1-5.1	A	04-138	28 IR 1009	*AROC (28 IR 1073)
655 IAC 1-2.1-3	A	04-138	28 IR 1012	*AROC (28 IR 1073)
655 IAC 1-2.1-4	A	04-138	28 IR 1012	*AROC (28 IR 1073)
655 IAC 1-2.1-5	A	04-138	28 IR 1013	*AROC (28 IR 1073)
655 IAC 1-2.1-6	A	04-138	28 IR 1013	*AROC (28 IR 1073)
655 IAC 1-2.1-6.1	A	04-138	28 IR 1013	*AROC (28 IR 1073)
655 IAC 1-2.1-6.2	A	04-138	28 IR 1013	*AROC (28 IR 1073)
655 IAC 1-2.1-6.3	A	04-138	28 IR 1014	*AROC (28 IR 1073)
655 IAC 1-2.1-6.4	A	04-138	28 IR 1014	*AROC (28 IR 1073)
655 IAC 1-2.1-7.1	N	04-138	28 IR 1014	*AROC (28 IR 1073)
655 IAC 1-2.1-8	A	04-138	28 IR 1016	*AROC (28 IR 1073)
655 IAC 1-2.1-9	A	04-138	28 IR 1016	*AROC (28 IR 1073)
655 IAC 1-2.1-10	A	04-138	28 IR 1016	*AROC (28 IR 1073)
655 IAC 1-2.1-11	A	04-138	28 IR 1017	*AROC (28 IR 1073)
655 IAC 1-2.1-12	A	04-138	28 IR 1017	*AROC (28 IR 1073)
655 IAC 1-2.1-13	A	04-138	28 IR 1017	*AROC (28 IR 1073)
655 IAC 1-2.1-14	A	04-138	28 IR 1017	*AROC (28 IR 1073)
655 IAC 1-2.1-15	A	04-138	28 IR 1017	*AROC (28 IR 1073)
655 IAC 1-2.1-20	A	04-138	28 IR 1018	*AROC (28 IR 1073)
655 IAC 1-2.1-22	A	04-138	28 IR 1018	*AROC (28 IR 1073)
655 IAC 1-2.1-23	A	04-138	28 IR 1018	*AROC (28 IR 1073)
655 IAC 1-2.1-23.1	A	04-138	28 IR 1019	*AROC (28 IR 1073)
655 IAC 1-2.1-24	A	04-138	28 IR 1019	*AROC (28 IR 1073)
655 IAC 1-2.1-24.1	A	04-138	28 IR 1019	*AROC (28 IR 1073)
655 IAC 1-2.1-24.2	A	04-138	28 IR 1019	*AROC (28 IR 1073)
655 IAC 1-2.1-24.3	A	04-138	28 IR 1019	*AROC (28 IR 1073)
655 IAC 1-2.1-75	A	04-138	28 IR 1020	*AROC (28 IR 1073)
655 IAC 1-2.1-75.2	A	04-138	28 IR 1020	*AROC (28 IR 1073)
655 IAC 1-2.1-75.3	A	04-138	28 IR 1020	*AROC (28 IR 1073)
655 IAC 1-2.1-75.4	A	04-138	28 IR 1021	*AROC (28 IR 1073)
655 IAC 1-2.1-75.5	A	04-138	28 IR 1021	*AROC (28 IR 1073)
655 IAC 1-2.1-76.1	A	04-138	28 IR 1022	*AROC (28 IR 1073)
655 IAC 1-2.1-76.2	R	04-138	28 IR 1029	*AROC (28 IR 1073)
655 IAC 1-2.1-76.3	R	04-138	28 IR 1029	*AROC (28 IR 1073)
655 IAC 1-2.1-96	N	04-138	28 IR 1022	*AROC (28 IR 1073)
655 IAC 1-2.1-97	N	04-138	28 IR 1022	*AROC (28 IR 1073)
655 IAC 1-2.1-98	N	04-138	28 IR 1023	*AROC (28 IR 1073)
655 IAC 1-2.1-99	N	04-138	28 IR 1023	*AROC (28 IR 1073)
655 IAC 1-2.1-100	N	04-138	28 IR 1023	*AROC (28 IR 1073)
655 IAC 1-2.1-101	N	04-138	28 IR 1024	*AROC (28 IR 1073)
655 IAC 1-2.1-102	N	04-138	28 IR 1024	*AROC (28 IR 1073)
655 IAC 1-2.1-103	N	04-138	28 IR 1025	*AROC (28 IR 1073)
655 IAC 1-2.1-104	N	04-138	28 IR 1025	*AROC (28 IR 1073)
655 IAC 1-2.1-105	N	04-138	28 IR 1026	*AROC (28 IR 1073)
655 IAC 1-2.1-106	N	04-138	28 IR 1026	*AROC (28 IR 1073)
655 IAC 1-2.1-107	N	04-138	28 IR 1027	*AROC (28 IR 1073)
655 IAC 1-2.1-108	N	04-138	28 IR 1027	*AROC (28 IR 1073)
655 IAC 1-2.1-109	N	04-138	28 IR 1027	*AROC (28 IR 1073)
655 IAC 1-2.1-110	N	04-138	28 IR 1027	*AROC (28 IR 1073)
655 IAC 1-3-8	R	03-186	27 IR 941	*AROC (27 IR 1652)
655 IAC 1-4-2	A	04-138	28 IR 1028	*AROC (28 IR 1073)

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

675 IAC 13-2.4-3		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-10	A	04-216	28 IR 1529	
675 IAC 13-2.4-15		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-19	A	04-216	28 IR 1529	
675 IAC 13-2.4-20	A	04-216	28 IR 1530	
675 IAC 13-2.4-22	A	04-216	28 IR 1530	
675 IAC 13-2.4-24.3	N	04-216	28 IR 1530	

675 IAC 13-2.4-32.5	N	04-216	28 IR 1530	
675 IAC 13-2.4-40.5	N	04-216	28 IR 1531	
675 IAC 13-2.4-40.6	N	04-216	28 IR 1531	
675 IAC 13-2.4-41.5	N	04-216	28 IR 1531	
675 IAC 13-2.4-42.7	N	04-216	28 IR 1531	
675 IAC 13-2.4-43.2	N	04-216	28 IR 1531	
675 IAC 13-2.4-43.6	N	04-216	28 IR 1531	
675 IAC 13-2.4-47	A	04-216	28 IR 1531	
675 IAC 13-2.4-55	A	04-216	28 IR 1533	
675 IAC 13-2.4-55.5	N	04-216	28 IR 1533	
675 IAC 13-2.4-56.5	N	04-216	28 IR 1533	
675 IAC 13-2.4-68		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-96.5	N	04-216	28 IR 1533	
675 IAC 13-2.4-105.6	N	04-216	28 IR 1533	
675 IAC 13-2.4-107.3	N	04-216	28 IR 1534	
675 IAC 13-2.4-107.5	N	04-216	28 IR 1534	
675 IAC 13-2.4-107.6	N	04-216	28 IR 1534	
675 IAC 13-2.4-118	A	04-216	28 IR 1534	
675 IAC 13-2.4-118.4	N	04-216	28 IR 1534	
675 IAC 13-2.4-121.5	N	04-216	28 IR 1534	
675 IAC 13-2.4-122	A	04-216	28 IR 1534	
675 IAC 13-2.4-122.5	N	04-216	28 IR 1535	
675 IAC 13-2.4-131		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-132	A	04-216	28 IR 1535	
675 IAC 13-2.4-132.3	N	04-216	28 IR 1535	
675 IAC 13-2.4-132.5	N	04-216	28 IR 1535	
675 IAC 13-2.4-133.5	N	04-216	28 IR 1535	
675 IAC 13-2.4-134.5	N	04-216	28 IR 1535	
675 IAC 13-2.4-143	A	04-216	28 IR 1535	
675 IAC 13-2.4-174		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-180.5	N	04-216	28 IR 1536	
675 IAC 13-2.4-201.5	N	04-216	28 IR 1536	
675 IAC 13-2.4-201.7	N	04-216	28 IR 1536	
675 IAC 13-2.4-210.3	N	04-216	28 IR 1536	
675 IAC 13-2.4-210.5	N	04-216	28 IR 1536	
675 IAC 13-2.4-213.3	N	04-216	28 IR 1536	
675 IAC 13-2.4-213.5	N	04-216	28 IR 1536	
675 IAC 13-2.4-213.7	N	04-216	28 IR 1536	
675 IAC 13-2.4-214.2	N	04-216	28 IR 1537	
675 IAC 13-2.4-214.4	N	04-216	28 IR 1537	
675 IAC 13-2.4-214.6	N	04-216	28 IR 1537	
675 IAC 13-2.4-214.7	N	04-216	28 IR 1537	
675 IAC 13-2.4-222		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-228.5	N	04-216	28 IR 1538	
675 IAC 14-4.2	R	04-194	28 IR 312	
675 IAC 14-4.2-3				*ERR (28 IR 970)
675 IAC 14-4.2-19.5				*ERR (28 IR 970)
675 IAC 14-4.2-20.5				*ERR (28 IR 970)
675 IAC 14-4.2-21				*ERR (28 IR 970)
675 IAC 14-4.2-26.5				*ERR (28 IR 970)
675 IAC 14-4.2-29				*ERR (28 IR 970)
675 IAC 14-4.2-30	A	04-8	27 IR 2333	28 IR 562
675 IAC 14-4.2-53.7				*ERR (28 IR 970)
675 IAC 14-4.2-69.5				*ERR (28 IR 970)
675 IAC 14-4.2-69.6				*ERR (28 IR 970)
675 IAC 14-4.2-73.5				*ERR (28 IR 970)
675 IAC 14-4.2-81.2				*ERR (28 IR 970)
675 IAC 14-4.2-89.2	A	04-8	27 IR 2333	28 IR 562
675 IAC 14-4.2-89.6				*ERR (28 IR 970)
675 IAC 14-4.2-89.8				*ERR (28 IR 970)
675 IAC 14-4.2-107				*ERR (28 IR 970)
675 IAC 14-4.3	N	04-194	28 IR 268	
675 IAC 14-4.3-136.5	N	04-273	28 IR 1850	
675 IAC 14-4.3-155.5	N	04-273	28 IR 1850	
675 IAC 14-4.3-212	A	04-273	28 IR 1850	
675 IAC 14-4.3-213	R	04-273	28 IR 1859	
675 IAC 14-4.3-213.5	N	04-273	28 IR 1850	
675 IAC 14-4.3-214	A	04-273	28 IR 1850	
675 IAC 14-4.3-215	A	04-273	28 IR 1851	

Rules Affected by Volume 28

675 IAC 14-4.3-216	R	04-273	28 IR 1859		675 IAC 22-2.2-4	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.3	N	04-273	28 IR 1851		675 IAC 22-2.2-5	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.5	N	04-273	28 IR 1851		675 IAC 22-2.2-6	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.6	N	04-273	28 IR 1851		675 IAC 22-2.2-7	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.7	N	04-273	28 IR 1851		675 IAC 22-2.2-8	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.8	N	04-273	28 IR 1852		675 IAC 22-2.2-9	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-225.2	N	04-273	28 IR 1852		675 IAC 22-2.2-10	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-226.1	N	04-273	28 IR 1852		675 IAC 22-2.2-11	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-226.5	N	04-273	28 IR 1852		675 IAC 22-2.2-12	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-226.6	N	04-273	28 IR 1852		675 IAC 22-2.2-13	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-227	A	04-273	28 IR 1852		675 IAC 22-2.2-15	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-228.5	N	04-273	28 IR 1852		675 IAC 22-2.2-16	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-230	A	04-273	28 IR 1853		675 IAC 22-2.2-17	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-232	A	04-273	28 IR 1853		675 IAC 22-2.2-18	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-232.5	N	04-273	28 IR 1853		675 IAC 22-2.2-21	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-233	A	04-273	28 IR 1853		675 IAC 22-2.2-22	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-234	A	04-273	28 IR 1854		675 IAC 22-2.2-23	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-238.5	N	04-273	28 IR 1854		675 IAC 22-2.2-24	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-240	A	04-273	28 IR 1854		675 IAC 22-2.2-25	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-240.5	N	04-273	28 IR 1854		675 IAC 22-2.2-26	N	04-196	28 IR 1029	*CPH (28 IR 1498)
675 IAC 14-4.3-241	A	04-273	28 IR 1854		675 IAC 22-2.2-49.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-243.5	N	04-273	28 IR 1854		675 IAC 22-2.2-107.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-244	R	04-273	28 IR 1859		675 IAC 22-2.2-134.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-246	A	04-273	28 IR 1855		675 IAC 22-2.2-183	RA	04-19	27 IR 2340	28 IR 324
675 IAC 14-4.3-246.5	N	04-273	28 IR 1855			R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-247.5	N	04-273	28 IR 1855		675 IAC 22-2.2-221.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-248.5	N	04-273	28 IR 1855		675 IAC 22-2.2-240.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-250	R	04-273	28 IR 1859		675 IAC 22-2.2-241.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-251	R	04-273	28 IR 1859		675 IAC 22-2.2-243.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-252	R	04-273	28 IR 1859		675 IAC 22-2.2-245.2	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-253.5	N	04-273	28 IR 1855		675 IAC 22-2.2-245.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 14-4.3-253.7	N	04-273	28 IR 1855		675 IAC 22-2.2-365.2	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-1	R	04-227	28 IR 1053		675 IAC 22-2.2-365.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-2	R	04-227	28 IR 1053		675 IAC 22-2.2-368.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-3	R	04-227	28 IR 1053		675 IAC 22-2.2-369.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-5	R	04-227	28 IR 1053		675 IAC 22-2.2-378.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-6	R	04-227	28 IR 1054		675 IAC 22-2.2-412.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-7	R	04-227	28 IR 1054		675 IAC 22-2.2-437.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-8.1	R	04-227	28 IR 1054		675 IAC 22-2.2-437.7	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-10	R	04-227	28 IR 1054		675 IAC 22-2.2-443.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-11	R	04-227	28 IR 1054		675 IAC 22-2.2-511.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-12	R	04-227	28 IR 1054		675 IAC 22-2.2-515.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-13	R	04-227	28 IR 1054		675 IAC 22-2.2-540	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1-14	R	04-227	28 IR 1054		675 IAC 22-2.3-29.5	N	04-56	27 IR 2860	*CPH (28 IR 982)
675 IAC 15-1-16	R	04-227	28 IR 1054		675 IAC 22-2.3-35.5	N	04-56	27 IR 2860	*CPH (28 IR 982)
675 IAC 15-1-17	R	04-227	28 IR 1054		675 IAC 22-2.3-36	A	04-56	27 IR 2860	*CPH (28 IR 982)
675 IAC 15-1-19	R	04-227	28 IR 1054		675 IAC 22-2.3-36.3	N	04-56	27 IR 2861	*CPH (28 IR 982)
675 IAC 15-1-20	R	04-227	28 IR 1054		675 IAC 22-2.3-36.4	N	04-56	27 IR 2861	*CPH (28 IR 982)
675 IAC 15-1-21	R	04-227	28 IR 1054		675 IAC 22-2.3-36.6	N	04-56	27 IR 2863	*CPH (28 IR 982)
675 IAC 15-1-22	R	04-227	28 IR 1054		675 IAC 22-2.3-36.8	N	04-56	27 IR 2863	*CPH (28 IR 982)
675 IAC 15-1.1	N	04-227	28 IR 1037		675 IAC 22-2.3-140.5	N	04-56	27 IR 2863	*CPH (28 IR 982)
675 IAC 15-1.2	N	04-227	28 IR 1039		675 IAC 22-2.3-147.5	N	04-56	27 IR 2863	*CPH (28 IR 982)
675 IAC 15-1.3	N	04-227	28 IR 1046		675 IAC 22-2.3-147.6	N	04-56	27 IR 2863	*CPH (28 IR 982)
675 IAC 15-1.4	N	04-227	28 IR 1048		675 IAC 22-2.3-148	A	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1.5	N	04-227	28 IR 1049		675 IAC 22-2.3-148.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1.6	N	04-227	28 IR 1051		675 IAC 22-2.3-237.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 15-1.7	N	04-227	28 IR 1052		675 IAC 22-2.3-298.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 17-1.6	R	04-273	28 IR 1859		675 IAC 22-2.3-304.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 17-1.7	N	04-273	28 IR 1855		675 IAC 25-1-3		02-118		*ERR (28 IR 1696)
675 IAC 18-1.4-3		02-116		*ERR (28 IR 1696)	675 IAC 25-1-7.2	N	04-218	28 IR 1310	
675 IAC 18-1.4-10.5	N	04-217	28 IR 1309		675 IAC 25-1-7.4	N	04-218	28 IR 1310	
675 IAC 18-1.4-11.5	N	04-217	28 IR 1309		675 IAC 25-1-7.6	N	04-218	28 IR 1310	
675 IAC 18-1.4-12		02-116		*ERR (28 IR 1696)	675 IAC 25-1-9.1	N	04-218	28 IR 1310	
675 IAC 18-1.4-27		02-116		*ERR (28 IR 1696)	675 IAC 25-1-9.3	N	04-218	28 IR 1310	
675 IAC 18-1.4-32.3	N	04-217	28 IR 1309		675 IAC 25-1-9.5	N	04-218	28 IR 1310	
675 IAC 18-1.4-32.5	N	04-217	28 IR 1309		675 IAC 25-1-9.7	N	04-218	28 IR 1310	
675 IAC 18-1.4-49.5	N	04-217	28 IR 1309		675 IAC 25-1-9.9	N	04-218	28 IR 1310	
675 IAC 22-2.2-3	RA	04-19	27 IR 2339	28 IR 324	675 IAC 26	N	04-196	28 IR 1031	*CPH (28 IR 1498)
					675 IAC 27	N	04-275	28 IR 1538	

