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RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

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

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

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

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:
August 10, 2005	September 1, 2005	March 10, 2006	April 1, 2006
September 9, 2005	October 1, 2005	April 10, 2006	May 1, 2006
October 10, 2005	November 1, 2005	May 10, 2006	June 1, 2006
November 10, 2005	December 1, 2005	June 9, 2006	July 1, 2006
December 9, 2005	January 1, 2006	After July 1, 2006, publication dates will be determined on an individual document basis.	
January 10, 2006	February 1, 2006		
February 10, 2006	March 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

AGENCY	ALPHABETICAL LIST 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	Inspector General, Office of the	42
Administration, Indiana Department of	25	Insurance, Department of	760
†Administrative Building Council of Indiana	660	Labor, Department of	610
†Aeronautics Commission of Indiana	110	Land Surveyors, State Board of Registration for	865
†Aging and Community Services, Department on	450	Law Enforcement Training Board	250
†Agricultural Development Corporation, Indiana	770	Library and Historical Board, Indiana	590
†Agricultural Experiment Station	350	†Library Certification Board	595
†Agriculture, Commissioner of	340	Local Government Finance, Department of	50
†Agriculture, Commissioner of	375	Lottery Commission, State	65
†Air Pollution Control Board	325.1	Manufactured Home Installer Licensing Board	879
Air Pollution Control Board	326	†Medical and Nursing Distribution Loan Fund Board of Trustees, Indiana	580
†Air Pollution Control Board of the State of Indiana	325	Medical Licensing Board of Indiana	844
Alcohol and Tobacco Commission	905	Mental Health and Addiction, Division of	440
Amusement Device Safety Board, Regulated	685	Meridian Street Preservation Commission	925
Animal Health, Indiana State Board of	345	Motor Vehicles, Bureau of	140
Architects and Landscape Architects, Board of Registration for	804	†Natural Resources, Department of	310
Athletic Trainers Board, Indiana	898	Natural Resources Commission	312
Attorney General for the State, Office of	10	Nursing, Indiana State Board of	848
Auctioneer Commission, Indiana	812	Occupational Safety Standards Commission	620
Barber Examiners, Board of	816	Optometric Legend Drug Prescription Advisory Committee, Indiana	857
Boiler and Pressure Vessel Rules Board	680	Optometry Board, Indiana	852
Boxing Commission, State	808	Parole Board	220
Budget Agency	85	†Personnel Board, State	30
Chemist of the State of Indiana, State	355	Personnel Department, State	31
Children's Health Insurance Program, Office of the	407	Pesticide Review Board, Indiana	357
Chiropractic Examiners, Board of	846	Pharmacy, Indiana Board of	856
Civil Rights Commission	910	Plumbing Commission, Indiana	860
†Clemency Commission, Indiana	230	Podiatric Medicine, Board of	845
Commerce, Department of	55	Police Department, State	240
Community Residential Facilities Council	431	Political Subdivision Risk Management Commission, Indiana	762
Consumer Protection Division of the Office of the Attorney General	11	Port Commission, Indiana	130
Controlled Substances Advisory Committee	858	Private Detectives Licensing Board	862
Coroners Training Board	207	Professional Standards, Advisory Board of the Division of	515
Correction, Department of	210	Proprietary Education, Indiana Commission on	570
Cosmetology Examiners, State Board of	820	Psychology Board, State	868
Creamery Examining Board	365	Public Access Counselor, Office of the	62
Criminal Justice Institute, Indiana	205	Public Employees' Retirement Fund, Board of Trustees of the	35
Deaf Board, Indiana School for the	514	Public Records, Oversight Committee on	60
Dentistry, State Board of	828	Public Safety Training Board	280
†Developmental Disabilities Residential Facilities Council	430	Real Estate Commission, Indiana	876
Dietitians Certification Board, Indiana	830	†Reciprocity Commission of Indiana	145
Disability, Aging, and Rehabilitative Services, Division of	460	Revenue, Department of State	45
†Education, Commission on General	510	Safety Review, Board of	615