Rules Affected by Volume 28

TITLE 685 REGULATED AMUSEMENT DEVICE SAFETY BOARD 685 IAC 1 RA 04-124 27 IR 3343 **28 IR 1072**

TITLE 760 DEPARTMENT OF INSURANCE

760 IAC 1-21-2	A	04-140	28 IR 1311	
760 IAC 1-21-3	A	04-140	28 IR 1311	
760 IAC 1-21-4	A	04-140	28 IR 1311	
760 IAC 1-21-5	A	04-140	28 IR 1311	
760 IAC 1-21-8	A	04-140	28 IR 1312	
760 IAC 1-21-10	N	04-140	28 IR 1313	
760 IAC 1-21-11	N	04-140	28 IR 1313	
760 IAC 1-50-3	A	04-139	27 IR 4136	28 IR 1482
760 IAC 1-50-4	A	04-139	27 IR 4136	28 IR 1482
760 IAC 1-50-5	A	04-139	27 IR 4137	28 IR 1483
760 IAC 1-60-1	RA	04-143	27 IR 3706	28 IR 1072
760 IAC 1-60-2	RA	04-143	27 IR 3706	28 IR 1072
760 IAC 1-60-4	RA	04-143	27 IR 3706	28 IR 1072
760 IAC 1-70	N	04-39	27 IR 2560	
			28 IR 314	28 IR 1480
760 IAC 2-1-1	A	03-303	27 IR 3306	28 IR 563
760 IAC 2-2-1.5	N	03-303	27 IR 3306	28 IR 563
760 IAC 2-2-3.1	N	03-303	27 IR 3307	28 IR 563
760 IAC 2-2-3.2	N	03-303	27 IR 3307	28 IR 563
760 IAC 2-2-3.3	N	03-303	27 IR 3307	28 IR 564
760 IAC 2-2-3.4	N	03-303	27 IR 3307	28 IR 564
760 IAC 2-2-3.5	N	03-303	27 IR 3307	28 IR 564
760 IAC 2-2-3.6	N	03-303	27 IR 3307	28 IR 564
760 IAC 2-2-3.7	N	03-303	27 IR 3307	28 IR 564
760 IAC 2-2-3.8	N	03-303	27 IR 3308	28 IR 565
760 IAC 2-2-8	A	03-303	27 IR 3308	28 IR 565
760 IAC 2-3-1	A	03-303	27 IR 3308	28 IR 565
760 IAC 2-3-2	A	03-303	27 IR 3308	28 IR 565
760 IAC 2-3-4	A	03-303	27 IR 3309	28 IR 566
760 IAC 2-3-6	A	03-303	27 IR 3310	28 IR 567
760 IAC 2-3-7	N	03-303	27 IR 3310	28 IR 567
760 IAC 2-3-8	N	03-303	27 IR 3311	28 IR 567
760 IAC 2-4-1	A	03-303	27 IR 3311	28 IR 568
760 IAC 2-4-2	N	03-303	27 IR 3312	28 IR 569
				*ERR (28 IR 609)
760 IAC 2-7-1	A	03-303	27 IR 3313	28 IR 570
760 IAC 2-8-1	A	03-303	27 IR 3314	28 IR 570
760 IAC 2-8-2	A	03-303	27 IR 3314	28 IR 571
760 IAC 2-8-3	A	03-303	27 IR 3314	28 IR 571
760 IAC 2-8-4	A	03-303	27 IR 3315	28 IR 572
760 IAC 2-8-6	N	03-303	27 IR 3316	28 IR 572
760 IAC 2-9-1	A	03-303	27 IR 3316	28 IR 572
760 IAC 2-10-1	A	03-303	27 IR 3316	28 IR 573
760 IAC 2-13-1	A	03-303	27 IR 3317	28 IR 573
760 IAC 2-15-1	A	03-303	27 IR 3317	28 IR 574
				*ERR (28 IR 609)
760 IAC 2-15.5	N	03-303	27 IR 3319	28 IR 575
760 IAC 2-16-1	A	03-303	27 IR 3320	28 IR 576
760 IAC 2-16.1	N	03-303	27 IR 3320	28 IR 576
760 IAC 2-17-1	A	03-303	27 IR 3323	28 IR 580
760 IAC 2-18-1	A	03-303	27 IR 3325	28 IR 582
760 IAC 2-19-2	A	03-303	27 IR 3325	28 IR 582
760 IAC 2-19.5	N	03-303	27 IR 3325	28 IR 582
760 IAC 2-20-10	A	03-303	27 IR 3329	28 IR 585
760 IAC 2-20-31.1	A	03-303	27 IR 3329	28 IR 586
760 IAC 2-20-34	A	03-303	27 IR 3329	28 IR 586
760 IAC 2-20-35	A	03-303	27 IR 3332	28 IR 589
760 IAC 2-20-36.1	A	03-303	27 IR 3332	28 IR 589
760 IAC 2-20-36.2	A	03-303	27 IR 3333	28 IR 590
760 IAC 2-20-37.2	A	03-303	27 IR 3334	28 IR 590
760 IAC 2-20-37.3	N	03-303	27 IR 3334	28 IR 590
760 IAC 2-20-38.1	A	03-303	27 IR 3334	28 IR 590
760 IAC 2-20-42	A	03-303	27 IR 3335	28 IR 591

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

804 IAC 1.1-1-1	A	04-156	28 IR 1054
804 IAC 1.1-8	N	04-156	28 IR 1055

TITLE 808 STATE BOXING COMMISSION

808 IAC 1-3-6	A	03-226	27 IR 2563	28 IR 198
808 IAC 1-5-1	A	03-226	27 IR 2563	28 IR 198
808 IAC 1-5-2	A	03-226	27 IR 2563	28 IR 198
808 IAC 2-1-5	A	03-226	27 IR 2564	28 IR 198
808 IAC 2-1-12	A	03-226	27 IR 2564	28 IR 199
808 IAC 2-7-14	A	03-226	27 IR 2564	28 IR 199
808 IAC 2-8-7	R	03-226	27 IR 2566	28 IR 200
808 IAC 2-9-5	A	03-226	27 IR 2564	28 IR 199
808 IAC 2-12-0.5	N	03-227	27 IR 2566	*ARR (28 IR 215)
				28 IR 201
808 IAC 2-12-2	N	03-227	27 IR 2567	*ARR (28 IR 215)
				28 IR 201
808 IAC 2-12-3	N	03-227	27 IR 2567	*ARR (28 IR 215)
				28 IR 201
808 IAC 2-12-4	N	03-227	27 IR 2567	*ARR (28 IR 215)
				28 IR 202
808 IAC 2-12-5	N	03-227	27 IR 2567	*ARR (28 IR 215)
				28 IR 202
808 IAC 2-12-6	N	03-227	27 IR 2567	*ARR (28 IR 215)
				28 IR 202
808 IAC 2-12-7	N	03-227	27 IR 2568	*ARR (28 IR 215)
				28 IR 202
808 IAC 2-12-8	N	03-227	27 IR 2568	*ARR (28 IR 215)
808 IAC 2-18-1	A	03-226	27 IR 2565	28 IR 199
808 IAC 2-22-1	A	03-226	27 IR 2565	28 IR 199

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

820 IAC 4-3-1	A	04-254	28 IR 1059
---------------	---	--------	------------

TITLE 828 STATE BOARD OF DENTISTRY

828 IAC 0.5-2-3	A	04-233	28 IR 670	*AROC (28 IR 1073)
828 IAC 1-5-6	N	04-189	28 IR 669	
828 IAC 5	N	04-233	28 IR 671	*AROC (28 IR 1073)

TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD

830 IAC 1-1	RA	04-6	27 IR 2340	28 IR 325
-------------	----	------	------------	------------------

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 6-1-2	A	03-262	27 IR 1284	28 IR 209
844 IAC 6-1-4	A	03-261	27 IR 1635	*CPH (27 IR 2300)
				28 IR 203
844 IAC 6-3-1	A	03-261	27 IR 1636	*CPH (27 IR 2300)
				28 IR 203
844 IAC 6-3-2	A	03-261	27 IR 1636	*CPH (27 IR 2300)
				28 IR 204
844 IAC 6-3-4	A	03-261	27 IR 1637	*CPH (27 IR 2300)
				28 IR 204
844 IAC 6-3-5	A	03-261	27 IR 1637	*CPH (27 IR 2300)
				28 IR 205
844 IAC 6-3-6	N	03-261	27 IR 1638	*CPH (27 IR 2300)
				28 IR 205
844 IAC 6-4-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
				28 IR 206
844 IAC 6-6-1	R	03-261	27 IR 1642	*CPH (27 IR 2300)
				28 IR 209
844 IAC 6-6-2	R	03-261	27 IR 1642	*CPH (27 IR 2300)
				28 IR 209
844 IAC 6-6-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
				28 IR 206
844 IAC 6-6-4	A	03-261	27 IR 1639	*CPH (27 IR 2300)
				28 IR 206
844 IAC 6-7-2	A	03-261	27 IR 1639	*CPH (27 IR 2300)
				28 IR 207
844 IAC 10-4-1	A	03-329	27 IR 2568	28 IR 211
844 IAC 12-5-4	A	04-17	28 IR 316	28 IR 1693

Rules Affected by Volume 28

TITLE 845 BOARD OF PODIATRIC MEDICINE
845 IAC 1-5-3 A 04-134 28 IR 317

TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-6	A	04-97	28 IR 674	
848 IAC 1-1-7	A	04-97	28 IR 675	
848 IAC 1-1-2.1	A	04-65	27 IR 2865	28 IR 593
848 IAC 1-2-1	A	04-65	27 IR 2866	28 IR 594
848 IAC 1-2-5	A	04-65	27 IR 2866	28 IR 594
848 IAC 1-2-6	A	04-65	27 IR 2867	28 IR 595
848 IAC 1-2-7	A	04-65	27 IR 2868	28 IR 596
848 IAC 1-2-8	A	04-65	27 IR 2868	28 IR 596
848 IAC 1-2-8.5	N	04-65	27 IR 2868	28 IR 596
848 IAC 1-2-9	A	04-65	27 IR 2869	28 IR 597
848 IAC 1-2-10	A	04-65	27 IR 2869	28 IR 597
848 IAC 1-2-12	A	04-65	27 IR 2870	28 IR 598
848 IAC 1-2-13	A	04-65	27 IR 2870	28 IR 598
848 IAC 1-2-14	A	04-65	27 IR 2870	28 IR 599
848 IAC 1-2-16	A	04-65	27 IR 2871	28 IR 599
848 IAC 1-2-17	A	04-65	27 IR 2872	28 IR 600
848 IAC 1-2-18	A	04-65	27 IR 2872	28 IR 600
848 IAC 1-2-19	A	04-65	27 IR 2873	28 IR 601
848 IAC 1-2-20	A	04-65	27 IR 2873	28 IR 601
848 IAC 1-2-21	A	04-65	27 IR 2873	28 IR 602
848 IAC 1-2-22	A	04-65	27 IR 2874	28 IR 602
848 IAC 1-2-23	A	04-65	27 IR 2874	28 IR 602
848 IAC 1-2-24	A	04-65	27 IR 2874	28 IR 603
848 IAC 6	R	04-97	28 IR 675	

TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-30-2	A	04-173	28 IR 317	
856 IAC 1-30-3	A	04-173	28 IR 318	
856 IAC 1-30-4.1	N	04-173	28 IR 318	
856 IAC 1-30-4.2	N	04-173	28 IR 318	
856 IAC 1-30-4.3	N	04-173	28 IR 318	
856 IAC 1-30-4.4	N	04-173	28 IR 318	
856 IAC 1-30-4.5	N	04-173	28 IR 318	
856 IAC 1-30-4.6	N	04-173	28 IR 318	
856 IAC 1-30-6	A	04-173	28 IR 319	
856 IAC 1-30-7	A	04-173	28 IR 319	
856 IAC 1-30-8	A	04-173	28 IR 319	
856 IAC 1-30-9	A	04-173	28 IR 320	
856 IAC 1-30-14	A	04-173	28 IR 320	
856 IAC 1-30-17	A	04-173	28 IR 321	
856 IAC 1-30-18	A	04-173	28 IR 321	
856 IAC 1-33-1	A	03-326	27 IR 2073	27 IR 3073

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-4	A	03-301	27 IR 2569	28 IR 603
864 IAC 1.1-4.1-9	A	03-301		††28 IR 603
864 IAC 1.1-12-1	A	03-301	27 IR 2569	28 IR 604
864 IAC 1.1-12-2	N	03-301	27 IR 2570	28 IR 604

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-11-1	A	03-300	27 IR 2570	28 IR 605
	A	04-175	28 IR 1059	

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

872 IAC 1-1-6.1	A	04-41	27 IR 2574	28 IR 212
	A	04-171	27 IR 4138	28 IR 1182
872 IAC 1-3-3.3	A	04-98	27 IR 3336	28 IR 605
872 IAC 1-3-16	A	04-5	27 IR 2335	28 IR 211
872 IAC 1-6	N	03-270	27 IR 2571	28 IR 966 *AROC (27 IR 4141)

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 2-18	N	03-256	27 IR 2575	28 IR 213
876 IAC 3-2-7	A	03-255	27 IR 2574	28 IR 212
876 IAC 3-6-2	A	04-225	28 IR 1547	
876 IAC 3-6-3	A	04-225	28 IR 1548	

TITLE 878 HOME INSPECTORS LICENSING BOARD

878 IAC	N	04-191	28 IR 1060	*CPH (28 IR 1197)
				*AROC (28 IR 1560)

TITLE 879 MANUFACTURED HOME INSTALLER LICENSING BOARD
879 IAC N 04-272 28 IR 1549

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

888 IAC 1.1-6-1	A	04-74	27 IR 2875	28 IR 606
	A	04-137	27 IR 3704	28 IR 607
888 IAC 1.1-8-3	A	04-295	28 IR 1859	

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

905 IAC 1-5.2-9.2	A	04-111	27 IR 3337	*AROC (28 IR 1561)
905 IAC 1-15.2-3	A	04-110	27 IR 3337	*AWR (28 IR 1486)
905 IAC 1-26-3	N	04-112	27 IR 3338	*AROC (28 IR 1562)
905 IAC 1-43	RA	04-14	27 IR 2579	*CPH (27 IR 3096)
				28 IR 1316
905 IAC 1-44	RA	04-109	27 IR 3343	28 IR 1316
905 IAC 1-45-2	A	03-319	27 IR 2576	*CPH (27 IR 3096)
				*AROC (28 IR 1317)
				28 IR 1484
905 IAC 1-45-3	A	03-319	27 IR 2576	*CPH (27 IR 3096)
				*AROC (28 IR 1317)
				28 IR 1484
905 IAC 1-46	N	03-279	27 IR 1291	*ARR (27 IR 4024)
				*AROC (27 IR 4141)
				28 IR 969
905 IAC 1-48	N	04-115	27 IR 3339	*AROC (28 IR 1562)

NONCODE RULES

Family and Social Services, Office of the Secretary of	A	04-246		*ETR (28 IR 230)
Lottery Commission, State	N	04-238		*ETR (28 IR 217)
	N	04-239		*ETR (28 IR 218)
	N	04-240		*ETR (28 IR 219)
	N	04-242		*ETR (28 IR 223)
	N	04-243		*ETR (28 IR 224)
	N	04-244		*ETR (28 IR 226)
	R	04-249		*ETR (28 IR 227)
	N	04-250		*ETR (28 IR 227)
	N	04-251		*ETR (28 IR 228)
	N	04-265		*ETR (28 IR 613)
	N	04-266		*ETR (28 IR 614)
	N	04-280		*ETR (28 IR 972)
	N	04-281		*ETR (28 IR 973)
	N	04-282		*ETR (28 IR 974)
	N	04-301		*ETR (28 IR 1186)
	N	04-302		*ETR (28 IR 1187)
	N	04-303		*ETR (28 IR 1188)
	N	04-304		*ETR (28 IR 1189)
	N	04-305		*ETR (28 IR 1191)
	N	04-306		*ETR (28 IR 1192)
	N	04-326		*ETR (28 IR 1488)
	N	04-327		*ETR (28 IR 1489)
	N	04-328		*ETR (28 IR 1491)
	N	04-331		*ETR (28 IR 1495)
	N	04-332		*ETR (28 IR 1496)
	N	05-6		*ETR (28 IR 1698)
	N	05-7		*ETR (28 IR 1701)
	N	05-8		*ETR (28 IR 1702)
	N	05-9		*ETR (28 IR 1704)
	N	05-10		*ETR (28 IR 1704)
	N	05-16		*ETR (28 IR 1708)
	N	05-17		*ETR (28 IR 1709)

Rules Affected by Volume 28

Natural Resources Commission

N	04-205	*ERR (28 IR 214)
R	04-245	*ETR (28 IR 230)
		*ERR (28 IR 214)
R	04-247	*ETR (28 IR 230)
R	04-257	*ETR (28 IR 615)
N	04-258	*ETR (28 IR 615)
N	04-259	*ETR (28 IR 615)
N	04-260	*ETR (28 IR 616)
N	04-262	*ETR (28 IR 616)
N	04-264	*ETR (28 IR 616)
N	04-285	*ETR (28 IR 981)
N	04-307	*ETR (28 IR 1192)
N	04-308	*ETR (28 IR 1194)
N	04-314	*ETR (28 IR 1194)
N	04-315	*ETR (28 IR 1195)

Tax Review, Indiana Board of

N	04-261	*ETR (28 IR 612)
N	04-330	*ETR (28 IR 1487)

*Key:

A:	Amended Text
AGA:	Attorney General's Action
AROC:	Administrative Rules Oversight Committee Notice
ARR:	Agency Recalls Rule
AWR:	Agency Withdrew Rule
CPH:	Change in Public Hearing
DAG:	Disapproved by Attorney General
DG:	Disapproved by Governor
ER:	Emergency Rule
ERR:	Errata
ETR:	Emergency Temporary Rule
ETS:	Emergency Temporary Standard
GRAT:	Governor Requires Additional Time
N:	New Text
NRA:	Notice of Rule Adoption
OAC:	Objection to Errata
ON:	Other Notices of Administrative Action
R:	Repealed Text
RA:	Readopted Rule
SAC:	Solicitation of Advance Comment
SPE:	Statutory Period for Promulgation Expired
SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
††:	Renumbered or Added in Final Rule

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

*The index is cumulative for all proposed and final rulemaking actions published after September 1, 2004. Final rules published before that date have been incorporated into the 2005 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.

ACCOUNTANCY, INDIANA BOARD OF

GENERAL PROVISIONS

Permits to Practice; Continuing Education

College courses as CPE
872 IAC 1-3-3.3 27 IR 3336
28 IR 605

Prorated continuing education requirements
for holders of certificates granted during a
reporting period
872 IAC 1-3-16 27 IR 2335
28 IR 211

Quality Review
872 IAC 1-6 27 IR 2571
28 IR 966

Requirements for Certification, Licensure, and
Registration
Educational requirements
872 IAC 1-1-6.1 27 IR 2574
28 IR 212
27 IR 4138
28 IR 1182

ADMINISTRATION, INDIANA DEPARTMENT OF

EXECUTIVE AGENCY LOBBYING

25 IAC 6 27 IR 3595

AIR POLLUTION CONTROL BOARD

ASBESTOS MANAGEMENT

Asbestos Management Personnel; Licensing
Applicability
326 IAC 18-1-1 27 IR 3128
Asbestos license; application
326 IAC 18-1-5 26 IR 2086
28 IR 101
27 IR 3132

Asbestos license; qualifications
326 IAC 18-1-4 27 IR 3131
Asbestos license; revocation; denial
326 IAC 18-1-7 26 IR 2087
28 IR 102

Definitions
326 IAC 18-1-2 26 IR 2084
28 IR 99
27 IR 3128

General provisions
326 IAC 18-1-3 27 IR 3130

License fee; application fee
326 IAC 18-1-9 27 IR 3134

License requirements for contractors perform-
ing asbestos projects
326 IAC 18-1-8 26 IR 2088
28 IR 103

Renewal of asbestos license
326 IAC 18-1-6 27 IR 3133

Asbestos Training Courses; Requirements for
Approval

Definitions
326 IAC 18-2-2 26 IR 2088
28 IR 103
27 IR 3134

Initial and refresher training courses; applica-
tion for approval
326 IAC 18-2-7 26 IR 2097
28 IR 112

Initial and refresher training courses; qualifi-
cations for approval
326 IAC 18-2-6 26 IR 2096
28 IR 111

Initial training course requirements
326 IAC 18-2-3 26 IR 2089
28 IR 104
27 IR 3136

EMISSION LIMITATIONS FOR SPECIFIC TYPE OF OPERATIONS

Coke Oven Batteries
Compliance determination
326 IAC 11-3-4 26 IR 2060
28 IR 74

Municipal Waste Combustors
Applicability
326 IAC 11-7-1 26 IR 2061
28 IR 75

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Emission Limitations for Benzene from Furnace
Coke Oven By-Product Plants
Equipment leaks
326 IAC 14-9-5 26 IR 2070
28 IR 84

Record keeping and reporting requirements
326 IAC 14-9-9 26 IR 2071
28 IR 86

Test methods and procedures
326 IAC 14-9-8 26 IR 2071
28 IR 85

Emission Standards for Asbestos; Demolition
and Renovation Operations
Applicability
326 IAC 14-10-1 26 IR 2072
28 IR 87

Definitions
326 IAC 14-10-2 26 IR 2074
28 IR 88

Notification requirements
326 IAC 14-10-3 26 IR 2076
28 IR 91

Procedures for asbestos emission control
326 IAC 14-10-4 26 IR 2078
28 IR 93

Emission Standard for Beryllium
Applicability; incorporation by reference of
federal standards
326 IAC 14-3-1 26 IR 2067
28 IR 82

Emission Standard for Beryllium Rocket Motor
Firing
Applicability; incorporation by reference of
federal standards
326 IAC 14-4-1 26 IR 2067
28 IR 82

Emission Standard for Equipment Leaks (Fugi-
tive Emission Sources)

Applicability
326 IAC 14-8-1 26 IR 2068
28 IR 83

Record keeping requirements
326 IAC 14-8-4 26 IR 2069
28 IR 84

Reporting requirements
326 IAC 14-8-5 26 IR 2069
28 IR 84

Test methods and procedures
326 IAC 14-8-3 26 IR 2068
28 IR 83

Emission Standard for Equipment Leaks (Fugi-
tive Emission Sources) of Benzene

Applicability; incorporation by reference of
federal standards
326 IAC 14-7-1 26 IR 2068
28 IR 83

Emission Standard for Mercury
Applicability; incorporation by reference of
federal standards
326 IAC 14-5-1 26 IR 2068
28 IR 82

General Provisions
Applicability
326 IAC 14-1-1 26 IR 2066
28 IR 81

Definitions
326 IAC 14-1-2 26 IR 2067
28 IR 81

GENERAL PROVISIONS

Ambient Air Quality Standards
Ambient air quality standards
326 IAC 1-3-4 27 IR 3121
28 IR 1471

Definitions
"Particulate matter" defined
326 IAC 1-2-52 27 IR 3120
28 IR 1471

"PM_{2.5}" defined
326 IAC 1-2-52.2 27 IR 3120
28 IR 1471

"PM₁₀" defined
326 IAC 1-2-52.4 27 IR 3121
28 IR 1471

"Reconstruction" defined
326 IAC 1-2-65 26 IR 1997
28 IR 18

"Total suspended particulate" or "TSP" de-
fined
326 IAC 1-2-82.5 27 IR 3121
28 IR 1471

"Volatile organic compound" or "VOC"
defined
326 IAC 1-2-90 26 IR 1998
28 IR 18

Nonattainment/attainment/unclassifiable Area
Designations for Sulfur Dioxide; Total Sus-
pended Particulates; Carbon Monoxide;
Ozone; and Nitrogen Dioxides

Designations
326 IAC 1-4-1 27 IR 3606
28 IR 1182

CITATIONS TO FINAL RULES ARE IN BOLD TYPE

Provisions Applicable Throughout Title 326			
Credible evidence			
326 IAC 1-1-6	28 IR 248		
References to the Code of Federal Regulations			
326 IAC 1-1-3	26 IR 1997		
	28 IR 17		
	28 IR 1815		
References to the Compilation of Air Pollution Emission Factors Ap-42 and Supplement			
326 IAC 1-1-3.5	26 IR 1997		
	28 IR 17		
	28 IR 1815		
HAZARDOUS AIR POLLUTANTS			
Amino and Phenolic Resins			
326 IAC 20-58	27 IR 1619		
	28 IR 119		
Asphalt Processing and Asphalt Roofing			
326 IAC 20-71	27 IR 3168		
Brick and Structural Clay Products			
326 IAC 20-72	27 IR 3169		
Clay Ceramics Manufacturing			
326 IAC 20-73	27 IR 3169		
Coke Ovens: Pushing, Quenching, and Battery Stacks			
326 IAC 20-74	27 IR 3169		
Emissions from Reinforced Plastics Composites Fabricating Emission Units			
Applicability			
326 IAC 20-25-1	27 IR 3123		
Definitions			
326 IAC 20-25-2	27 IR 3124		
Engine Test Cells/Standards			
326 IAC 20-75	27 IR 3169		
Flexible Polyurethane Foam Fabrication Operations			
326 IAC 20-66	27 IR 2323		
	28 IR 122		
Friction Material Manufacturing Facilities			
326 IAC 20-68	27 IR 2323		
	28 IR 122		
Hydrochloric Acid Production			
326 IAC 20-76	27 IR 3169		
Integrated Iron and Steel Manufacturing			
326 IAC 20-93	28 IR 1817		
Iron and Steel Foundries			
326 IAC 20-92	28 IR 1817		
Lime Manufacturing Plants			
326 IAC 20-91	28 IR 1816		
Mercury Cell Chlor-Alkali Plants			
326 IAC 20-94	28 IR 1817		
Miscellaneous Coating Manufacturing			
326 IAC 20-88	28 IR 999		
Miscellaneous Organic Chemical Manufacturing			
326 IAC 20-84	28 IR 998		
Municipal Solid Waste Landfills			
326 IAC 20-67	27 IR 2323		
	28 IR 122		
Organic Liquid Distribution (Non-Gasoline)			
326 IAC 20-83	28 IR 998		
Paper and Other Web Coating			
326 IAC 20-65	27 IR 2322		
	28 IR 121		
Pharmaceutical Production			
326 IAC 20-57	27 IR 1618		
	28 IR 119		
Polyether Polyols Production			
326 IAC 20-59	27 IR 1619		
	28 IR 119		
Polyvinyl Chloride and Copolymers Production			
326 IAC 20-69	27 IR 2323		
	28 IR 122		
Printing, Coating, and Dyeing of Fabrics and Other Textiles			
326 IAC 20-77	27 IR 3170		
Refractory Products Manufacturing			
326 IAC 20-62	27 IR 1619		
	28 IR 120		
Reinforced Plastic Composites Production			
326 IAC 20-56	27 IR 3126		
Secondary Aluminum			
326 IAC 20-70	27 IR 1620		
	28 IR 120		
Semiconductor Manufacturing			
326 IAC 20-61	27 IR 1619		
	28 IR 120		
Site Remediation			
326 IAC 20-87	28 IR 999		
Solvent Extraction for Vegetable Oil Production			
326 IAC 20-60	27 IR 1619		
	28 IR 119		
Stationary Combustion Turbines			
326 IAC 20-90	28 IR 1816		
Stationary Reciprocating Internal Combustion Engines			
326 IAC 20-82	28 IR 997		
Surface Coating of Automobiles and Light-Duty Trucks			
326 IAC 20-85	28 IR 998		
Surface Coating of Large Appliances			
326 IAC 20-63	27 IR 2322		
	28 IR 121		
Surface Coating of Metal Cans			
326 IAC 20-86	28 IR 999		
Surface Coating of Metal Coil			
326 IAC 20-64	27 IR 2322		
	28 IR 121		
Surface Coating of Metal Furniture			
326 IAC 20-78	27 IR 3170		
Surface Coating of Wood Building Products			
326 IAC 20-79	27 IR 3170		
LEAD-BASED PAINT PROGRAM			
Definitions			
"Hazardous waste" defined			
326 IAC 23-1-31	26 IR 2099		
	28 IR 114		
LEAD RULES			
Lead Emissions Limitations			
Compliance			
326 IAC 15-1-4	26 IR 2083		
	28 IR 98		
Source-specific provisions			
326 IAC 15-1-2	26 IR 2080		
	28 IR 95		
MONITORING REQUIREMENTS			
Continuous Monitoring of Emissions			
Minimum performance and operating specifications			
326 IAC 3-5-2	26 IR 2017		
	28 IR 32		
Monitor system certification			
326 IAC 3-5-3	26 IR 2019		
	28 IR 33		
Quality assurance requirements			
326 IAC 3-5-5	26 IR 2020		
	28 IR 34		
Standard operating procedures			
326 IAC 3-5-4	26 IR 2019		
	28 IR 34		
Fuel Sampling and Analysis Procedures			
Coal sampling and analysis methods			
326 IAC 3-7-2	26 IR 2024		
	28 IR 38		
Fuel oil sampling; analysis methods			
326 IAC 3-7-4	26 IR 2025		
	28 IR 39		
General Provisions			
Conversion factors			
326 IAC 3-4-3	26 IR 2016		
	28 IR 31		
Definitions			
326 IAC 3-4-1	26 IR 2016		
	28 IR 30		
Source Sampling Procedures			
Applicability; test procedures			
326 IAC 3-6-1	26 IR 2022		
	28 IR 36		
Emission testing			
326 IAC 3-6-3	26 IR 2022		
	28 IR 37		
Specific testing procedures; particulate matter; sulfur dioxide; nitrogen oxides; volatile organic compounds			
326 IAC 3-6-5	26 IR 2023		
	28 IR 37		
MOTOR VEHICLE EMISSION AND FUEL STANDARDS			
Motor Vehicle Inspection and Maintenance Requirements			
Definitions			
326 IAC 13-1.1-1	26 IR 2062		
	28 IR 76		
Facility and testing requirements			
326 IAC 13-1.1-14	26 IR 2065		
	28 IR 80		
Facility quality assurance program			
326 IAC 13-1.1-16	26 IR 2066		
	28 IR 80		
Testing procedures and standards			
326 IAC 13-1.1-8	26 IR 2063		
	28 IR 77		
Test reports; repair forms			
326 IAC 13-1.1-13	26 IR 2064		
	28 IR 79		
Waivers and compliance through diagnostic inspection			
326 IAC 13-1.1-10	26 IR 2063		
	28 IR 78		
NITROGEN OXIDE RULES			
Nitrogen Oxides Control in Clark and Floyd Counties			
Compliance procedures			
326 IAC 10-1-5	26 IR 2059		
	28 IR 73		
Definitions			
326 IAC 10-1-2	26 IR 2056		
	28 IR 70		

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Emissions limits 326 IAC 10-1-4	26 IR 2057 28 IR 71	Permit revisions 326 IAC 2-6.1-6	27 IR 3151 28 IR 797	General provisions 326 IAC 2-9-1	27 IR 3155 28 IR 801
Emissions monitoring 326 IAC 10-1-6	26 IR 2059 28 IR 74	Part 70 Permit Program Permit issuance, renewal, and revisions 326 IAC 2-7-8	26 IR 2006 28 IR 20	Grain elevators 326 IAC 2-9-6	27 IR 3159 28 IR 805
OPACITY REGULATIONS		Permit review by the U.S. EPA 326 IAC 2-7-18	26 IR 2007 28 IR 21	Industrial or commercial surface coating operations not subject to 326 IAC 8-2; graphic arts operation not subject to 326 IAC 8-5-5	27 IR 3156 28 IR 802
Opacity Limitations Compliance determination 326 IAC 5-1-4	26 IR 2026 28 IR 41	Requirement for a permit 326 IAC 2-7-3	26 IR 2006 28 IR 20	Internal combustion sources 326 IAC 2-9-14	27 IR 3167 28 IR 814
Opacity limitations 326 IAC 5-1-2	26 IR 2025 28 IR 40	Prevention of Significant Deterioration (PSD) Requirements Ambient air ceilings 326 IAC 2-2-16	26 IR 1999 28 IR 20	Ready-mix concrete batch plants 326 IAC 2-9-9	26 IR 2011 28 IR 26
Violations 326 IAC 5-1-5	26 IR 2026 28 IR 41	Area designation and redesignation 326 IAC 2-2-13	26 IR 1998 28 IR 19	Sand and gravel plants 326 IAC 2-9-7	26 IR 2009 28 IR 23
PARTICULATE MATTER LIMITATIONS EXCEPT LAKE COUNTY 326 IAC 6.5	28 IR 1714	Registrations Applicability 326 IAC 2-5.5-1	27 IR 3146 28 IR 792	Surface coating or graphic arts operations 326 IAC 2-9-3	27 IR 3159 28 IR 805
St. Joseph County Saint Mary's 326 IAC 6.5-7-13	28 IR 1814	Application requirements 326 IAC 2-5.5-3	27 IR 3146 28 IR 793	Woodworking operations 326 IAC 2-9-4	27 IR 3157 28 IR 803
PARTICULATE MATTER LIMITATIONS FOR LAKE COUNTY 326 IAC 6.8	28 IR 1766	Compliance schedule 326 IAC 2-5.5-2	27 IR 3146 28 IR 793	STATE ENVIRONMENTAL POLICY General Conformity Applicability; incorporation by reference of federal standards 326 IAC 16-3-1	26 IR 2084 28 IR 98
PARTICULATE RULES County Specific Particulate Matter Limitations Marion County 326 IAC 6-1-12	28 IR 242	Public notice 326 IAC 2-5.5-5	27 IR 3147 28 IR 794	STRATOSPHERIC OZONE PROTECTION General Provisions Incorporation of federal regulations 326 IAC 22-1-1	26 IR 2098 28 IR 113
Vigo County 326 IAC 6-1-13	27 IR 2318 28 IR 115	Registration content 326 IAC 2-5.5-4	27 IR 3147 28 IR 793	SULFUR DIOXIDE RULES Compliance Reporting requirements; methods to determine compliance 326 IAC 7-2-1	26 IR 2028 28 IR 42
PERMIT REVIEW RULES Construction of New Sources Exemption 326 IAC 2-5.1-1	27 IR 3144 28 IR 791	Source modification 326 IAC 2-5.5-6	27 IR 3147 28 IR 794	Emission Limitations and Requirements by County Dearborn County sulfur dioxide emission limitations 326 IAC 7-4-13	27 IR 2768
Registrations 326 IAC 2-5.1-2	27 IR 3145 28 IR 791	Source Specific Operating Agreement Program Abrasive cleaning operations 326 IAC 2-9-5	27 IR 3158 28 IR 805	Vigo County sulfur dioxide emission limitations 326 IAC 7-4-3	27 IR 2319 28 IR 117
Federally Enforceable State Operating Permit Program Permit application 326 IAC 2-8-3	26 IR 2008 28 IR 22	Automobile refinishing operations 326 IAC 2-9-11	27 IR 3164 28 IR 810	Warrick County sulfur dioxide emission limitations 326 IAC 7-4-10	26 IR 2029 28 IR 43
Minor Source Operating Permit Program Applicability 326 IAC 2-6.1-2	27 IR 3149 28 IR 795	Coal mines and coal preparation plants 326 IAC 2-9-10	26 IR 2013 28 IR 27	Lake County Sulfur Dioxide Emission Limitations 326 IAC 7-4.1	28 IR 633
Application requirements 326 IAC 2-6.1-4	27 IR 3149 28 IR 796	Crushed stone processing plants 326 IAC 2-9-8	26 IR 2010 28 IR 25		
Compliance schedule 326 IAC 2-6.1-3	27 IR 3149 28 IR 795	Degreasing operations 326 IAC 2-9-12	27 IR 3165 28 IR 811		
Exemptions 326 IAC 2-6.1-1	27 IR 3149 28 IR 795	External combustion sources 326 IAC 2-9-13	26 IR 2014 28 IR 28		
Operating permit content 326 IAC 2-6.1-5	27 IR 3150 28 IR 796		27 IR 3165 28 IR 811		
Operating permit renewal 326 IAC 2-6.1-7	27 IR 3154 28 IR 801				

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Sulfur Dioxide Emission Limitations					
Applicability		326 IAC 8-11-2	26 IR 2044		
326 IAC 7-1.1-1	28 IR 632		28 IR 59		
Sulfur dioxide emission limitations		326 IAC 8-11-7	26 IR 2050		
326 IAC 7-1.1-2	28 IR 632		28 IR 64		
VOLATILE ORGANIC COMPOUND RULES					
Automobile Refinishing					
Test procedures					
326 IAC 8-10-7	26 IR 2044				
	28 IR 58				
General Provisions					
Testing procedures					
326 IAC 8-1-4	26 IR 2030				
	28 IR 44				
Petroleum Sources					
Gasoline dispensing facilities					
326 IAC 8-4-6	26 IR 2032				
	28 IR 47				
Leaks from transports and vapor collection systems; records					
326 IAC 8-4-9	26 IR 2035				
	28 IR 49				
Shipbuilding or Ship Repair Operations in Clark, Floyd, Lake, and Porter Counties					
Compliance requirements					
326 IAC 8-12-5	26 IR 2052				
	28 IR 67				
Definitions					
326 IAC 8-12-3	26 IR 2050				
	28 IR 64				
Record keeping, notification, and reporting requirements					
326 IAC 8-12-7	26 IR 2054				
	28 IR 68				
Test methods and procedures					
326 IAC 8-12-6	26 IR 2053				
	28 IR 68				
Sinter Plants					
Test procedures					
326 IAC 8-13-5	26 IR 2054				
	28 IR 69				
Specific VOC Reduction Requirements for Lake, Porter, Clark, and Floyd Counties					
Test methods and procedures					
326 IAC 8-7-7	26 IR 2036				
	28 IR 51				
Volatile Organic Liquid Storage Vessels					
Definitions					
326 IAC 8-9-3	26 IR 2037				
	28 IR 51				
Exemptions					
326 IAC 8-9-2	26 IR 2036				
	28 IR 51				
Record keeping and reporting requirements					
326 IAC 8-9-6	26 IR 2042				
	28 IR 56				
Standards					
326 IAC 8-9-4	26 IR 2038				
	28 IR 52				
Testing and procedures					
326 IAC 8-9-5	26 IR 2040				
	28 IR 54				
Wood Furniture Coatings					
Compliance procedures and monitoring requirements					
326 IAC 8-11-6	26 IR 2046				
	28 IR 60				
Definitions					
326 IAC 8-11-2	26 IR 2044				
	28 IR 59				
Test procedures					
326 IAC 8-11-7	26 IR 2050				
	28 IR 64				
ALCOHOL AND TOBACCO COMMISSION					
GENERAL PROVISIONS					
Minors					
Loitering					
905 IAC 1-15.2-3	27 IR 3337				
Permit Renewal; Letter of Extension					
Revocation of letter of extension					
905 IAC 1-26-3	27 IR 3338				
Tobacco Retail Sales Certificates					
905 IAC 1-46	27 IR 1291				
	28 IR 969				
Tracking Beer Kegs					
Identification markers					
905 IAC 1-45-2	27 IR 2576				
	28 IR 1484				
Receipt for the keg					
905 IAC 1-45-3	27 IR 2576				
	28 IR 1484				
Trade Practices; Permissible Activity Between Primary Sources of Supply, Wholesalers, and Retailers					
Samples; consumer product sampling					
905 IAC 1-5.2-9.2	27 IR 3337				
Withdrawal of Consent to Transfer Permit					
905 IAC 1-48	27 IR 3339				
ANIMAL HEALTH, INDIANA STATE BOARD OF					
DAIRY PRODUCTS					
Drug Residues and Other Adulterants					
Drug residues					
345 IAC 8-4-1	28 IR 1830				
Production, Handling, Processing, Packaging, and Distribution of Milk and Milk Products					
Abnormalities of milk					
345 IAC 8-2-1.6	28 IR 1824				
Bulk milk collection; pickup tankers; samples					
345 IAC 8-2-4	28 IR 1826				
Definitions					
345 IAC 8-2-1.1	28 IR 1821				
General requirements; permits					
345 IAC 8-2-1.9	28 IR 1825				
"Milk products" defined					
345 IAC 8-2-1.5	28 IR 1823				
"Pasteurization", "pasteurized", "ultra pasteurization", and "aseptic processing" defined					
345 IAC 8-2-1.7	28 IR 1824				
Standards for Milk and Milk Products and Grade A Standards					
Components of Grade A dairy products					
345 IAC 8-3-12	28 IR 1829				
Grade A milk production and storage					
345 IAC 8-3-2	28 IR 1829				
Incorporation by reference; standards					
345 IAC 8-3-1	28 IR 1828				
DOMESTIC ANIMAL DISEASE CONTROL; GENERAL PROVISIONS					
Importation of Domestic Animals					
Animals for immediate slaughter					
345 IAC 1-3-10	27 IR 4121				
Cattle and bison					
345 IAC 1-3-7	27 IR 4120				
Chronic wasting disease; carcasses					
345 IAC 1-3-31	28 IR 1833				
Premises Identification					
345 IAC 1-2.5	28 IR 1818				
EQUINE					
Contagious Equine Metritis (CEM)					
345 IAC 6-2	28 IR 1000				
LIVESTOCK DEALERS, MARKETING, EXHIBITIONS, AND SLAUGHTER LIVESTOCK					
Exhibition of Domestic Animals and Poultry					
Pseudorabies tests for swine					
345 IAC 7-5-15.1	27 IR 2797				
	28 IR 559				
Tuberculosis control in cattle and bison					
345 IAC 7-5-12	27 IR 4135				
Vaccinations and tests required for dogs and cats					
345 IAC 7-5-22	27 IR 2798				
	28 IR 559				
Exhibitions					
345 IAC 7-4.5	28 IR 1820				
POULTRY					
National Poultry Improvement Plan					
National Poultry Improvement Plan; adoption by reference					
345 IAC 4-4-1	27 IR 4118				
	28 IR 1473				
POULTRY AND POULTRY PRODUCTS INSPECTION					
Administration; Application of Inspection and Other Requirements					
Delivery and acceptance of poultry for slaughter					
345 IAC 10-2-5	27 IR 4119				
	28 IR 1473				
Incorporation by Reference					
Incorporation by reference; poultry products inspection					
345 IAC 10-2.1-1	27 IR 4119				
	28 IR 1474				
TUBERCULOSIS CONTROL					
345 IAC 2.5	27 IR 4121				
ARCHITECTS AND LANDSCAPE ARCHITECTS, BOARD OF REGISTRATION FOR REGISTRATION; CODE OF CONDUCT FOR ARCHITECTS					
General Provisions					
Continuing Education					
804 IAC 1.1-8	28 IR 1055				
Definitions and abbreviations					
804 IAC 1.1-1-1	28 IR 1054				
ATTORNEY GENERAL'S OPINIONS					
(See Cumulative Table of Executive Orders and Attorney General's Opinions at 28 IR 1412)					
BOXING COMMISSION, STATE					
BOXING AND OTHER RING EXHIBITIONS					
Contestants					
Athletic costumes and protective equipment					
808 IAC 2-1-5	27 IR 2564				
	28 IR 198				