Education, Indiana State Board of	511	School Bus Committee, State	575
Education Employment Relations Board, Indiana	560	Secretary of State	75
Education Savings Authority, Indiana	540	Securities Division	710
Egg Board, State	370	Seed Commissioner, State	360
†Election Board, State	15	Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board	839
Election Commission, Indiana	18	†Soil and Water Conservation Committee, State	311
†Elevator Safety Board	670	Soil Scientists, Indiana Board of Registration for	307
Emergency Management Agency, State	290	†Solid Waste Management Board	320.1
Emergency Medical Services Commission, Indiana	836	Solid Waste Management Board	329
Employees' Appeals Commission, State	33	Speech-Language Pathology and Audiology Board	880
†Employment and Training Services, Department of	645	†Standardbred Board of Regulations, Indiana	341
Engineers, State Board of Registration for Professional	864	†Stream Pollution Control Board of the State of Indiana	330
Enterprise Zone Board	58	Student Assistance Commission, State	585
Environmental Adjudication, Office of	315	Tax Review, Indiana Board of	52
Environmental Health Specialists, Board of	896	†Teacher Training and Licensing, Commission on	530
†Environmental Management Board, Indiana	320	Teachers' Retirement Fund, Board of Trustees of the Indiana State	550
Ethics Commission, State	40	†Television and Radio Service Examiners, Board of	884
Fair Commission, State	80	†Textbook Adoptions, Commission on	520
Family Resources, Division of	470	Toxicology, State Department of	260
Family and Social Services, Office of the Secretary of	405	†Traffic Safety, Office of	150
Financial Institutions, Department of	750	†Transportation, Department of	100
†Fire Marshal, State	650	Transportation, Indiana Department of	105
Fire Prevention and Building Safety Commission	675	Transportation Finance Authority, Indiana	135
Firefighting Personnel Standards and Education, Board of	655	Underground Storage Tank Financial Assurance Board	328
Forensic Sciences, Commission on	415	†Unemployment Insurance Board, Indiana	640
Funeral and Cemetery Service, State Board of	832	Utility Regulatory Commission, Indiana	170
Gaming Commission, Indiana	68	†Vehicle Inspection, Department of	160
Geologists, Indiana Board of Licensure for Professional	305	Veterans' Affairs Commission	915
Grain Buyers and Warehouse Licensing Agency, Indiana	824	Veterinary Medical Examiners, Indiana Board of	888
Grain Indemnity Corporation, Indiana	825	Victim Services Division	203
†Hazardous Waste Facility Site Approval Authority, Indiana	323	†Violent Crime Compensation Division	480
Health, Indiana State Department of	410	†Vocational and Technical Education, Indiana Commission on	572
Health Facilities Council, Indiana	412	†Wage Adjustment Board	635
Health Facility Administrators, Indiana State Board of	840	War Memorials Commission, Indiana	920
†Highways, Department of	120	†Watch Repairing, Indiana State Board of Examiners in	892
Home Inspectors Licensing Board	878	Water Pollution Control Board	327
†Horse Racing Commission, Indiana	70	†Water Pollution Control Board	330.1
Horse Racing Commission, Indiana	71	Worker's Compensation Board of Indiana	631
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Housing Finance Authority, Indiana	930		
†Human Service Programs, Interdepartmental Board for the Coordination of	490		

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

State Agencies

NUMERICAL LIST

TITLE NUMBER	TITLE NUMBER
GENERAL GOVERNMENT	
10	Office of Attorney General for the State
11	Consumer Protection Division of the Office of the Attorney General
†15	State Election Board
18	Indiana Election Commission
20	State Board of Accounts
25	Indiana Department of Administration
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
42	Office of the Inspector General
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 Resources
†480	Violent Crime Compensation Division
†490	Interdepartmental Board for the Coordination of Human Service Programs
EDUCATION AND LIBRARIES	
†510	Commission on General Education
511	Indiana State Board of Education
514	Indiana School for the Deaf Board
515	Advisory Board of the Division of Professional Standards
†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