CITATIONS TO FINAL RULES ARE IN **BOLD** TYPE

Female boxers	808 IAC 2-1-12	27 IR 2564	“Appurtenance” defined	355 IAC 2-2-1.5	28 IR 1839	PESTICIDE USE AND APPLICATION		
		28 IR 199	“Field operations” defined	355 IAC 2-2-6	28 IR 1839	Licensed Applicators (for Hire) and Registered Technicians; Qualifications, Training, and Supervision		
Gloves			“Low pressure nitrogen solutions” defined	355 IAC 2-2-9	28 IR 1839	Definitions		
Gloves; mouthpiece; inspection; specifications	808 IAC 2-22-1	27 IR 2565	“Operational area” defined	355 IAC 2-2-10	28 IR 1839	355 IAC 4-5-1	28 IR 1835	
		28 IR 199	“Secondary containment” defined	355 IAC 2-2-13	28 IR 1840	Record keeping and supervision requirements for licensed applicators for hire	355 IAC 4-5-2	28 IR 1836
Physician; Testing for the Use of Prohibited Drugs			“State chemist” defined	355 IAC 2-2-14	28 IR 1840	Requirements for category 7b applicator license for hire	355 IAC 4-5-3	28 IR 1836
Confidentiality	808 IAC 2-12-8	27 IR 2568	“Storage container” defined	355 IAC 2-2-15	28 IR 1840	Site Awareness and Direct Supervision of Noncertified Applicators		
Costs	808 IAC 2-12-7	27 IR 2568	“Storage facility location registry” defined	355 IAC 2-2-17	28 IR 1840	Pesticide use by noncertified persons	355 IAC 4-2-2	28 IR 1834
		28 IR 202	Diked Secondary Containment of Fluid Bulk Fertilizers			Technician registration requirements	355 IAC 4-2-8	28 IR 1834
Definitions	808 IAC 2-12-0.5	27 IR 2566	Concrete liners	355 IAC 2-5-4	28 IR 1844	Training Requirements for Licensed Applicators and Registered Technicians; Category 3b		
		28 IR 201	Drainage from contained areas within dikes	355 IAC 2-5-12.5	28 IR 1845	Definitions	355 IAC 4-6-1	28 IR 1837
Disciplinary actions	808 IAC 2-12-6	27 IR 2567	Drainage from contained areas within dikes; elephant rings instead of a diked containment area	355 IAC 2-5-12	28 IR 1845	Requirements for category 3b applicator license for hire	355 IAC 4-6-3	28 IR 1837
		28 IR 202	Exemptions	355 IAC 2-5-8	28 IR 1844	CORONERS TRAINING BOARD		
Refusal to submit to drug test	808 IAC 2-12-5	27 IR 2567	General requirements	355 IAC 2-5-1	28 IR 1842	CONTINUING EDUCATION	207 IAC 2	28 IR 624
		28 IR 202	Inspection and maintenance	355 IAC 2-5-13	28 IR 1846	COSMETOLOGY EXAMINERS, STATE BOARD OF		
Test for prohibited drugs	808 IAC 2-12-3	27 IR 2567	Lining; general	355 IAC 2-5-3	28 IR 1843	COSMETOLOGY SCHOOLS		
		28 IR 201	Synthetic liners	355 IAC 2-5-6	28 IR 1844	Instructors		
Testing procedures	808 IAC 2-12-4	27 IR 2567	Walls	355 IAC 2-5-2	28 IR 1843	License	820 IAC 4-3-1	28 IR 1059
		28 IR 202	General Provisions			DEAF BOARD, INDIANA SCHOOL FOR THE	514 IAC	27 IR 1634
Use of prohibited drugs	808 IAC 2-12-2	27 IR 2567	Boron-containing fertilizers; warning requirements	355 IAC 2-1-6	28 IR 1838			28 IR 197
		28 IR 201	Degree of fineness of unacidulated phosphate materials; registration and labeling	355 IAC 2-1-1	28 IR 1838	DENTISTRY, STATE BOARD OF		
Referees			Operational Area Containment for Fluid Fertilizers			GENERAL PROVISIONS		
Discontinuation of fight; declaration of winner	808 IAC 2-7-14	27 IR 2564	Loadout and unloading pads	355 IAC 2-4-1	28 IR 1842	Fees		
		28 IR 199	Primary Containment of Fluid Bulk Fertilizer at Storage Facilities			Dental fees	828 IAC 0.5-2-3	28 IR 670
Scoring Decisions			Compliance with effective date of rule	355 IAC 2-3-12	28 IR 1841	INSTRUCTOR’S LICENSES		
Exhibitions	808 IAC 2-9-5	27 IR 2564	Inspection and maintenance	355 IAC 2-3-11	28 IR 1841	General Requirements	828 IAC 5	28 IR 671
		28 IR 199	Pipes and fittings	355 IAC 2-3-8	28 IR 1841	LICENSURE OF DENTISTS AND DENTAL HYGIENISTS		
GENERAL PROVISIONS			Prohibited materials	355 IAC 2-3-4	28 IR 1840	Continuing Education for Renewal of License		
Licenses and Permits			Security	355 IAC 2-3-6	28 IR 1841	Continuing education course requirement	828 IAC 1-5-6	27 IR 2334
Security for the purse; forms	808 IAC 1-3-6	27 IR 2563	Storage and Handling of Dry Bulk Fertilizers					28 IR 669
		28 IR 198	Storage and handling	355 IAC 2-6-1.5	28 IR 1846	DISABILITY, AGING, AND REHABILITATIVE SERVICES, DIVISION OF		
Seats for Commission and Officials			Storage Facility Location Registry			AGING		
Bond of promoter license applicant	808 IAC 1-5-2	27 IR 2563	Facility registry	355 IAC 2-9-1	28 IR 1846	Caretaker Support Program	460 IAC 1-10	27 IR 3303
		28 IR 198						28 IR 910
Seats for commission, judges, timekeepers, and other officials	808 IAC 1-5-1	27 IR 2563				Personal Services Attendant for Individuals in Need of Self-Directed In-Home Care		
		28 IR 198				Attendant care service provider registration requirement; preclusion	460 IAC 1-8-3	28 IR 1007
CHEMIST OF THE STATE OF INDIANA, STATE								
COMMERCIAL FERTILIZERS								
Definitions								
“Approved” defined	355 IAC 2-2-1	28 IR 1839						

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Method of payment to a fiscal agent 460 IAC 1-8-12	28 IR 1008	Language arts courses 511 IAC 6.1-5.1-2	27 IR 2553 28 IR 960	Informal settlement; alternative dispute resolution 315 IAC 1-3-8	28 IR 994
Method of payment to a personal services attendant 460 IAC 1-8-11	28 IR 1007	Mathematics 511 IAC 6.1-5.1-5	27 IR 2555 28 IR 962	Initiation of a proceeding for administrative review 315 IAC 1-3-2	28 IR 991
Record keeping requirements 460 IAC 1-8-13	28 IR 1008	Science courses 511 IAC 6.1-5.1-6	27 IR 2555 28 IR 962	Petition for judicial review 315 IAC 1-3-14	28 IR 996
Posting of Notices 460 IAC 1-11	28 IR 1004	Social studies courses 511 IAC 6.1-5.1-3	27 IR 2553 28 IR 960	Powers and duties of the director, presiding environmental law judge, and office of environmental adjudication 315 IAC 1-3-1	28 IR 991
Processing of Applications 460 IAC 1-3.4	28 IR 1002	Vocational-technical courses 511 IAC 6.1-5.1-10.1	27 IR 2550 28 IR 957	Representatives and attorneys; eligibility to practice 315 IAC 1-3-15	28 IR 996
DIVISION OF REHABILITATION SERVICES		World language courses 511 IAC 6.1-5.1-4	27 IR 2554 28 IR 961	Request for extension of time for filing pleading, document, or motion 315 IAC 1-3-5	28 IR 994
Board of Interpreter Standards 460 IAC 2-2.1	27 IR 3701			Stay 315 IAC 1-3-2.1	28 IR 992
HOME AND COMMUNITY BASED SERVICES		ENGINEERS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL ADMINISTRATION; GENERAL REQUIREMENTS		ETHICS COMMISSION, STATE	
460 IAC 1.1	27 IR 2799 28 IR 912	Examinations		STATE OFFICERS AND EMPLOYEES	
RATES FOR ADULT DAY SERVICES PROVIDED BY COMMUNITY MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES CENTERS		Examination attempts for certification as an EI 864 IAC 1.1-4.1-9	28 IR 603	Indiana Code of Ethics for the Conduct of State Business	
Unit of Service Reimbursement Rates		Fees		Acceptable gifts, favors, services, entertainment, food, drink, and honoraria 40 IAC 2-1-6	28 IR 987
Annual review of adult day service reimbursement rates 460 IAC 3.5-2-3	28 IR 1303	Fee for examination administration 864 IAC 1.1-12-2	27 IR 2570 28 IR 604	Appearances; activities; expenses 40 IAC 2-1-7	28 IR 988
EDUCATION, INDIANA STATE BOARD OF ACHIEVEMENT TESTS		Fees charged by board 864 IAC 1.1-12-1	27 IR 2569 28 IR 604	Ethics education 40 IAC 2-1-5.5	28 IR 987
Indiana Statewide Testing for Educational Progress (ISTEP) Program		Limited Liability Company Practice 864 IAC 1.1-14	26 IR 3739 27 IR 875	EXECUTIVE ORDERS	
Alternate assessment based on alternate achievement standards in lieu of ISTEP+ 511 IAC 5-2-4.5	28 IR 668	Qualifications for Examination		(See Cumulative Table of Executive Orders and Attorney General's Opinions at 28 IR 1412)	
ADMINISTRATION; INFORMATION COLLECTION PROCESSING; SCHOOL FINANCE; GENERAL PROVISIONS		Engineering intern; education and work experience 864 IAC 1.1-2-4	27 IR 2569 28 IR 603	FAMILY AND CHILDREN, DIVISION OF CHILD WELFARE SERVICES	
Determining and Reporting Attendance and Membership for State Support Definitions 511 IAC 1-3-1	27 IR 3305 28 IR 965	ENVIRONMENTAL ADJUDICATION, OFFICE OF		Child care development fund voucher program; provider eligibility 470 IAC 3-18	27 IR 1627 28 IR 950
DRIVER EDUCATION; GRADUATION REQUIREMENTS; NONSTANDARD PROGRAMS; HIGH ABILITY STUDENTS; POSTSECONDARY ENROLLMENT		ADJUDICATORY PROCEEDINGS BEFORE ENVIRONMENTAL LAW JUDGES		Child Care Homes	
Graduation Requirements		General Provisions		Activities for healthy development 470 IAC 3-1.1-38	27 IR 2847
Academic honors diploma; additional course requirements 511 IAC 6-7-6.5	27 IR 2552 28 IR 959	Definitions 315 IAC 1-2-1	28 IR 990	Annual inspection 470 IAC 3-1.1-28.5	27 IR 2842
Graduation Requirements for Students Who Begin High School in the 2005-2006 School Year and Subsequent Years 511 IAC 6-7.1	28 IR 1303	Rules of Practice		"Applicant" defined 470 IAC 3-1.1-1	27 IR 2837
Students who enter high school in the 2007-2008 school year and subsequent school years; Core 40 diploma expected 511 IAC 6-7.1-4.5	28 IR 1849	Conduct of hearing; separation of witnesses 315 IAC 1-3-10	28 IR 995	"Assistant caregiver" defined 470 IAC 3-1.1-2	27 IR 2838
SCHOOL ACCREDITATION		Conduct of prehearing conference 315 IAC 1-3-9	28 IR 995	"Caregiver" defined 470 IAC 3-1.1-4	27 IR 2838
Approved High School Courses		Continuances of prehearing conference, status conference, stay hearing, and hearing 315 IAC 1-3-12	28 IR 996	Child abuse and neglect 470 IAC 3-1.1-35	27 IR 2846
Business technology education; technology education 511 IAC 6.1-5.1-9	27 IR 2557 28 IR 964	Defaults and dismissals 315 IAC 1-3-7	28 IR 994	"Child care" defined 470 IAC 3-1.1-6	27 IR 2838
Fine arts courses 511 IAC 6.1-5.1-8	27 IR 2556 28 IR 963	Filing and service of pleadings and documents 315 IAC 1-3-3	28 IR 992	Child care home capacity 470 IAC 3-1.1-24	27 IR 2841
		Form of pleadings and documents 315 IAC 1-3-4	28 IR 993	"Child care provider" defined 470 IAC 3-1.1-8	27 IR 2839
				Child to staff ratio 470 IAC 3-1.1-36.5	27 IR 2846
				"Class I child care home" defined 470 IAC 3-1.1-7.2	27 IR 2838

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

“Design professional” defined 470 IAC 3-1.1-7.4	27 IR 2839	“Supervision” defined 470 IAC 3-1.1-20.1	27 IR 2840	Benefit period LSA Document #04-246(E)	28 IR 230
Discipline policy 470 IAC 3-1.1-41	27 IR 2848	Swimming 470 IAC 3-1.1-39	27 IR 2848	405 IAC 6-5-3	27 IR 3211
Extended hours 470 IAC 3-1.1-51	27 IR 2853	Transportation and activities away from the child care home		Benefits; program appropriations LSA Document #04-246(E)	28 IR 230
Fire prevention 470 IAC 3-1.1-46	27 IR 2851	470 IAC 3-1.1-40	27 IR 2848	405 IAC 6-5-6	27 IR 3212
General environment 470 IAC 3-1.1-45	27 IR 2850	“Volunteer caregiver” defined 470 IAC 3-1.1-22.5	27 IR 2840		28 IR 182
Health 470 IAC 3-1.1-44	27 IR 2849	Class II Child Care Homes Application for Class II child care home license		Prescription drug coverage LSA Document #04-246(E)	28 IR 230
Inappropriate discipline 470 IAC 3-1.1-41.2	27 IR 2848	470 IAC 3-1.3-3	27 IR 2855	405 IAC 6-5-1	27 IR 3211
“Infant” defined 470 IAC 3-1.1-10	27 IR 2839	Class II child care home capacity 470 IAC 3-1.3-6	27 IR 2856		28 IR 181
Initial licensure 470 IAC 3-1.1-28	27 IR 2841	“Class II child care home” defined 470 IAC 3-1.3-2	27 IR 2855	Definitions “Complete application” defined LSA Document #04-246(E)	28 IR 230
“Licensee” defined 470 IAC 3-1.1-12	27 IR 2839	Class II child care home services 470 IAC 3-1.3-1	27 IR 2855	405 IAC 6-2-5	27 IR 3210
License provisions 470 IAC 3-1.1-29.5	27 IR 2842	Fire prevention and safety 470 IAC 3-1.3-7	27 IR 2856		28 IR 179
Medical requirements 470 IAC 3-1.1-34	27 IR 2845	Personnel requirements 470 IAC 3-1.3-4	27 IR 2856	Eligibility Requirements Income LSA Document #04-246(E)	28 IR 230
Medication 470 IAC 3-1.1-44.5	27 IR 2850	Staff orientation, training, and development 470 IAC 3-1.3-5	27 IR 2856	405 IAC 6-4-2	27 IR 3210
Minimum standards 470 IAC 3-1.1-0.5	27 IR 2837	Emergency or temporary closure of child care centers and child care homes			28 IR 180
Nutrition 470 IAC 3-1.1-42	27 IR 2849	470 IAC 3-4.8	27 IR 1626	Ineligibility LSA Document #04-246(E)	28 IR 230
Outdoor environment 470 IAC 3-1.1-38.5	27 IR 2847		28 IR 196	405 IAC 6-4-3	27 IR 3210
Pets 470 IAC 3-1.1-45.5	27 IR 2850	Infant and Toddler Services Activities for healthy development			28 IR 180
Positive discipline 470 IAC 3-1.1-41.1	27 IR 2848	470 IAC 3-1.2-4	27 IR 2854	MEDICAID PROVIDERS AND SERVICES General Provisions Overpayments made to providers; recovery	28 IR 258
“Probationary license” defined 470 IAC 3-1.1-12.5	27 IR 2839	Cribs 470 IAC 3-1.2-3.2	27 IR 2853	405 IAC 1-1-5	27 IR 3699
“Protected outdoor play area” defined 470 IAC 3-1.1-13	27 IR 2839	Diaper changing and toilet training 470 IAC 3-1.2-6	27 IR 2854	Managed Care Provider Reimbursement Dis- pute Resolution	28 IR 816
“Provisional license” defined 470 IAC 3-1.1-14	27 IR 2840	Feeding 470 IAC 3-1.2-7	27 IR 2855	405 IAC 1-1.6	
Record requirements 470 IAC 3-1.1-32.1	27 IR 2843	“Full-sized crib” defined 470 IAC 3-1.2-2	27 IR 2853	Provider Records Medical records; contents and retention	28 IR 655
“Relatives” defined 470 IAC 3-1.1-15	27 IR 2840	Naps 470 IAC 3-1.2-5	27 IR 2854	Provider Reimbursement Appeal Procedures Appeal requests	28 IR 259
Relicensure 470 IAC 3-1.1-29	27 IR 2842	“Portacrib” defined 470 IAC 3-1.2-3	27 IR 2853	405 IAC 1-1.5-2	28 IR 259
Requirements for admission to the home 470 IAC 3-1.1-37	27 IR 2846	Sanitizing 470 IAC 3-1.2-8	27 IR 2855	Scope 405 IAC 1-1.5-1	27 IR 3699
“Residential structure” defined 470 IAC 3-1.1-16	27 IR 2840				28 IR 815
Safety 470 IAC 3-1.1-48	27 IR 2852	FAMILY AND SOCIAL SERVICES, OFFICE OF THE SECRETARY OF INDIANA PRESCRIPTION DRUG PROGRAM		MEDICAID RECIPIENTS; ELIGIBILITY Eligibility Requirements Based on Need; Aged, Blind, and Disabled Program Spend-down eligibility	27 IR 1210
Sanitation 470 IAC 3-1.1-47	27 IR 2852	Application and Enrollment; General Require- ments		405 IAC 2-3-10	28 IR 178
School age child care services 470 IAC 3-1.1-50	27 IR 2853	Date of availability LSA Document #04-246(E)	28 IR 230	Eligibility Requirements Other than Need Disability determination	28 IR 1847
Staff orientation, training, and development 470 IAC 3-1.1-33.5	27 IR 2845	405 IAC 6-3-3	27 IR 3210	405 IAC 2-2-3	
Staff requirements 470 IAC 3-1.1-33	27 IR 2845		28 IR 180	Medicaid for Employees with Disabilities Employment requirements; continuing eligi- bility when employment ends	28 IR 1848
“Student assistant” defined 470 IAC 3-1.1-20	27 IR 2840	Benefits Benefit defined by family income level LSA Document #04-246(E)	28 IR 230	405 IAC 2-9-5	
Supervision 470 IAC 3-1.1-36.6	27 IR 2846	405 IAC 6-5-2	27 IR 3211		
			28 IR 181	MEDICAID SERVICES Evaluation and Management Services Limitations	28 IR 261
		Benefit duration LSA Document #04-246(E)	28 IR 230	General Provisions Global fee billing; codes	28 IR 260
		405 IAC 6-5-4	27 IR 3212	405 IAC 5-1-5	
			28 IR 181	Medical Supplies and Equipment Braces and orthopedic shoes	28 IR 262
				405 IAC 5-19-10	