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

Final Rules

TITLE 40 STATE ETHICS COMMISSION

LSA Document #04-198(F)

DIGEST

Adds 40 IAC 2-1-5.5 concerning ethics education. Amends 40 IAC 2-1-6 concerning acceptable gifts, favors, services, entertainment, food, drink, and honoraria. Amends 40 IAC 2-1-7 concerning appearances, activities, and expenses. *NOTE: LSA Document #04-198, printed at 28 IR 987, was resubmitted for publication and reprinted at 28 IR 2160. Effective 30 days after filing with the Secretary of State.*

40 IAC 2-1-5.5

40 IAC 2-1-6

40 IAC 2-1-7

SECTION 1. 40 IAC 2-1-5.5 IS ADDED TO READ AS FOLLOWS:

40 IAC 2-1-5.5 Ethics education

Authority: IC 4-2-6-4

Affected: IC 4-2-6

Sec. 5.5. Each agency's appointing authority shall do the following:

- (1) Require all new employees to participate in ethics training within six (6) weeks of the employee's starting employment date with the agency.**
- (2) Require all employees to participate in ethics training at least every two (2) years during an employee's tenure with the agency.**
- (3) Maintain documentation to demonstrate employee compliance with subdivisions (1) and (2).**

(State Ethics Commission; 40 IAC 2-1-5.5; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3452)

SECTION 2. 40 IAC 2-1-6 IS AMENDED TO READ AS FOLLOWS:

40 IAC 2-1-6 Acceptable gifts, favors, services, entertainment, food, drink, and honoraria

Authority: IC 4-2-6-4

Affected: IC 3-9-2; IC 4-2-6

Sec. 6. (a) A state employee or **special state appointee**, or the spouse or unemancipated child of a state employee or **special state appointee**, shall not **knowingly** solicit, accept, or receive nor shall a donor offer, directly or indirectly, any gift, favor, service, entertainment, food, or drink under circumstances in which it can reasonably be inferred that the thing of value would from a person who has a business relationship with the employee's agency or is seeking to influence the employee to give special consideration to an action by such the employee in his or her official capacity. This section does not prohibit normal gift-giving from relatives of gifts with an aggregate value of less than two hundred fifty dollars (\$250) or political

contributions subject to IC 3-9-2 which are reported in accordance with applicable law. In addition, this section does not prohibit contributions which are accepted by an agency in accordance with applicable law. This section may be waived by the state ethics commission for a legitimate public purpose.

(b) Without the written approval of the employee's appointing authority or the state officer, an employee shall not accept for personal use any gifts, favors, services, entertainment, food, or drink valued at a total of more than twenty-five dollars (\$25) in a calendar year from a person or business that has a business relationship with the employee's agency. An appointing authority or state officer may designate no more than one (1) person to exercise approval on behalf of the appointing authority or state officer. Such designation shall be in writing and filed with the commission. The following shall not be subject to this section:

(1) Gifts, from charitable, benevolent, or religious organizations and favors, services, entertainment, food, or drink from public agencies or public institutions.

(2) Food or drink consumed at a public meeting to which at least twenty-five (25) or more individuals are invited. A meeting will be considered public if:

(A) the event is a reception or other gathering for public officials that is not arranged to solicit government procurement of goods or services;

(B) the employee is giving a speech or participating in a presentation in the employee's official capacity; or

(C) the meeting has a formal educational program that the employee is attending to assist him or her in performing official duties.

(3) Mementos or souvenirs of nominal value, received at public ceremonies or commemorating official business.