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Medical supplies		Section 1621.3.12.1; mechanical equipment		ELECTRICAL CODES	
405 IAC 5-19-1	28 IR 261	675 IAC 13-2.4-143	28 IR 1535	Indiana Electrical Code, 2005 Edition	
Podiatric Services		Section 2109.5.5.2; additional provisions		675 IAC 17-1.7	28 IR 1855
Prior authorization		675 IAC 13-2.4-201.5	28 IR 1536	FIRE PREVENTION CODES	
405 IAC 5-26-5	28 IR 262	Section 2110.1.1; limitations		Indiana Fire Code, 1998 Edition	
Prior Authorization		675 IAC 13-2.4-201.7	28 IR 1536	675 IAC 22-2.2-26	28 IR 1029
Services requiring prior authorization		Section 2304.11.9; underfloor ventilation (crawl-space)		Indiana Fire Code, 2003 Edition	
405 IAC 5-3-13	28 IR 260	675 IAC 13-2.4-213.3	28 IR 1536	Section 308.3.6; Group A occupancies	
FIRE PREVENTION AND BUILDING SAFETY COMMISSION		Section 2306.1; allowable stress design		675 IAC 22-2.3-29.5	27 IR 2860
		675 IAC 13-2.4-213.5	28 IR 1536	Section 315.2.1; ceiling clearance	
		Section 2308.2.1; basic wind speed greater than 100 mph (3-second gust)		675 IAC 22-2.3-35.5	27 IR 2860
		675 IAC 13-2.4-214.2	28 IR 1537	Section 316; outdoor carnivals and fairs	
BUILDING CODES		Section 3104.5; fire barriers between pedestrian walkways and buildings		675 IAC 22-2.3-36	27 IR 2860
	2003 Indiana Building Code	675 IAC 13-2.4-228.5	28 IR 1538	Section 317; haunted houses and similar temporary installations	
	Section 307.2; definitions	Table 601; fire resistance rating for building elements (hours)		675 IAC 22-2.3-36.3	27 IR 2860
	675 IAC 13-2.4-10	675 IAC 13-2.4-43.2	28 IR 1531	Section 318; fire safety in race track stables	
Section 310.1; residential Group R		Table 719.1(2); rated fire-resistive periods for various walls and partitions		675 IAC 22-2.3-36.4	27 IR 2861
675 IAC 13-2.4-19	28 IR 1529	675 IAC 13-2.4-47	28 IR 1531	Section 403.3; fire watch	
Section R310.2; definitions		Table 1003.2.2.2; maximum floor area allowances per occupant		675 IAC 22-2.3-36.6	27 IR 2863
675 IAC 13-2.4-20	28 IR 1530	675 IAC 13-2.4-96.5	28 IR 1533	Section 403.4; overcrowding	
Section 311.3; low-hazard storage		Table 1505.1; minimum roof covering classification for types of construction		675 IAC 22-3.1.3.4; access-controlled egress doors	
675 IAC 13-2.4-22	28 IR 1530	675 IAC 13-2.4-118	28 IR 1534	675 IAC 22-2.3-140.5	27 IR 2863
Section 402.6; types of construction		Table 1507.2; asphalt shingle application		Section 1005.3.2.2	
675 IAC 13-2.4-24.3	28 IR 1530	675 IAC 13-2.4-118.4	28 IR 1534	675 IAC 22-2.3-147.5	27 IR 2863
Section 412.2.6; fire suppression		Table 1607.1; minimum uniformly distributed live loads and minimum concentrated live loads		Section 147.6; fire escapes	
675 IAC 13-2.4-32.5	28 IR 1530	675 IAC 13-2.4-122	28 IR 1534	675 IAC 22-2.3-147.6	27 IR 2863
Section 506.1; general		Table 1617.6; design coefficients and factors for basic seismic-force resisting systems		Section 1008.10; seat stability	
675 IAC 13-2.4-40.5	28 IR 1530	675 IAC 13-2.4-132.5	28 IR 1535	675 IAC 22-2.3-148	27 IR 2864
Section 506.2; frontage increase		Table 1904.4.1; maximum chloride ion content for corrosion protection of reinforcement		Section 1008.10.1; chairs and benches	
675 IAC 13-2.4-40.6	28 IR 1531	675 IAC 13-2.4-180.5	28 IR 1536	675 IAC 22-2.3-148.5	27 IR 2864
Section 506.3; automatic sprinkler system increase		Table 2304.6.1; minimum thickness of wall sheathing		Section 2416.1; crowd managers	
675 IAC 13-2.4-41.5	28 IR 1531	675 IAC 13-2.4-210.3	28 IR 1536	675 IAC 22-2.3-237.5	27 IR 2864
Section 507.7; Group E buildings		Table 2304.9.1; fastening schedule		Section 3404.3.2.3; number of storage cabinets	
675 IAC 13-2.4-42.7	28 IR 1531	675 IAC 13-2.4-210.5	28 IR 1536	675 IAC 22-2.3-298.5	27 IR 2864
Section 702.1; definitions		Table 2306.4.1; allowable shear (pounds per foot) for wood structural panel shear walls with framing for Douglas-fir-larch, or southern pine for wind or seismic loading		Section 3405.3.7.5.3; spill control and secondary containment	
675 IAC 13-2.4-43.6	28 IR 1531	675 IAC 13-2.4-213.7	28 IR 1536	675 IAC 22-2.3-304.5	27 IR 2864
Section 902; definitions		Table 2308.8(1); floor joist spans for common lumber species		FUEL GAS CODE	
675 IAC 13-2.4-55	28 IR 1533	675 IAC 13-2.4-214.4	28 IR 1537	Indiana Fuel Gas Code, 2003 Edition	
Section 903.2.1.3; Group A-3		Table 2308.9.5; header and girder spans for exterior walls (maximum header span for Douglas fir-larch, hem-fir, southern pine, and spruce-pine-fir and required jack studs)		Figure 308.2(3)	
675 IAC 13-2.4-55.5	28 IR 1533	675 IAC 13-2.4-214.6	28 IR 1537	675 IAC 25-1-7.4	28 IR 1310
Section 903.3.1.1; NFPA 13 sprinkler system		Table 2308.9.6; header and girder spans for exterior walls (maximum header span for Douglas fir-larch, hem-fir, southern pine, and spruce-pine-fir and required jack studs)		Section 403.11; plastic piping, joints, and fittings	
675 IAC 13-2.4-56.5	28 IR 1533			675 IAC 25-1-7.6	28 IR 1310
Section 1003.3.3; stairways				Section 503.5.3; masonry chimneys	
675 IAC 13-2.4-105.6	28 IR 1533			675 IAC 25-1-9.1	28 IR 1310
Section 1004.3.2.1; construction				Section 503.6.9.1; Category I appliances	
675 IAC 13-2.4-107.3	28 IR 1534			675 IAC 25-1-9.5	28 IR 1310
Section 1005.3.2; vertical exit enclosures				Section 503.7.5; roof penetrations	
675 IAC 13-2.4-107.5	28 IR 1534			675 IAC 25-1-9.7	28 IR 1310
Section 1005.3.5.1; separation				Section 504.2.9; chimney and vent locations	
675 IAC 13-2.4-107.6	28 IR 1534			675 IAC 25-1-9.9	28 IR 1310
Section 1605.4; special seismic load combination				Table 308.2	
675 IAC 13-2.4-121.5	28 IR 1534			675 IAC 25-1-7.2	28 IR 1309
Section 1607.4; concentrated loads				Table/Figure 503.6.6	
675 IAC 13-2.4-122.5	28 IR 1535			675 IAC 25-1-9.3	28 IR 1310
Section 1616.2.3; Seismic Use Group III				INDIANA VISITABILITY RULE FOR ONE AND TWO FAMILY DWELLINGS AND TOWNHOUSES	
675 IAC 13-2.4-132	28 IR 1535			675 IAC 27	28 IR 1538
Section 1617.4.1.1; calculation of seismic response coefficient				INDUSTRIALIZED BUILDING SYSTEMS	
675 IAC 13-2.4-132.3	28 IR 1535			Administrative Rules for Industrialized Building Systems and Mobile Structures	
Section 1621.1; component importance factor				675 IAC 15-1.2	28 IR 1039
675 IAC 13-2.4-133.5	28 IR 1535				
Section 1621.2.1; architectural component forces and displacements					
675 IAC 13-2.4-134.5	28 IR 1535				

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Certification of Industrialized Building Systems and Mobile Structures without Indiana Certification					
675 IAC 15-1.4	28 IR 1047				
In-Plant Inspection Enforcement and Indiana Seal of Acceptance Affixed for Industrialized Building System and Mobile Structures					
675 IAC 15-1.3	28 IR 1046				
Sanctions Regarding Design Release, Seals of Acceptance and Third Party Inspection Agencies					
675 IAC 15-1.7	28 IR 1052				
Schedule of Fees for Industrialized Building Systems and Mobile Structures					
675 IAC 15-1.6	28 IR 1051				
Third Party Inspection Agency Authorization					
675 IAC 15-1.5	28 IR 1049				
Title; Purpose; Applicability; Definitions					
675 IAC 15-1.1	28 IR 1037				
MECHANICAL CODE					
Indiana Mechanical Code, 2003 Edition					
Section 304.3; elevation of ignition source					
675 IAC 18-1.4-10.5	28 IR 1309				
Section 310; explosion venting					
675 IAC 18-1.4-11.5	28 IR 1309				
Section 607.5.4; corridors/smoke barriers					
675 IAC 18-1.4-32.3	28 IR 1309				
Section 607.5.5.1; penetrations of shaft enclosures					
675 IAC 18-1.4-32.5	28 IR 1309				
Section 1403.2; flammable gases and liquids					
675 IAC 18-1.4-49.5	28 IR 1309				
ONE AND TWO FAMILY DWELLING CODE					
Indiana Residential Code					
675 IAC 14-4.3	28 IR 268				
Section E3305.6; illumination					
675 IAC 14-4.3-212	28 IR 1850				
Section E3307.1; grounded conductors					
675 IAC 14-4.3-213.5	28 IR 1850				
Section E3401; general					
675 IAC 14-4.3-214	28 IR 1850				
Section E3501.6.2; service disconnect locations					
675 IAC 14-4.3-215	28 IR 1851				
Section E3508.1; grounding electrode system					
675 IAC 14-4.3-219.3	28 IR 1851				
Section E3509.7; bonding other metal piping					
675 IAC 14-4.3-219.5	28 IR 1851				
Section E3509.8; factory-built fireplace bonding					
675 IAC 14-4.3-219.6	28 IR 1851				
Section E3510.1; installation					
675 IAC 14-4.3-219.7	28 IR 1851				
Section E3510.2; enclosures for grounding electrode conductors					
675 IAC 14-4.3-219.8	28 IR 1852				
Section E3603.1; branch circuits for heating					
675 IAC 14-4.3-225.2	28 IR 1852				
Section E3701.4; allowable applications for wiring methods					
675 IAC 14-4.3-226.1	28 IR 1852				
Section E3702.4; in unfinished basements					
675 IAC 14-4.3-226.5	28 IR 1852				
Section E3703.3; grounding					
675 IAC 14-4.3-226.6	28 IR 1852				
Section E3703.4; protection from damage					
675 IAC 14-4.3-227	28 IR 1852				
Section E3801.4.1; wall counter space					
675 IAC 14-4.3-228.5	28 IR 1852				
Section E3801.6; bathroom					
675 IAC 14-4.3-230	28 IR 1853				
Section E3801.11; HVAC outlet					
675 IAC 14-4.3-232	28 IR 1853				
Section E3802.7; bar sink receptacles					
675 IAC 14-4.3-232.5	28 IR 1853				
Section E3802.8; boathouse receptacles					
675 IAC 14-4.3-233	28 IR 1853				
Section E3802.11; bedroom outlets					
675 IAC 14-4.3-234	28 IR 1853				
Section E3805.12.2.1; conductor fill					
675 IAC 14-4.3-238.5	28 IR 1854				
Section E3806.8.2.1; nails					
675 IAC 14-4.3-240	28 IR 1854				
Section E3807.2; damp or wet locations					
675 IAC 14-4.3-240.5	28 IR 1854				
Section E3807.7; cables					
675 IAC 14-4.3-241	28 IR 1854				
Section E3808.8.3; nonmetallic sheathed cable					
675 IAC 14-4.3-243.5	28 IR 1854				
Section E3902.10; wet locations other than outdoors					
675 IAC 14-4.3-246	28 IR 1855				
Section E3902.11; bathtub and shower space					
675 IAC 14-4.3-246.5	28 IR 1855				
Section E3903.10; bathtub and shower areas					
675 IAC 14-4.3-247.5	28 IR 1855				
Section E4103.1.3; GFCI protection					
675 IAC 14-4.3-248.5	28 IR 1855				
Section E4107.2; ground-fault circuit-interrupters required					
675 IAC 14-4.3-253.5	28 IR 1855				
Section E4107.4; receptacle locations					
675 IAC 14-4.3-253.7	28 IR 1855				
Section G2411.1; gas pipe bonding					
675 IAC 14-4.3-155.5	28 IR 1850				
Section R316.2; guard opening limitations					
675 IAC 14-4.2-30	27 IR 2333				
	28 IR 562				
Section R1004.1; general					
675 IAC 14-4.3-136.5	28 IR 1850				
Table R703.4; weather-resistant siding attachment and minimum thickness					
675 IAC 14-4.2-89.2	27 IR 2333				
	28 IR 562				
REGULATED EXPLOSIVES; USE AND LICENSURE					
675 IAC 26	28 IR 1031				
FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION, BOARD OF PERSONNEL STANDARDS AND EDUCATION					
General Administrative Rule					
Certifications under this rule; requirements					
655 IAC 1-1-5.1	28 IR 1009				
Mandatory Training Requirements					
General requirements for firefighter mandatory training					
655 IAC 1-4-2	28 IR 1028				
Training for Voluntary Certification Program (1996)					
Basic Firefighter requirements					
655 IAC 1-2.1-3	28 IR 1012				
Confined Space Rescuer-Awareness					
655 IAC 1-2.1-75.3	28 IR 1020				
Confined Space Rescuer-Operations					
655 IAC 1-2.1-100	28 IR 1023				
Confined Space Rescuer-Technician					
655 IAC 1-2.1-101	28 IR 1024				
Driver/Operator-Aerial					
655 IAC 1-2.1-6.1	28 IR 1013				
Driver/Operator-Aircraft Crash and Rescue					
655 IAC 1-2.1-6.3	28 IR 1014				
Driver/Operator-Mobile Water Supply					
655 IAC 1-2.1-6.4	28 IR 1014				
Driver/Operator-Pumper					
655 IAC 1-2.1-6	28 IR 1013				
Driver/Operator-Wildland Fire Apparatus					
655 IAC 1-2.1-6.2	28 IR 1013				
Firefighter I					
655 IAC 1-2.1-4	28 IR 1012				
Firefighter II					
655 IAC 1-2.1-5	28 IR 1012				
Firefighter-Wildland Fire Suppression I					
655 IAC 1-2.1-23	28 IR 1018				
Firefighter-Wildland Fire Suppression II					
655 IAC 1-2.1-23.1	28 IR 1018				
Fire Inspector I					
655 IAC 1-2.1-12	28 IR 1017				
Fire Inspector II					
655 IAC 1-2.1-13	28 IR 1017				
Fire Inspector III					
655 IAC 1-2.1-14	28 IR 1017				
Fire Investigator I					
655 IAC 1-2.1-15	28 IR 1017				
Fire Officer I					
655 IAC 1-2.1-8	28 IR 1016				
Fire Officer II					
655 IAC 1-2.1-9	28 IR 1016				
Fire Officer III					
655 IAC 1-2.1-10	28 IR 1016				
Fire Officer IV					
655 IAC 1-2.1-11	28 IR 1017				
Fire Officer-Strategy and Tactics					
655 IAC 1-2.1-7.1	28 IR 1014				
Hazardous Materials First Responder-Awareness					
655 IAC 1-2.1-24	28 IR 1019				
Hazardous Materials First Responder-Operations					
655 IAC 1-2.1-24.1	28 IR 1019				
Hazardous Materials-Incident Command					
655 IAC 1-2.1-24.3	28 IR 1019				
Hazardous Materials-Technician					
655 IAC 1-2.1-24.2	28 IR 1019				
Instructor II/III					
655 IAC 1-2.1-20	28 IR 1018				
Rope Rescuer Awareness					
655 IAC 1-2.1-75	28 IR 1020				
Rope Rescuer Operations					
655 IAC 1-2.1-96	28 IR 1022				
Rope Rescuer-Technician					
655 IAC 1-2.1-97	28 IR 1022				
Safety Officer					
655 IAC 1-2.1-22	28 IR 1018				

CITATIONS TO FINAL RULES ARE IN BOLD TYPE

Structural Collapse Rescuer-Awareness 655 IAC 1-2.1-75.4 28 IR 1021	CONDUCT OF GAMING Rules of Game; General Provisions Table limits 68 IAC 10-1-5 27 IR 3110 28 IR 527	MOVEMENT OF GAMING EQUIPMENT Electronic Gaming Device Movements Reports by the executive director 68 IAC 17-1-5 27 IR 3114 28 IR 531
Structural Collapse Rescuer-Operations 655 IAC 1-2.1-102 28 IR 1024	CREDIT General Provisions Reports by the executive director 68 IAC 16-1-16 27 IR 3113 28 IR 531	Live Gaming Device Movements Reports by the executive director 68 IAC 17-2-6 27 IR 3114 28 IR 531
Structural Collapse Rescuer-Technician 655 IAC 1-2.1-103 28 IR 1025	DISPUTE PROCEDURES Patron Dispute Procedures Patron dispute process 68 IAC 18-1-2 27 IR 3114 28 IR 531	PUBLIC SAFETY AND EXCURSIONS Excursions, Routes, and Public Safety Reports by the executive director 68 IAC 8-1-11 27 IR 3110 28 IR 527
Swift Water Rescuer-Awareness 655 IAC 1-2.1-76.1 28 IR 1022	Reports by the executive director 68 IAC 18-1-6 27 IR 3114 28 IR 532	Medical Services; Emergency Response Reports by the executive director 68 IAC 8-2-29 27 IR 3110 28 IR 527
Swift Water Rescuer-Operations 655 IAC 1-2.1-106 28 IR 1026	ETHICS Restriction on Gaming Reports by the executive director 68 IAC 9-4-8 27 IR 3110 28 IR 527	SECURITY AND SURVEILLANCE General Provisions for Surveillance System Reports by the executive director 68 IAC 12-1-15 27 IR 3111 28 IR 529
Swift Water Rescuer-Technician 655 IAC 1-2.1-107 28 IR 1027	GAMING EQUIPMENT Chip Specifications Destruction of chips 68 IAC 14-4-8 27 IR 3112 28 IR 529	TRANSFER OF OWNERSHIP Debt Acquisition Commission approval required; approval process 68 IAC 5-3-2 27 IR 3109 28 IR 526
Trench Rescuer-Awareness 655 IAC 1-2.1-75.5 28 IR 1021	Token Specifications Destruction of tokens 68 IAC 14-5-6 27 IR 3112 28 IR 529	Reports by the executive director 68 IAC 5-3-7 27 IR 3109 28 IR 527
Trench Rescuer-Operations 655 IAC 1-2.1-104 28 IR 1025		
Trench Rescuer-Technician 655 IAC 1-2.1-105 28 IR 1026		
Vehicle and Machinery Rescuer-Awareness 655 IAC 1-2.1-75.2 28 IR 1020		
Vehicle and Machinery Rescuer-Operations 655 IAC 1-2.1-98 28 IR 1023		
Vehicle and Machinery Rescuer-Technician 655 IAC 1-2.1-99 28 IR 1023		
Wilderness Rescuer-Awareness 655 IAC 1-2.1-108 28 IR 1027		
Wilderness Rescuer-Operations 655 IAC 1-2.1-109 28 IR 1027		
Wilderness Rescuer-Technician 655 IAC 1-2.1-110 28 IR 1027		
GAMING COMMISSION, INDIANA	GENERAL PROVISIONS Transfer of Ownership Obligation to report certain events 68 IAC 1-5-1 27 IR 3115 28 IR 532	GEOLOGISTS, INDIANA BOARD OF LICENSURE FOR PROFESSIONAL PROFESSIONAL GEOLOGISTS Code of Ethics 305 IAC 1-5 27 IR 217 28 IR 13
ACCOUNTING RECORDS AND PROCE- DURES	INTERNAL CONTROL PROCEDURES General Provisions Reports by the executive director 68 IAC 11-1-8 27 IR 3110 28 IR 528	Definitions "Professional geological work" defined 305 IAC 1-2-6 27 IR 216 28 IR 12
Admission Tax	Soft Count Procedure General Provisions 68 IAC 11-3-1 27 IR 3110 28 IR 528	Issuance, Renewal, and Denial of Geologist Licensure Issuance of a renewal certificate 305 IAC 1-3-4 27 IR 216 28 IR 12
Admissions	LICENSES AND APPROVAL OF ASSOCIATED EQUIPMENT Associated Equipment Reports by the executive director 68 IAC 2-7-12 27 IR 3109 28 IR 526	Special Provisions Publication of roster; responsibility of a licensed professional geologist to maintain a current address with the Indiana geologi- cal survey 305 IAC 1-4-2 27 IR 217 28 IR 13
Computation of tax 68 IAC 15-6-5 28 IR 239	Electronic Gaming Device Rules Reports by the executive director 68 IAC 2-6-49 27 IR 3109 28 IR 526	Seal and responsibilities of licensed profes- sional geologist for documents 305 IAC 1-4-1 27 IR 216 28 IR 12
Ticketing 68 IAC 15-6-3 28 IR 239	Occupational Licenses Duty to maintain suitability; duty to disclose 68 IAC 2-3-9 27 IR 3118 28 IR 535	
Cash Reserve Requirements and Distributions Cash reserve requirements 68 IAC 15-3-3 28 IR 237	Identification badge 68 IAC 2-3-6 27 IR 3117 28 IR 535	
General Provisions Reports by the executive director 68 IAC 15-1-8 27 IR 3112 28 IR 530	Licensing procedures 68 IAC 2-3-5 27 IR 3115 28 IR 533	HEALTH, INDIANA STATE DEPARTMENT OF FOOD AND DRUGS Schedule of civil penalties 410 IAC 7-23-1 27 IR 3301 28 IR 908
Main Bank Responsibilities Cage variances 68 IAC 15-10-4.1 27 IR 3113 28 IR 530		
Manually Paid Jackpots Pouch pay jackpots 68 IAC 15-13-2.5 27 IR 3113 28 IR 531		
Tips and Gratuities; Chips and Tokens Re- deemed by Nongaming Occupational Licens- ees Chips and tokens redeemed by nongaming occupational licensees 68 IAC 15-9-4 27 IR 3112 28 IR 530		
Wagering Tax Calculation of taxes 68 IAC 15-5-2 28 IR 237		

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Sanitary Standards for the Operation of Retail Food Establishments 410 IAC 7-24	27 IR 3216 28 IR 822	Fees 410 IAC 6-12-17	27 IR 3216 28 IR 821	LONG TERM CARE INSURANCE COVERAGE Application Forms and Replacement Coverage Any other health insurance policies	27 IR 3314 28 IR 571
HEALTH FACILITIES; LICENSING AND OPERATIONAL STANDARDS Comprehensive Care Facilities Dining assistants 410 IAC 16.2-3.1-53	27 IR 2545 28 IR 192	Official's signature; effective date 410 IAC 6-12-10	27 IR 3214 28 IR 820	Direct response solicitations 760 IAC 2-8-4	27 IR 3315 28 IR 572
Licenses 410 IAC 16.2-3.1-2	27 IR 2536 28 IR 182	Permit conditions 410 IAC 6-12-11	27 IR 3215 28 IR 820	Life insurance policies 760 IAC 2-8-6	27 IR 3315 28 IR 572
Personnel 410 IAC 16.2-3.1-14	27 IR 2542 28 IR 189	Permit requirement 410 IAC 6-12-7	27 IR 3213 28 IR 818	Notice regarding replacement of accident and sickness or long term care insurance 760 IAC 2-8-3	27 IR 3314 28 IR 571
Definitions "Dining assistant" defined 410 IAC 16.2-1.1-19.3	27 IR 2542 28 IR 189	"Person" defined 410 IAC 6-12-4	27 IR 3213 28 IR 818	Questions 760 IAC 2-8-1	27 IR 3314 28 IR 570
Resident Care Facilities Dining assistants 410 IAC 16.2-5-13	27 IR 2548 28 IR 194	Right of entry 410 IAC 6-12-9	27 IR 3214 28 IR 820	Definitions "Activities of daily living" defined 760 IAC 2-2-1.5	27 IR 3306 28 IR 563
Licenses 410 IAC 16.2-5-1.1	27 IR 2539 28 IR 185	Standards for issuance 410 IAC 6-12-12	27 IR 3215 28 IR 820	"Bathing" defined 760 IAC 2-2-3.1	27 IR 3307 28 IR 563
Personnel 410 IAC 16.2-5-1.4	27 IR 2547 28 IR 193	HOME INSPECTORS LICENSING BOARD 878 IAC	28 IR 1060	"Cognitive impairment" defined 760 IAC 2-2-3.2	27 IR 3307 28 IR 563
REPORTING Birth Problems Registry Reportable birth problems 410 IAC 21-3-9	28 IR 656	INFORMATION TECHNOLOGY OVERSIGHT COMMISSION, STATE 28 IAC	28 IR 986	"Contenance" defined 760 IAC 2-2-3.3	27 IR 3307 28 IR 564
Reporting requirements 410 IAC 21-3-8	28 IR 656	INSURANCE, DEPARTMENT OF GENERAL PROVISIONS Continuing Education Application requirements 760 IAC 1-50-4	27 IR 4136 28 IR 1482	"Department of insurance" defined 760 IAC 2-2-3.4	27 IR 3307 28 IR 564
SANITARY ENGINEERING Plan Review, Construction Permits, and Fees for Services "Absorption field" defined 410 IAC 6-12-1	27 IR 3212 28 IR 818	Continuing education credit hour defined 760 IAC 1-50-3	27 IR 4136 28 IR 1482	"Dressing" defined 760 IAC 2-2-3.5	27 IR 3307 28 IR 564
Applicability 410 IAC 6-12-0.5	27 IR 3212 28 IR 818	Requirements for self-study continuing education courses 760 IAC 1-50-5	27 IR 4137 28 IR 1483	"Eating" defined 760 IAC 2-2-3.6	27 IR 3307 28 IR 564
Application for construction permit 410 IAC 6-12-8	27 IR 3213 28 IR 819	Health Maintenance Organization Plan for Continuation of Benefits in the Event of Receivership 760 IAC 1-70	27 IR 2560 28 IR 314 28 IR 1480	"Federally tax-qualified long term care insurance contract" defined 760 IAC 2-2-3.7	27 IR 3307 28 IR 564
"Commissioner" defined 410 IAC 6-12-3	27 IR 3213 28 IR 818	Medical Malpractice Insurance Definitions 760 IAC 1-21-2	28 IR 1311	"Hands-on assistance" defined 760 IAC 2-2-3.8	27 IR 3308 28 IR 565
"Community wastewater disposal facility" defined 410 IAC 6-12-3.1	27 IR 3213 28 IR 818	Establishment of financial responsibility by ancillary provider or physician 760 IAC 1-21-3	28 IR 1311	"Skilled nursing care", intermediate care", "personal care", "home care", and "other services" defined 760 IAC 2-2-8	27 IR 3308 28 IR 565
Construction permit revocations and modifications 410 IAC 6-12-13	27 IR 3215 28 IR 820	Filings by health facilities 760 IAC 1-21-11	28 IR 1313	General Provisions Applicability and scope 760 IAC 2-1-1	27 IR 3306 28 IR 563
Denial of an application for construction permit 410 IAC 6-12-14	27 IR 3215 28 IR 821	Financial responsibility of hospital 760 IAC 1-21-5	28 IR 1311	Indiana Long Term Care Program Auditing and correcting deficiencies in issuer record keeping 760 IAC 2-20-42	27 IR 3335 28 IR 591
"Department" defined 410 IAC 6-12-3.2	27 IR 3213 28 IR 818	Payment into patient's compensation fund; annual surcharge 760 IAC 1-21-8	28 IR 1312	"Case management agency" defined 760 IAC 2-20-10	27 IR 3329 28 IR 585
		Retention of deposit during liability 760 IAC 1-21-4	28 IR 1311	Determining asset protection 760 IAC 2-20-38.1	27 IR 3334 28 IR 590
		Scope of coverage 760 IAC 1-21-10	28 IR 1313		

CITATIONS TO FINAL RULES ARE IN BOLD TYPE

Minimum benefit standards for qualifying policies, certificates, and riders 760 IAC 2-20-35	27 IR 3332 28 IR 588	Premiums 760 IAC 2-3-6	27 IR 3310 28 IR 567	Pull-tab game 027 LSA Document #04-332(E)	28 IR 1496
Minimum benefit standards and required policy and certificate provisions for integrated policies 760 IAC 2-20-36.1	27 IR 3332 28 IR 589	Unintentional lapse 760 IAC 2-3-8	27 IR 3311 28 IR 567	Pull-tab Game 028 LSA Document #05-16(E)	28 IR 1708
Minimum benefit standards and required policy and certificate provisions for long term care facility policies 760 IAC 2-20-36.2	27 IR 3333 28 IR 590	Purchase or Replacement Appropriateness of recommended purchase 760 IAC 2-16-1	27 IR 3320 28 IR 576	Pull-tab Game 029 LSA Document #05-17(E)	28 IR 1709
Reporting of insurance producer data 760 IAC 2-20-37.2	27 IR 3334 28 IR 590	Reporting Requirements Reporting 760 IAC 2-9-1	27 IR 3316 28 IR 572	SCRATCH-OFF GAMES Scratch-Off Game 723 LSA Document #04-238(E)	28 IR 217
Reporting of sales data 760 IAC 2-20-37.3	27 IR 3334 28 IR 590	Required Disclosure Provisions Renewability provisions 760 IAC 2-4-1	27 IR 3311 28 IR 568	Scratch-Off Game 724 LSA Document #04-239(E)	28 IR 218
"Residential care facility" defined 760 IAC 2-20-31.1	27 IR 3329 28 IR 586	Required disclosure of rating practices to consumers 760 IAC 2-4-2	27 IR 3312 28 IR 569	Scratch-Off Game 725 LSA Document #04-240(E)	28 IR 219
Standards for marketing 760 IAC 2-20-34	27 IR 3329 28 IR 586	Shopper's Guide Delivery 760 IAC 2-18-1	27 IR 3325 28 IR 582	Scratch-Off Game 726 65 IAC 4-348	28 IR 221
Inflation Protection Offer General provisions 760 IAC 2-7-1	27 IR 3313 28 IR 570	Standard Forms 760 IAC 2-19.5	27 IR 3325 28 IR 582	Scratch-Off Game 727 LSA Document #04-242(E)	28 IR 223
Licensing Licensing 760 IAC 2-10-1	27 IR 3316 28 IR 573	Suitability 760 IAC 2-15.5	27 IR 3319 28 IR 575	Scratch-Off Game 728 LSA Document #04-243(E)	28 IR 224
Loss Ratio Relevant factors 760 IAC 2-13-1	27 IR 3317 28 IR 573	LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR GENERAL PROVISIONS			
Marketing Standards 760 IAC 2-15-1	27 IR 3317 28 IR 574	Fees Fees charged by board 865 IAC 1-11-1	27 IR 2570 28 IR 605 28 IR 1059	Scratch-Off Game 729 65 IAC 4-350	28 IR 229
Nonforfeiture Benefit Requirement 760 IAC 2-16.1	27 IR 3320 28 IR 576	LOCAL GOVERNMENT FINANCE, DEPARTMENT OF ANNUAL ADJUSTMENTS			
Outline of Coverage Standard 760 IAC 2-17-1	27 IR 3323 28 IR 580	REMUNERATION FOR INITIAL TRAINING AND CONTINUING EDUCATION SESSIONS 50 IAC 20	27 IR 4050 28 IR 1452 27 IR 3603 28 IR 1458	Scratch-Off Game 730 LSA Document #04-244(E)	28 IR 226
Penalties Other sanctions 760 IAC 2-19-2	27 IR 3325 28 IR 582	LOTTERY COMMISSION, STATE PULL-TAB GAMES			
Policy Practices and Provisions Electronic enrollment 760 IAC 2-3-7	27 IR 3310 28 IR 567	Specific Pull-Tab Games Pull-tab game 020 LSA Document #04-250(E)	28 IR 227	Scratch-Off Game 731 LSA Document #04-280(E)	28 IR 972
Exclusions 760 IAC 2-3-2	27 IR 3308 28 IR 565	Pull-tab game 021 LSA Document #04-251(E)	28 IR 228	Scratch-Off Game 732 LSA Document #04-281(E)	28 IR 973
Group long term care policies 760 IAC 2-3-4	27 IR 3309 28 IR 566	Pull-tab game 022 LSA Document #04-265(E)	28 IR 613	Scratch-Off Game 733 LSA Document #04-282(E)	28 IR 974
Individual long term care policies 760 IAC 2-3-1	27 IR 3308 28 IR 565	Pull-tab game 023 LSA Document #04-266(E)	28 IR 614	Scratch-Off Game 734 65 IAC 4-349	28 IR 975
		Pull-tab game 024 LSA Document #04-306(E)	28 IR 1192	Scratch-Off Game 735 65 IAC 4-352	28 IR 978
		Pull-tab game 025 LSA Document #04-305(E)	28 IR 1191	Scratch-Off Game 736 LSA Document #04-301(E)	28 IR 1186
		Pull-tab game 026 LSA Document #04-331(E)	28 IR 1495	Scratch-Off Game 737 LSA Document #04-302(E)	28 IR 1187
				Scratch-Off Game 738 LSA Document #04-303(E)	28 IR 1188
				Scratch-Off Game 739 LSA Document #04-304(E)	28 IR 1189
				Scratch-Off Game 740 LSA Document #04-326(E)	28 IR 1488
				Scratch-Off Game 741 LSA Document #04-327(E)	28 IR 1489
				Scratch-Off Game 742 LSA Document #04-328(E)	28 IR 1491
				Scratch-Off Game 743 65 IAC 4-353	28 IR 1492
				Scratch-Off Game 744 LSA Document #05-7(E)	28 IR 1701
				Scratch-Off Game 745 LSA Document #05-8(E)	28 IR 1702
				Scratch-Off Game 746 LSA Document #05-9(E)	28 IR 1704
				Scratch-Off Game 747 LSA Document #05-6(E)	28 IR 1698
				Scratch-Off Game 748 LSA Document #05-10(E)	28 IR 1704
				THE COMMISSION	
				Ethics Contractor ethics restrictions 65 IAC 1-4-5.5	28 IR 217
				MANUFACTURED HOME INSTALLER LICENSING BOARD	
				879 IAC	28 IR 1548

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

**MEDICAL LICENSING BOARD OF INDIANA
HYPNOTIST COMMITTEE**

Standards of Competent Practice of Hypnotism
Professional practice
844 IAC 12-5-4 28 IR 316
28 IR 1693

**OCCUPATIONAL THERAPISTS AND OCCU-
PATIONAL THERAPY ASSISTANTS**

Certification
Mandatory registration; renewal
844 IAC 10-4-1 27 IR 2568
28 IR 211

**PHYSICAL THERAPISTS AND PHYSICAL
THERAPISTS' ASSISTANTS**

Admission to Practice
Applications for licensure as a physical thera-
pist or certification as a physical therapist's
assistant
844 IAC 6-3-4 27 IR 1637
28 IR 204

Licensure by endorsement
844 IAC 6-3-1 27 IR 1636
28 IR 203

Licensure by examination
844 IAC 6-3-2 27 IR 1636
28 IR 204

Social Security numbers
844 IAC 6-3-6 27 IR 1638
28 IR 205

Temporary permits
844 IAC 6-3-5 27 IR 1637
28 IR 205

General Provisions
Accreditation of educational programs
844 IAC 6-1-4 27 IR 1635
28 IR 203

Definitions
844 IAC 6-1-2 27 IR 1284
28 IR 209

Registration of Licensed Physical Therapists
and Physical Therapists' Assistants
Reinstatement of delinquent license
844 IAC 6-4-3 27 IR 1638
28 IR 206

Reinstatement of Suspended License
Duties of suspended licensees, certificate
holders
844 IAC 6-6-3 27 IR 1638
28 IR 206

Protection of patients' interest
844 IAC 6-6-4 27 IR 1639
28 IR 206

Standards of Professional Conduct
Standards of professional conduct and com-
petent practice
844 IAC 6-7-2 27 IR 1639
28 IR 206

**MENTAL HEALTH AND ADDICTION, DIVI-
SION OF**

**RESIDENTIAL LIVING FACILITIES FOR INDIV-
IDUALS WITH PSYCHIATRIC DISOR-
DERS OR ADDICTIONS**

Definitions
Definitions
440 IAC 7.5-1-1 28 IR 657

Fire and Life Safety Standards for Congregate
Residences for Persons with a Psychiatric
Disorder or an Addiction
Adoption by reference
440 IAC 7.5-10-3 28 IR 667