(4) Invitations or tickets to charitable or political fundraising events if the invitations or tickets are given by the charitable or political entity sponsoring the event. This exception does not apply to a gift of tickets from a person with a business relationship with the employee's agency.

(5) (4) Food or drink consumed by an employee or other reasonable courtesies extended to an employee during negotiations or other activities related to an **Indiana economic development corporation** economic development project.

(6) Personal social relationships whereby nominal entertainment expenses are incurred or nominal personal mementos are exchanged on a reciprocal basis; (5) Gifts, favors, services, entertainment, food, or drinks from relatives, so long as: such expenses or mementos

(A) the gifts or other items of value are not deducted as a business expense; If a state officer or an appointing authority approves in writing the receipt of a gift subject to this rule, the written approval shall be filed with the commission within thirty (30) days of receipt of the gift, and shall identify the employee, the nature and value of the gift, and the donor of the gift. The commission may review such

written approvals and require of the state officer or appointing authority an explanation of the reason for the approval.

(B) the gift giver is not seeking to influence an action by an employee in his or her official capacity.

In cases involving ongoing social relationships, employees should seek a waiver under subsection (b) before accepting a gift.

(6) Political contributions subject to IC 3-9-2 that are reported in accordance with applicable law.

(7) Nominal refreshments offered to a state employee conducting official state business while he or she is at a workplace of a person who has a business relationship or seeks to influence official action with the employee's agency.

(8) Discount and other promotional programs approved and made available to state employees through the state personnel department or the Indiana department of administration.

(b) An employee's state officer or appointing authority may waive application of subsection (a) in individual cases when consistent with the public interest. The waiver shall be in writing and shall identify the following:

- (1) The employee.
- (2) The nature and value of the gift.
- (3) The donor of the gift.
- (4) Why acceptance of the gift is in the public interest.

Written waivers must be filed with the commission within thirty (30) days of receipt of the gift. The commission may review the written waivers. An appointing authority or state officer may designate authority to the agency's ethics officer to waive application of this rule on behalf of the appointing authority or state officer. The designation shall be in writing and filed with the commission.

(c) A person who has a business relationship with an employee's agency shall not provide any:

- (1) gifts;
- (2) favors;
- (3) services;
- (4) entertainment;
- (5) food; or
- (6) drink;

to such employee if the employee would not be permitted to accept the gift, favor, service, entertainment, food, or drink under subsection (a).

(e) If (d) An employee shall not personally accept an honorarium for himself or herself for anything which that may be considered part of the state employee's official duties. However, a state employee may accept an honorarium in this situation on behalf of the state. The state employee accepting the honorarium shall remit to the treasurer of state any amount received. The treasurer of state shall quietus such funds into the general fund. A state employee may personally accept an honorarium or fee for activities not

done in connection with the employee's official duties which and that are prepared on the employee's own time and without the use of state resources. so long as the employee is not participating by reason of. However, in no case can a state employment, provided the employee shall not accept an honorarium from any a person over whom the employee has decision making authority. A state employee may accept reimbursements for travel expenses incurred when the employee is not being paid or reimbursed by the state and when an honorarium is not permitted: who has a business relationship or seeks to influence an official action with the employee's agency.

(e) Nothing in this section prohibits contributions to agencies that are made in accordance with applicable law. (State Ethics Commission; 40 IAC 2-1-6; filed Mar 10, 1988, 2:00 p.m.: 11 IR 2327; filed Oct 22, 1991, 11:10 a.m.: 15 IR 201; readopted filed Aug 2, 2001, 3:15 p.m.: 24 IR 4227; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3452)

SECTION 3. 40 IAC 2-1-7 IS AMENDED TO READ AS FOLLOWS:

40 IAC 2-1-7 Appearances; activities; expenses

Authority: IC 4-2-6-4
Affected: IC 4-2-6

Sec. 7. (a) A state officer or employee shall not solicit, or accept, or receive payment from any person for travel expenses, including, but not limited to, any lodging, travel expenses, transportation, or registration fees, food, or drink for appearance at any meeting, convention, conference, seminar, or similar activity for himself or herself or the individual's spouse or unemancipated child under circumstances in which it can reasonably be inferred that the thing of value would influence the attending events concerning state officer business from a person who has a business relationship with the employee's agency or is seeking to influence an action by an employee in his or her official capacity. This section does not prohibit contributions which are accepted by an agency in accordance with applicable law.

(b) Without the written approval of the An employee's appointing authority or the state officer an employee shall not accept payment of expenses, including but not limited to lodging, travel expense, registration fees, food, or drink for attending events concerning state business from a person who has a business relationship with the employee's agency. An appointing authority or state officer may designate no more than one (1) person to exercise approval on behalf of the appointing authority or state officer. Such designation may waive application of subsection (a) in individual cases when consistent with the public interest. The waiver shall be in writing and filed with the commission.

(c) If a state officer or an appointing authority approves in writing the payment of expenses subject to this rule, the written approval shall identify the following:

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- (1) **The employee.**
- (2) **The setting of the event.**
- (3) **The amount and payer of the expenses.**
- (4) **Why payment of the expenses is in the public interest.**

The written waiver shall be filed with the commission the earlier of within thirty (30) days of the event or receipt of the expenses. ~~whichever comes first, and shall identify the employee, the amount of the expenses, and the setting of the event.~~ The commission may review ~~such the~~ written approvals and ~~require of the waivers.~~ A state officer or appointing authority ~~an~~ explanation of the reason for the approval: ~~may designate authority to the agency's ethics officer to waive application of this rule on behalf of the appointing authority or state officer.~~ The designation shall be in writing and filed with the commission.

(c) A person who has a business relationship with an employee's agency shall not pay the employee's travel expenses, including, but not limited to, any lodging, transportation, or registration fees, if the employee would not be permitted to accept the payment under subsection (a) or (b).

(d) Nothing in this section prohibits contributions to agencies that are made in accordance with applicable law.

~~(d)~~ (e) If a person wishes to reimburse the state for any part or all of the expenses incurred by the state for appearances of a state officer or employee or their official representatives on behalf of the state, ~~such the~~ person is requested to remit to the treasurer of the state any such amounts. The treasurer of the state shall quietus ~~such the~~ funds into the general fund. (*State Ethics Commission; 40 IAC 2-1-7; filed Mar 10, 1988, 2:00 p.m.: 11 IR 2328; filed Oct 22, 1991, 11:10 a.m.: 15 IR 202; readopted filed Aug 2, 2001, 3:15 p.m.: 24 IR 4227; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3453*)

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TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-335(F)

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 (28 IR 1714).

Date of Second Hearing: May 4, 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3454*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3455*)

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), 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; 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)

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3455*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3456*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3457*)

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 permits in subsection (b) 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3457*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3457*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3457*)

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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3457*)

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	0023	16P	Dryer, Screen, Conveyor	29.2		0.11

(*Air Pollution Control Board; 326 IAC 6.5-2-2; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3458*)

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:

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	4.2	0.015	

(*Air Pollution Control Board; 326 IAC 6.5-2-3; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3458*)

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

(*Air Pollution Control Board; 326 IAC 6.5-2-4; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3458*)

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

(Air Pollution Control Board; 326 IAC 6.5-2-5; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3458)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3459)

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	7P	Thermal Process	8.7		.023
	01					
	02	8P	Sodium Phosphate Process	85.2		.028

(Air Pollution Control Board; 326 IAC 6.5-2-7; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3459)

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	1P	Oil Fired Boiler	0.3	0.0130	
	03		6 MMBtu/Hr.			