Application
440 IAC 7.5-10-2 28 IR 667

Scope
440 IAC 7.5-10-1 28 IR 667

Fire and Life Safety Standards for Facilities
Located in Apartment Buildings for Persons
with a Psychiatric Disorder or an Addiction
Adoption by reference
440 IAC 7.5-8-3 28 IR 666

Application
440 IAC 7.5-8-2 28 IR 666

Scope
440 IAC 7.5-8-1 28 IR 666

Fire and Life Safety Standards for One and Two
Family Dwellings for Persons with a Psychi-
atric Disorder or an Addiction
Adoption by reference
440 IAC 7.5-9-3 28 IR 667

Application
440 IAC 7.5-9-2 28 IR 666

Scope
440 IAC 7.5-9-1 28 IR 666

Fire and Life Safety Standards for Secure or
Locked Sub-Acute Facilities for Persons with
a Psychiatric Disorder or an Addiction That
Meets the Fire Prevention and Building
Safety Commission Requirements for an I-3
Occupancy
440 IAC 7.5-11 28 IR 667

Requirements for All Residential Living Facili-
ties in This Article
General overview
440 IAC 7.5-2-1 28 IR 660

Physical requirements
440 IAC 7.5-2-12 28 IR 661

Resident health and treatment
440 IAC 7.5-2-8 28 IR 661

Safety requirements
440 IAC 7.5-2-13 28 IR 662

Requirements Specific for Managed Care Pro-
viders and Community Mental Health Centers
Allowable expenses
440 IAC 7.5-3-7 28 IR 664

Calculation of resident living allowance
440 IAC 7.5-3-4 28 IR 664

Resident living allowance
440 IAC 7.5-3-3 28 IR 663

Sub-Acute and Supervised Group Living Facili-
ties
Requirements specific to a sub-acute facility
440 IAC 7.5-4-7 28 IR 664

Requirements specific to a supervised group
living facility
440 IAC 7.5-4-8 28 IR 665

Transitional Residential Facilities for Individu-
als with a Psychiatric Disorder or an Addic-
tion
Transitional residential facility
440 IAC 7.5-5-1 28 IR 665

NATURAL RESOURCES COMMISSION

ADJUDICATORY PROCEEDINGS

Procedural Rules
Filing and service of pleadings and docu-
ments
312 IAC 3-1-7 28 IR 1203

ENTOMOLOGY AND PLANT PATHOLOGY

Control of Pests or Pathogens
LSA Document #04-264(E) **28 IR 616**
LSA Document #04-307(E) **28 IR 1192**

Control of the emerald ash borer
312 IAC 18-3-18 28 IR 1201

Control of larger pine shoot beetles
LSA Document #04-258(E) **28 IR 615**
312 IAC 18-3-12 28 IR 1203

Control of the giant African land snail
312 IAC 18-3-19 28 IR 1521

FISH AND WILDLIFE

LSA Document #04-315(E) **28 IR 1195**
Birds
Endangered and threatened species; birds
312 IAC 9-4-14 27 IR 1952
28 IR 542

Geese
LSA Document #04-308(E) **28 IR 1194**
Ruffed grouse
312 IAC 9-4-10 27 IR 1951

Wild turkeys
312 IAC 9-4-11 27 IR 1951
28 IR 541
28 IR 1524

Definitions
"Ice fishing shelter" defined
312 IAC 9-1-9.5 27 IR 1946
28 IR 536

"Portable ice fishing shelter" defined
312 IAC 9-1-11.5 27 IR 1946
28 IR 536

Mammals
Beavers
312 IAC 9-3-11 27 IR 1949
28 IR 539

Commercial processing of deer
312 IAC 9-3-10 27 IR 1949
28 IR 539

Foxes, coyotes, and skunks
312 IAC 9-3-12 27 IR 1949
28 IR 539

General requirements for deer; exemptions;
tagging; tree blinds; maximum taking of
antlered deer in a calendar year
LSA Document #04-259(E) **28 IR 615**
LSA Document #04-260(E) **28 IR 616**
312 IAC 9-3-2 27 IR 1946
28 IR 536

Hunting deer by bow and arrows
LSA Document #04-285(E) **28 IR 981**
312 IAC 9-3-4 27 IR 1948
28 IR 538
28 IR 1523

Hunting deer by bow and arrows by authority
of an extra deer license
312 IAC 9-3-5 28 IR 1523

Hunting deer by firearms
312 IAC 9-3-3 27 IR 1947
28 IR 537

CITATIONS TO FINAL RULES ARE IN BOLD TYPE

Minks, muskrats, and long-tailed weasels 312 IAC 9-3-13 28 IR 540	Sport fishing methods, except on the Ohio River 312 IAC 9-7-2 27 IR 1957 28 IR 547	General provisions and application of definitions 312 IAC 17-3-1 27 IR 2532 28 IR 557
Opossums and raccoons 312 IAC 9-3-14 27 IR 1950 28 IR 540	Trout and salmon 312 IAC 9-7-13 27 IR 1960 28 IR 550	Permit issuance, expiration, revocation, denial, transfer, and review 312 IAC 17-3-4 27 IR 2533 28 IR 558
Squirrels 312 IAC 9-3-17 27 IR 1950 28 IR 540	Sport Fishing, Commercial Fishing; Definitions, Restrictions, and Standards Endangered and threatened species of fish 312 IAC 9-6-9 27 IR 1957 28 IR 547	Reports 312 IAC 17-3-9 27 IR 2534 28 IR 558
Taking beavers, minks, muskrats, long-tailed weasels, red foxes, gray foxes, opossums, skunks, raccoons, or squirrels to protect property 312 IAC 9-3-15 27 IR 1950 28 IR 540	Wild Animal Possession Permits Applicability 312 IAC 9-11-1 27 IR 1964 28 IR 554	Shothole plugging; surface reclamation 312 IAC 17-3-8 27 IR 2534 28 IR 558
Reptiles and Amphibians Collection and possession of reptiles and amphibians native to Indiana 312 IAC 9-5-6 27 IR 1953 28 IR 543	First permit to possess a wild animal 312 IAC 9-11-2 27 IR 1965 28 IR 555	PROCEDURES AND DELEGATIONS Organized Activities and Tournaments on Designated Public Waters; Administration License application 312 IAC 2-4-6 28 IR 626
Endangered and threatened species; reptiles and amphibians 312 IAC 9-5-4 27 IR 1953 28 IR 542 28 IR 1525	Maintaining a wild animal possessed under this rule 312 IAC 9-11-14 27 IR 1965 28 IR 555	Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs 312 IAC 2-4-12 27 IR 3604 28 IR 1460
Reptile captive breeding license 312 IAC 9-5-9 27 IR 1955 28 IR 545 28 IR 1528	GREAT LAKES BASIN WATER MANAGEMENT 312 IAC 6.2 27 IR 3119 28 IR 1459	Limitations on organized boating activities at Sylvan Lake, Noble County 312 IAC 2-4-14 28 IR 626
Sale and transport for sale of reptiles and amphibians native to Indiana 312 IAC 9-5-7 27 IR 1953 28 IR 543 28 IR 1526	LAKE CONSTRUCTION ACTIVITIES Definitions "Bulkhead seawall" defined 312 IAC 11-2-5 28 IR 1521	PUBLIC USE OF NATURAL AND RECREATIONAL AREAS LSA Document #04-262(E) 28 IR 616
Special purpose turtle possession permit 312 IAC 9-5-11 27 IR 1956 28 IR 546	"Group pier" defined 312 IAC 11-2-11.5 27 IR 4095 28 IR 1681	WATERCRAFT OPERATIONS ON PUBLIC WATERS OF INDIANA Specified Navigable Waterways Other Than Lake Michigan; Restrictions LSA Document #04-262(E) 28 IR 616
Restrictions and Standards Applicable to Wild Animals Possession of endangered species of mammals, nonmigratory birds, reptiles, amphibians, fish, and crayfish 312 IAC 9-2-15 28 IR 1522	Temporary Structures and Permanent Structures General licenses for qualified temporary structures; dry hydrants; glacial stone re-faces 312 IAC 11-3-1 27 IR 4095 28 IR 1681	Specified public freshwater lakes; restrictions Lake James Chain of Lakes; special watercraft zones 312 IAC 5-6-5 28 IR 240 28 IR 1680
Sale of endangered species 312 IAC 9-2-14 28 IR 1522	LAW ENFORCEMENT Other Standards and Practices Insurance board 312 IAC 4-6-6 28 IR 625	Lake Manitou; special watercraft zones 312 IAC 5-6-5.5 28 IR 989
Special Licenses; Permits and Standards Aquaculture permit 312 IAC 9-10-17 27 IR 1964 28 IR 554	OFF-ROAD VEHICLES AND SNOWMOBILES 312 IAC 6.5 27 IR 2767 28 IR 15	Watercraft Carrying Passengers for Hire Bilge pumps and bailout devices 312 IAC 5-14-11 27 IR 4103 28 IR 1464
Hunting permit for persons with disabilities 312 IAC 9-10-10 27 IR 1962 28 IR 552	OIL AND GAS Permits Permit applications 312 IAC 16-3-2 27 IR 4097 28 IR 1682	Certificate of inspection; issuance; posting; revocation 312 IAC 5-14-21 27 IR 4106 28 IR 1467
Special purpose educational permit 312 IAC 9-10-9.5 27 IR 1961 28 IR 551	Permit transfer 312 IAC 16-3-8 27 IR 4099 28 IR 1684	Cooking, heating, and lighting 312 IAC 5-14-19 27 IR 4105 28 IR 1467
Special purpose salvage permit 312 IAC 9-10-13.5 27 IR 1963 28 IR 553	OTHER PETROLEUM REGULATION Geophysical Surveying Applications 312 IAC 17-3-3 27 IR 2532 28 IR 557	Diesel engines; ventilation 312 IAC 5-14-6.1 27 IR 4102 28 IR 1463
Wild animal rehabilitation permit 312 IAC 9-10-9 27 IR 1960 28 IR 550	Bond type 312 IAC 17-3-6 27 IR 2533 28 IR 558	Electrical systems 312 IAC 5-14-9 27 IR 4103 28 IR 1464
Sport Fishing Black bass 312 IAC 9-7-6 27 IR 1959 28 IR 549	Definitions 312 IAC 17-3-2 27 IR 2532 28 IR 557	Fire extinguishers 312 IAC 5-14-17 27 IR 4104 28 IR 1465
		First aid equipment; emergency procedures 312 IAC 5-14-18 27 IR 4105 28 IR 1466

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Fixed fuel tanks 312 IAC 5-14-7	27 IR 4102 28 IR 1463	Curriculum; registered nurse programs 848 IAC 1-2-17	27 IR 2872 28 IR 600	NON-MERIT EMPLOYEES Hours and Leaves Sick leave; definition; accrual 31 IAC 1-9-4	27 IR 4049
Gasoline engines; ventilation 312 IAC 5-14-5.1	27 IR 4101 28 IR 1462	Educational resources 848 IAC 1-2-20	27 IR 2873 28 IR 601	PESTICIDE REVIEW BOARD, INDIANA DEFINITION; USE OF PESTICIDES Civil Penalty Assessment Schedule; Pesticide Registration Definitions 357 IAC 1-6-1	28 IR 253 28 IR 1689
Inspections of watercraft carrying passengers for hire 312 IAC 5-14-2	27 IR 4100 28 IR 1461	Eligible institutions 848 IAC 1-2-7	27 IR 2868 28 IR 596	Determining the violation number and count of violations to be assessed 357 IAC 1-6-4	28 IR 256 28 IR 1692
Main and auxiliary engines 312 IAC 5-14-4	27 IR 4100 28 IR 1462	Faculty 848 IAC 1-2-12	27 IR 2869 28 IR 598	Imposition of civil penalties 357 IAC 1-6-7	28 IR 257 28 IR 1693
Main engine gauges 312 IAC 5-14-15	27 IR 4103 28 IR 1465	Faculty qualifications; licensed practical nurse programs 848 IAC 1-2-14	27 IR 2870 28 IR 599	Notification of legal recourse 357 IAC 1-6-6	28 IR 256 28 IR 1693
Personal flotation devices (life preservers or life jackets) 312 IAC 5-14-16	27 IR 4104 28 IR 1465	Faculty qualifications; registered nurse pro- grams 848 IAC 1-2-13	27 IR 2870 28 IR 598	Penalty money collected 357 IAC 1-6-8	28 IR 257 28 IR 1693
Pilot's license on waters of concurrent juris- diction 312 IAC 5-14-22	27 IR 4106 28 IR 1468	Opening a program 848 IAC 1-2-1	27 IR 2866 28 IR 594	Potential penalty mitigation 357 IAC 1-6-5	28 IR 256 28 IR 1692
Portable battery operated light (flashlight) 312 IAC 5-14-20	27 IR 4106 28 IR 1467	Organization and administration 848 IAC 1-2-10	27 IR 2869 28 IR 597	Schedule 357 IAC 1-6-2	28 IR 254 28 IR 1690
Portable fuel tanks 312 IAC 5-14-8	27 IR 4102 28 IR 1464	Philosophy, mission, and objectives 848 IAC 1-2-9	27 IR 2869 28 IR 597	Civil Penalty Assessment Schedule; Pesticide Use and Applications Definitions 357 IAC 1-7-1	28 IR 249 28 IR 1685
Reciprocity for a Michigan certification 312 IAC 5-14-27	27 IR 4109 28 IR 1470	Progression and graduation 848 IAC 1-2-21	27 IR 2873 28 IR 601	Determining the violation number and count of violations to be assessed 357 IAC 1-7-4	28 IR 251 28 IR 1687
Watercraft carrying more than six passengers for hire 312 IAC 5-14-25	27 IR 4108 28 IR 1469	Records 848 IAC 1-2-24	27 IR 2874 28 IR 602	Imposition of civil penalties 357 IAC 1-7-7	28 IR 252 28 IR 1688
Watercraft carrying passengers for hire; ap- plication; delegation; exemptions; mainte- nance of equipment in a good and service- able condition 312 IAC 5-14-1	27 IR 4100 28 IR 1461	Records and program catalog 848 IAC 1-2-22	27 IR 2874 28 IR 602	Notification of legal recourse 357 IAC 1-7-6	28 IR 252 28 IR 1688
Watercraft carrying six or fewer passengers for hire on waters of concurrent jurisdiction 312 IAC 5-14-24	27 IR 4107 28 IR 1468	Reports to the board 848 IAC 1-2-23	27 IR 2874 28 IR 602	Penalty money collected 357 IAC 1-7-8	28 IR 252 28 IR 1689
NURSING, INDIANA STATE BOARD OF REGISTERED NURSES AND PRACTICAL NURSES Accreditation Accreditation status 848 IAC 1-2-5	27 IR 2866 28 IR 594	Survey visits 848 IAC 1-2-6	27 IR 2867 28 IR 595	Potential penalty mitigation 357 IAC 1-7-5	28 IR 252 28 IR 1688
Change of ownership 848 IAC 1-2-8	27 IR 2868 28 IR 596	Transfer of program to another controlling organization 848 IAC 1-2-8.5	27 IR 2868 28 IR 596	Schedule 357 IAC 1-7-2	28 IR 250 28 IR 1686
Clinical experience; all programs 848 IAC 1-2-19	27 IR 2873 28 IR 601	Definitions; Administration Definitions 848 IAC 1-1-2.1	27 IR 2865 28 IR 593	PHARMACY, INDIANA BOARD OF PHARMACIES AND PHARMACISTS Sterile Pharmaceuticals; Preparation and Dis- pensing "Biological safety cabinet" defined 856 IAC 1-30-2	28 IR 317
Curriculum; all programs 848 IAC 1-2-16	27 IR 2871 28 IR 599	Licensure by endorsement 848 IAC 1-1-7	28 IR 675	"Class 100 environment" defined 856 IAC 1-30-3	28 IR 318
Curriculum; licensed practical nurse program 848 IAC 1-2-18	27 IR 2872 28 IR 600	Licensure by examination 848 IAC 1-1-6	28 IR 674	"Hazardous" defined 856 IAC 1-30-4.1	28 IR 318
OPINIONS OF THE ATTORNEY GENERAL (See Cumulative Table of Executive Orders and Attorney General's Opinions at 28 IR 1412)		PERSONNEL DEPARTMENT, STATE MERIT EMPLOYEES Hours and Leave Sick leave 31 IAC 2-11-4	27 IR 4049		

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Hazardous drugs		REAL ESTATE COMMISSION, INDIANA	SOLID WASTE MANAGEMENT ACTIVITY
856 IAC 1-30-17	28 IR 321	REAL ESTATE APPRAISER LICENSURE AND	REGISTRATION
"ISO" defined		CERTIFICATION	Solid Waste Facility Operator Testing Require-
856 IAC 1-30-4.2	28 IR 318	General Provisions	ments
"NSF" defined		Fee schedule	Examination requirements for Category II
856 IAC 1-30-4.3	28 IR 318	876 IAC 3-2-7	certification
"Parenteral" defined			329 IAC 12-8-4
856 IAC 1-30-4.4	28 IR 318		27 IR 3696
Personnel		Standards of Practice for Appraisers	Examination requirements for Category III
856 IAC 1-30-9	28 IR 320	Deletions from the Uniform Standards of	certification
Physical requirements		Professional Appraisal Practice	329 IAC 12-8-5
856 IAC 1-30-8	28 IR 319	876 IAC 3-6-3	27 IR 3697
Policy and procedure manual		Uniform Standards of Professional Appraisal	Solid Waste Facility Operator Training Require-
856 IAC 1-30-7	28 IR 319	Practice	ments
"Positive patient outcome" defined		876 IAC 3-6-2	Accredited training course requirements for
856 IAC 1-30-4.5	28 IR 318		recertification
"Product quality and characteristics" defined		REAL ESTATE COURSES AND LICENSING	329 IAC 12-9-2
856 IAC 1-30-4.6	28 IR 318	REQUIREMENTS FOR BROKERS AND	27 IR 3698
Quality assurance		SALESPERSONS	UNDERGROUND STORAGE TANKS
856 IAC 1-30-18	28 IR 321	Fee Schedule	Applicability; definitions
Records and reports		876 IAC 2-18	"Agency" defined
856 IAC 1-30-14	28 IR 320		329 IAC 9-1-4
"Sterile pharmaceutical" defined			26 IR 1209
856 IAC 1-30-6	28 IR 319		27 IR 3177
			28 IR 145
PODIATRIC MEDICINE, BOARD OF		REVENUE, DEPARTMENT OF STATE	Applicability
PODIATRISTS		CHARITY GAMING	329 IAC 9-1-1
Admission to Practice		45 IAC 20	26 IR 1209
Continuing Education		Charity Gaming	27 IR 3177
Approval of continuing education programs		Specific uses of proceeds	28 IR 145
845 IAC 1-5-3	28 IR 317	45 IAC 18-3-8.1	"Change-in-service" defined
		Use of proceeds	329 IAC 9-1-10.4
		45 IAC 18-3-7.1	26 IR 1209
		UTILITY RECEIPTS TAX	27 IR 3177
		45 IAC 1.3	28 IR 146
			27 IR 3178
			28 IR 146
			"Chemical of concern" defined
			329 IAC 9-1-10.6
			26 IR 1209
			27 IR 3178
			28 IR 146
			"Closure" defined
			329 IAC 9-1-10.8
			26 IR 1210
			27 IR 3178
			28 IR 146
			"Consumptive use" defined
			329 IAC 9-1-14
			26 IR 1210
			27 IR 3178
			28 IR 146
			"Contaminant" defined
			329 IAC 9-1-14.3
			26 IR 1210
			27 IR 3178
			28 IR 146
			"Corrective action" defined
			329 IAC 9-1-14.5
			26 IR 1210
			27 IR 3178
			28 IR 146
			"Corrective action plan" defined
			329 IAC 9-1-14.7
			26 IR 1210
			27 IR 3178
			28 IR 146
			"Hazardous substance UST system" defined
			329 IAC 9-1-25
			26 IR 1210
			27 IR 3178
			28 IR 146
			"Hydraulic lift tank" defined
			329 IAC 9-1-27
			26 IR 1210
			27 IR 3178
			28 IR 147
			"Petroleum UST system" defined
			329 IAC 9-1-36
			26 IR 1210
			27 IR 3179
			28 IR 147
			"Piezometer" defined
			329 IAC 9-1-36.5
			27 IR 3179
			28 IR 177

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

“Removal closure” defined		Free product removal		Upgrading of Existing UST Systems	
329 IAC 9-1-39.5	26 IR 1211	329 IAC 9-5-4.2	26 IR 1224	Upgrading of existing UST systems	
	27 IR 3179		27 IR 3192	329 IAC 9-2.1-1	26 IR 1215
	28 IR 147		28 IR 160		27 IR 3183
“SARA” defined		Further site investigations for soil and ground		28 IR 151	
329 IAC 9-1-41.5	26 IR 1211	water cleanup		USED OIL MANAGEMENT	
	27 IR 3179	329 IAC 9-5-6	26 IR 1226	Applicability	
	28 IR 147		27 IR 3196	Applicability	
“Underground release” defined		Initial abatement measures and site check		329 IAC 13-3-1	26 IR 1673
329 IAC 9-1-47	26 IR 1211	329 IAC 9-5-3.2	26 IR 1223		27 IR 3978
	27 IR 3179		27 IR 3191	Marketing used oil containing any quantifi-	27 IR 4115
	28 IR 147		28 IR 160	able level of PCB	
“Underground storage tank” defined		Initial response		329 IAC 13-3-4	27 IR 4116
329 IAC 9-1-47.1	26 IR 1211	329 IAC 9-5-2	26 IR 1223	Used Oil Fuel Marketers	
	27 IR 3179		27 IR 3191	Tracking	
	28 IR 147		28 IR 160	329 IAC 13-9-5	27 IR 4117
Closure		Initial site characterization		TAX REVIEW, INDIANA BOARD OF	
Applicability		329 IAC 9-5-5.1	26 IR 1224	LSA Document #04-261(E)	28 IR 612
329 IAC 9-6-1	26 IR 1229		27 IR 3193	LSA Document #04-330(E)	28 IR 1487
	27 IR 3199		28 IR 161	UNDERGROUND STORAGE TANK	
	28 IR 168	Performance Standards		FINANCIAL ASSURANCE BOARD	
Applicability to previously closed UST sys-		New UST systems		PAYMENT OF CORRECTIVE ACTION AND	
tems		329 IAC 9-2-1	26 IR 1211	THIRD PARTY LIABILITY CLAIMS FROM	
329 IAC 9-6-3	26 IR 1234		27 IR 3179	THE EXCESS LIABILITY TRUST FUND	
	27 IR 3204		28 IR 147	Claims	
	28 IR 172	Notification requirements		Applications for payment of reimbursable	
Closure procedure		329 IAC 9-2-2	26 IR 1214	costs	
329 IAC 9-6-2.5	26 IR 1230		27 IR 3182	328 IAC 1-5-1	27 IR 2795
	27 IR 3200		28 IR 150		28 IR 142
	28 IR 168	Release Detection		Deemed approved; reimbursement of costs	
Closure records		General requirements for all UST systems		328 IAC 1-5-3	27 IR 2796
329 IAC 9-6-4	26 IR 1234	329 IAC 9-7-1	26 IR 1235		28 IR 143
	27 IR 3204		27 IR 3205	Fund payment procedures; eligibility	
	28 IR 173		28 IR 173	preapproval	
Temporary closure		Methods of release detection for piping		328 IAC 1-5-2	27 IR 2796
329 IAC 9-6-5	26 IR 1235	329 IAC 9-7-5	27 IR 3209		28 IR 142
	27 IR 3205		28 IR 177	Definitions and References	
	28 IR 173	Methods of release detection for tanks		“Administrator” defined	
General Operating Requirements		329 IAC 9-7-4	26 IR 1237	328 IAC 1-1-2	27 IR 2778
Compatibility			27 IR 3206		28 IR 123
329 IAC 9-3.1-3	26 IR 1219	Requirements for petroleum UST systems		“Corrective action” defined	
	27 IR 3188	329 IAC 9-7-2	26 IR 1236	328 IAC 1-1-3	27 IR 2778
	28 IR 156		27 IR 3206		28 IR 123
Operation and maintenance of corrosion			28 IR 174	“Deductible amount” defined	
protection				328 IAC 1-1-4	27 IR 2778
329 IAC 9-3.1-2	26 IR 1219	Releases			28 IR 124
	27 IR 3187	Release investigations and confirmation steps		“Emergency measures” defined	
	28 IR 155	329 IAC 9-4-3	26 IR 1220	328 IAC 1-1-5.1	27 IR 2778
Repairs and maintenance allowed			27 IR 3189		28 IR 124
329 IAC 9-3.1-4	26 IR 1219		28 IR 157	“Off-site” defined	
	27 IR 3188	Reporting and cleanup of spills and overfills		328 IAC 1-1-7.5	27 IR 2779
	28 IR 156	329 IAC 9-4-4	26 IR 1221		28 IR 124
Spill and overfill control			27 IR 3189	“Reasonable” defined	
329 IAC 9-3.1-1	26 IR 1218		28 IR 158	328 IAC 1-1-8.3	27 IR 2779
	27 IR 3187	Reporting and Record Keeping			28 IR 124
	28 IR 155	Electronic reporting and submittal		“Site characterization” defined	
Initial Response, Site Investigation, and Correc-		329 IAC 9-3-2	26 IR 1218	328 IAC 1-1-8.5	27 IR 2779
tive Action			27 IR 3187		28 IR 125
Applicability for release response and correc-			28 IR 155	“Substantial compliance” defined	
tive action		Reporting and record keeping		328 IAC 1-1-9	27 IR 2779
329 IAC 9-5-1	26 IR 1221	329 IAC 9-3-1	26 IR 1216		28 IR 125
	27 IR 3190		27 IR 3184	“Third party liability” defined	
	28 IR 158		28 IR 152	328 IAC 1-1-10	27 IR 2779
Corrective action plan					28 IR 125
329 IAC 9-5-7	26 IR 1227				
	27 IR 3196				
	28 IR 165				

CITATIONS TO FINAL RULES ARE IN BOLD TYPE

Financial Assurance		Net Metering		References to the Code of Federal Regulations	
Termination of financial assurance		170 IAC 4-4.2	27 IR 2312	327 IAC 1-1-2	27 IR 3608
328 IAC 1-7-2	27 IR 2797		28 IR 786	Severability	
	28 IR 144	Standards of Service		327 IAC 1-1-3	27 IR 3608
Fund Coverage and Eligibility		Interruptions of service; timing; records		INDUSTRIAL WASTEWATER PRETREATMENT PROGRAMS AND NPDES	
Amount of coverage		170 IAC 4-1-23	27 IR 2765	Basic NPDES Requirements	
328 IAC 1-3-4	27 IR 2783		28 IR 789	Establishment of water quality-based effluent	
	28 IR 129	GAS UTILITIES		limitations for dischargers not discharging	
Cost effectiveness of corrective action		Gas Customer Service Rights and Responsibilities		to waters within the Great Lakes system	
328 IAC 1-3-1.3	27 IR 2780	170 IAC 5-1.2	27 IR 4065	327 IAC 5-2-11.1	27 IR 3664
	28 IR 126	SEWAGE DISPOSAL SERVICES		Great Lakes system dischargers determination	
Costs		Customer Rights and Responsibilities		of reasonable potential to exceed water	
328 IAC 1-3-5	27 IR 2784	Applicability and scope; billing for service		quality standards	
	28 IR 129	170 IAC 8.5-2-1	27 IR 4086	327 IAC 5-2-11.5	27 IR 3679
Eligibility requirements		Complaints and review		Great Lakes system dischargers establishment	
328 IAC 1-3-3	27 IR 2781	170 IAC 8.5-2-5	27 IR 4092	of water quality-based effluent limitations	
	28 IR 127	Creditworthiness guidelines; deposit to ensure		(WQBELs)	
Fund access		payment of bill		327 IAC 5-2-11.6	27 IR 3689
328 IAC 1-3-1	27 IR 2780	170 IAC 8.5-2-3	27 IR 4087	Great Lakes system dischargers total maximum	
	28 IR 126	Disconnection and prohibited disconnections		daily loads; wasteload allocations for	
Fund disbursement		170 IAC 8.5-2-4	27 IR 4089	point sources; load allocations for nonpoint	
328 IAC 1-3-2	27 IR 2781	TELEPHONE UTILITIES		sources; preliminary wasteload allocations	
	28 IR 127	Telecommunications Customer Service Rights		327 IAC 5-2-11.4	27 IR 3669
Limitation of liability		and Responsibilities		Incorporation by reference	
328 IAC 1-3-6	27 IR 2791	Creditworthiness of residential customer;		327 IAC 5-2-1.5	27 IR 3663
	28 IR 137	deposit; refund		Monitoring	
Preapproval of costs		170 IAC 7-1.3-3	27 IR 4081	327 IAC 5-2-13	27 IR 3694
328 IAC 1-3-1.6	27 IR 2781	Customer complaints to the commission		Public notice of comment period and public	
	28 IR 127	170 IAC 7-1.3-9	27 IR 4084	meetings for site-specific modification of	
Prioritization of Claims		Customer complaints to the utility		water quality criteria and values; implementation	
Discontinuation of prioritization		170 IAC 7-1.3-8	27 IR 4083	of antidegradation; alternate	
328 IAC 1-4-5	28 IR 141	Customer payments		mixing zone demonstrations; variances	
General procedure for prioritization		170 IAC 7-1.3-10	27 IR 4085	327 IAC 5-2-11.2	27 IR 3668
328 IAC 1-4-1	27 IR 2791	Definitions		Reporting requirements	
	28 IR 137	170 IAC 7-1.3-2	27 IR 4080	327 IAC 5-2-15	27 IR 3694
Monthly reimbursement		WATER UTILITIES		Definitions	
328 IAC 1-4-4	27 IR 2795	Distribution System Improvement Charges		“Waters of the state of Indiana” or “waters of	
	28 IR 141	(DSIC)		the state” defined	
Recategorization of releases		170 IAC 6-1.1	28 IR 1518	327 IAC 5-1.5-72	27 IR 3663
328 IAC 1-4-3	27 IR 2794	Water Customer Service Rights and Responsibilities		Streamlined Mercury Variance Requirements	
	28 IR 140	170 IAC 6-1.2	27 IR 4073	and Application Process	
Transition to the prioritization procedure				327 IAC 5-3.5	28 IR 650
under this rule				PUBLIC WATER SUPPLY	
328 IAC 1-4-1.5	28 IR 140			Consumer Confidence Reports	
Scope and Fund Management				Content of the reports	
Applicability				327 IAC 8-2.1-3	28 IR 1244
328 IAC 1-2-1	27 IR 2779			Drinking water violations; other situations	
	28 IR 125			requiring public notice	
Obligation of monies				327 IAC 8-2.1-16	28 IR 1257
328 IAC 1-2-3	27 IR 2780			Drinking water violations; standard health	
	28 IR 125			effects language for public notice	
Third Party Liability Claims				327 IAC 8-2.1-17	28 IR 1261
Applications for payment of third party liability				Other required information	
claims				327 IAC 8-2.1-6	28 IR 1248
328 IAC 1-6-1	27 IR 2796			Required additional health information	
	28 IR 143			327 IAC 8-2.1-4	28 IR 1247
Fund payment procedures for third party liability				Special notice for nitrate exceedances above	
328 IAC 1-6-2	27 IR 2796			MCL by noncommunity water systems;	
	28 IR 143			granted permission by the commissioner	
				under 327 IAC 8-2-4(b)	
				327 IAC 8-2.1-14	28 IR 1257
UTILITY REGULATORY COMMISSION, INDIANA				Tier 1 public notice; form, manner, and frequency	
ELECTRIC UTILITIES				of notice	
Electric Customer Service Rights and Responsibilities				327 IAC 8-2.1-8	28 IR 1255
170 IAC 4-1.2	27 IR 4057				

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

Tier 2 notice; form, manner, and frequency of notice					
327 IAC 8-2-1-9	28 IR 1256				
Drinking Water Standards					
Analytical and monitoring requirements; fecal coliform, total coliform, turbidity, disinfection					
327 IAC 8-2-8.7	28 IR 1229				
Analytical methods for inorganic chemical testing					
327 IAC 8-2-4.2	28 IR 1217				
Analytical methods for organic chemical testing other than volatile organic compounds and total trihalomethanes					
327 IAC 8-2-5.2	28 IR 1222				
Analytical methods for radioactivity					
327 IAC 8-2-10.1	28 IR 1230				
Analytical methods; lead and copper					
327 IAC 8-2-45	28 IR 1240				
Best available technologies, small systems compliance technologies (SSCTs), and compliance technologies by system size category for radionuclides					
327 IAC 8-2-10.3	28 IR 1237				
Collection of samples for inorganic chemical testing					
327 IAC 8-2-4.1	28 IR 1212				
Collection of samples for organic chemical testing other than volatile organic compounds and total trihalomethanes					
327 IAC 8-2-5.1	28 IR 1220				
Collection of samples for volatile organic compound testing other than total trihalomethanes; community and nontransient noncommunity water systems					
327 IAC 8-2-5.5	28 IR 1224				
Definitions					
327 IAC 8-2-1	28 IR 1206				
Inorganic chemicals; maximum contaminant levels					
327 IAC 8-2-4	28 IR 1210				
Maximum contaminant level goals; inorganic contaminants					
327 IAC 8-2-34	28 IR 1239				
Maximum contaminant level goals; radionuclides					
327 IAC 8-2-34.1	28 IR 1240				
Monitoring frequency for radioactivity; community water systems					
327 IAC 8-2-10.2	28 IR 1233				
Radium-226, radium-228, gross alpha particle radioactivity, and uranium; maximum contaminant levels					
327 IAC 8-2-9	28 IR 1230				
Reporting requirements; lead and copper					
327 IAC 8-2-46	28 IR 1242				
Reporting requirements; test results and failure to comply					
327 IAC 8-2-13	28 IR 1239				
Requirement for filtration and disinfection					
327 IAC 8-2-8.5	28 IR 1228				
Enhanced Filtration and Disinfection					
Disinfection profiling and benchmarking for systems serving a population of at least 10,000 individuals					
327 IAC 8-2-6-2	28 IR 1269				
Disinfection profiling and benchmarking for systems serving a population of fewer than 10,000 individuals beginning January 1, 2005					
327 IAC 8-2-6-2.1	28 IR 1271				
Enhanced filtration					
327 IAC 8-2-6-3	28 IR 1273				
Enhanced filtration and disinfection reporting and record keeping requirements					
327 IAC 8-2-6-5	28 IR 1274				
Filtration sampling requirements					
327 IAC 8-2-6-4	28 IR 1274				
General requirements; enhanced filtration and disinfection					
327 IAC 8-2-6-1	28 IR 1268				
WATER QUALITY STANDARDS					
Waste Treatment Control Facilities; Discharge into State Waters; Monthly Reports					
Sampling frequency; methods of analysis					
327 IAC 2-4-3	27 IR 3663				
Water Quality Standards Applicable to All State Waters Except Waters of the State Within the Great Lakes System					
Calculation of criteria for toxic substances; general					
327 IAC 2-1-8.1	27 IR 3617				
Definitions					
327 IAC 2-1-9	27 IR 3622				
Determination of acute aquatic criteria (AAC)					
327 IAC 2-1-8.2	27 IR 3618				
Determination of chronic aquatic criterion (CAC)					
327 IAC 2-1-8.3	27 IR 3620				
Development of site-specific aquatic life criteria using the recalculation procedure					
327 IAC 2-1-13	27 IR 3627				
Exception to quality standards applicability					
327 IAC 2-1-5	27 IR 3608				
Incorporation by reference					
327 IAC 2-1-12	27 IR 3627				
Methods of analysis					
327 IAC 2-1-8	27 IR 3617				
Minimum surface water quality standards					
327 IAC 2-1-6	27 IR 3609				
Site-specific modifications to criteria					
327 IAC 2-1-8.9	27 IR 3621				
Water Quality Standards Applicable to All State Waters Within the Great Lakes System					
Bioaccumulative chemicals of concern					
327 IAC 2-1.5-6	27 IR 3637				
Definitions					
327 IAC 2-1.5-2	27 IR 3631				
Determination of Tier I aquatic life criteria					
327 IAC 2-1.5-11	27 IR 3651				
Incorporation by reference					
327 IAC 2-1.5-20	27 IR 3662				
Methods of analysis					
327 IAC 2-1.5-10	27 IR 3650				
Minimum surface water quality criteria					
327 IAC 2-1.5-8	27 IR 3638				
Site-specific modifications to Tier I criteria and Tier II values					
327 IAC 2-1.5-16	27 IR 3660				
WETLAND ACTIVITY PERMITS					
327 IAC 17	28 IR 1288				
WORKFORCE DEVELOPMENT, DEPARTMENT OF					
INDIANA EMPLOYMENT SECURITY ACT; ADMINISTRATION					
Contributions; Reports; Sickness and Accident Disability; Group Accounts					
Initial and wage reporting requirements for professional employer organizations; separate location accounts; notice of termination					
646 IAC 3-1-12	27 IR 2857				
	28 IR 560				
Responsibility of professional employer organization to pay unemployment contributions; resumption of liability by client business entity upon termination of agreement between professional employer organization and client					
646 IAC 3-1-13	27 IR 2858				
	28 IR 560				
Qualifying as an Employee					
Corporate officers and directors					
646 IAC 3-5-1	27 IR 2859				
	28 IR 561				
Qualifying as an Employer					
"Professional employer organization" defined					
646 IAC 3-4-11	27 IR 2858				
	28 IR 561				

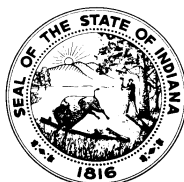
The **Indiana Register** is an official source of the text of proposed and final rules and notices of rulemaking activity. For keeping up to date on rules and participating in the rulemaking process, the **Indiana Register** is a necessary tool. If you would like further information, call the Legislative Services Agency at (317) 232-9557.

ORDER FORM

☐ Change of address.

☐ Enclosed is my check for \$60 as payment in advance for the **CD-ROM version of the Indiana Register** (October 2004 through September 2005, **Volume 28**).

☐ Enclosed is my check for \$25.60 (\$25 plus \$0.60 postage) as payment in advance for the **2005 edition of the CD-ROM version of the Indiana Administrative Code**.



name or firm

address

city

state

zip code

(_____)
telephone

Please make checks payable to:
Legislative Services Agency

Mail to:

LEGISLATIVE SERVICES AGENCY
ATTN: LIC
200 West Washington Street, Suite 302
Indianapolis, IN 46204-2789

Indiana Register subscriptions \$60
Indiana Administrative Code orders are being accepted.

The **Indiana Administrative Code** and the **Indiana Register** are available on the Internet at:
http://www.in.gov/legislative/ic_iac

Indiana Register

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