(Air Pollution Control Board; 326 IAC 6.5-2-8; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3459)

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	13P	Gas-Oil Boiler	0.3	0.060	
	01		5 MMBtu/Hr.			
	02	14P	Sodium Silicate Glass	51.8		1.4 lb/ton

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(Air Pollution Control Board; 326 IAC 6.5-2-9; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3459)

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
Quality Paving	003701	23P	Asphalt Batching	4.2		.03

(Air Pollution Control Board; 326 IAC 6.5-2-10; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3460)

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	000401	6P	Cupola	4.2		.476

(Air Pollution Control Board; 326 IAC 6.5-2-11; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3460)

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	002401	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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3460)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3460)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3460)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)

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.

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(Air Pollution Control Board; 326 IAC 6.5-3-9; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3461)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3462)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3462)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3462)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3462)

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 Coop	0014	22	Grain Elevator	348		

(Air Pollution Control Board; 326 IAC 6.5-4-5; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3462)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3463)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3463)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3463)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3463)

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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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3464)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3464)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3464)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3464)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3465)

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	
			Wood Working	.7		

(Air Pollution Control Board; 326 IAC 6.5-4-15; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3465)

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	
			Wood Working	3.9		

(Air Pollution Control Board; 326 IAC 6.5-4-16; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3465)

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:

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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	
		31P	Natural Gas Boiler No. 2 16.8 MMBtu/Hr.	0.2	0.003	0.01
		104	Wood Working	2		

(Air Pollution Control Board; 326 IAC 6.5-4-17; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3465)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3466)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3466)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3466)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3467)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3467)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3467)

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:

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Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Styline Industries, Plant #8	0035	4P	Coal-Wood Boiler 7 MMBtu/Hr.	9.0	0.60	

(Air Pollution Control Board; 326 IAC 6.5-4-24; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3467)

Rule 5. Howard County

(Air Pollution Control Board; 326 IAC 6.5-5-1; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3468)

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.

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3468)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3468)

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:

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 4-5 1975 only	875.7	0.75	
	04-05					

(Air Pollution Control Board; 326 IAC 6.5-5-4; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3468)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3469)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3469)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3469)

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3470)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3470)

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:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million BTU	grains/dscf
Kokomo Grain Co. 100% natural gas	0006	18A	Shipping/Receiving 60,000 T/Yr.	4.5		
			Transferring/Conveying 60,000 T/Yr.	11.1		
			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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3470)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3470)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3471)

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	
		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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3471)

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 378,100 T/Yr. in 1975 554,300 T/Yr. in 1985	15.3		
			Soak and Rodmill Furnace 4,509 × 10 ³ gal/Yr.	103.6		

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(Air Pollution Control Board; 326 IAC 6.5-5-14; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3471)

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 5,332 T/Yr.	1.7		
			Transferring/Conveying 5,332 T/Yr.	4.2		

(Air Pollution Control Board; 326 IAC 6.5-5-15; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3472)

326 IAC 6.5-5-16 Yeomen 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. Yeomen 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
Yeomen Stone & Sand	0010	59A	Primary Crushing 403,000 T/Yr.	53.9		
			Secondary Crushing 280,000 T/Yr.	178.0		

(Air Pollution Control Board; 326 IAC 6.5-5-16; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3472)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3472)

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 combined	.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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3472)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3473)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3473)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3473)

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:

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3473)

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	0010	0103	Boilers 1-3	65.8	.300	

(Air Pollution Control Board; 326 IAC 6.5-6-7; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3474)

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	0011	01	All Boilers	67.8	.324	

(Air Pollution Control Board; 326 IAC 6.5-6-8; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3474)

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

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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
0012	34	Cst. Cl.	57.5	.020

(Air Pollution Control Board; 326 IAC 6.5-6-9; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3474)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3475)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3475)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3475)

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:

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3475)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3476)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3476)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3476)

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:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Glass Containers	0293	01	Glass Melting Furnace	43.0		(1 lb/ton)

(Air Pollution Control Board; 326 IAC 6.5-6-17; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3476)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3477)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3477)

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:

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3477)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3478)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3478)

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	
			(natural gas, coke oven gas)			
	0034	02	Boiler 13		*.082	
			(natural gas, coke oven gas)			
	0034	02	Boiler 14		0	
			(natural gas, coke oven gas)			
	0034	03	Boiler 15 (coal)		0	
	0034	03	Boiler 16 (coal)		0	
0034	03	Boiler 17 (oil)		0		
0034	03	Boiler 18 (oil)		*.015		
IPL (Stout)			Boilers 11, 12, 13, 14, 15, 16, 17, and 18	484.4 total		
	0033	09	Boiler 9	1.9	*.015	
	0033	10	Boiler 10	2.2	*.015	
	0033	11	Boiler 50	82.2	*.135	

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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.**

(Air Pollution Control Board; 326 IAC 6.5-6-23; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3478)

**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.

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3479)

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
	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	

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	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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3479*)

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	
	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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3480)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3481)

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:

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

(Air Pollution Control Board; 326 IAC 6.5-6-28; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3481)

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	

(Air Pollution Control Board; 326 IAC 6.5-6-29; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3481)

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:

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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

(Air Pollution Control Board; 326 IAC 6.5-6-30; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3481)

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	
100% natural gas	0049	01	186 N		.15		
	0049	02	2722 W		.15		
	0049	03	2726 S		.15		
			186N, 2722 W, and 2726 S	12.2 total			
		0049	04	2728 S	2.2	.15	
		0049	05	2607 T			
		0049	06	2714 V	3.1	.15	
		0049	07	2707 V	.4	.011	
		0049	08	2724 W			
		0049	09	702611			
		0049	10	722804	.2	.011	
		0049	11	732714	7.5	.15	
		0049	12	2706 Q	.1	.011	
		0049	13	2713 W			
		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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3482)

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. <i>(Air Pollution Control Board; 326 IAC 6.5-6-32; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3482)</i>	0065	01	Boil. 2 Oil	1.5	.015	

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3483)

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	0476	0103	Boilers 1-3	.7	.011	

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(Air Pollution Control Board; 326 IAC 6.5-6-34; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3483)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3484)

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:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Stokely Van Camp	0056	0103	Boiler	93.3	.350	

(Air Pollution Control Board; 326 IAC 6.5-6-36; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3484)

Rule 7. St. Joseph County

Board; 326 IAC 6.5-7-1; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3484)

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

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3484)

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:

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3484)

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:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
ARCO Engg. Const. Corporation	01	26P	Rotary Dryer	24.70		0.153

(Air Pollution Control Board; 326 IAC 6.5-7-4; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3485)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3485)

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; filed Aug 10,

2005, 1:00 p.m.: 28 IR 3485)

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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3485)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3486)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3486)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3486)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3487)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3487)

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.			

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(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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3487*)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3488*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3488*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3488*)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3489)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3489)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3489)*

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:

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Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
White Farm Equipment Company	01	28P	Coal Fired Boiler 17 MMBtu/Hr.	21.90	0.470	

(Air Pollution Control Board; 326 IAC 6.5-7-20; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3489)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3490)

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	01	04	Coal Boiler	9.0	0.220	

(Air Pollution Control Board; 326 IAC 6.5-8-2; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3490)

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	01	27	Coal Boiler	0.7	0.085	

(Air Pollution Control Board; 326 IAC 6.5-8-3; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3490)

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	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	

(Air Pollution Control Board; 326 IAC 6.5-8-4; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3490)

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:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Evansville Veneer & Lumber	01	29	Wood Boiler	89.34	1.10	

(Air Pollution Control Board; 326 IAC 6.5-8-5; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3491)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3491)*

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:

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Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Inland Container	02-03	28	Gas and Oil Boiler	2.1	0.030	

(Air Pollution Control Board; 326 IAC 6.5-8-7; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3491)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3492)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3492)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3492)

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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3492)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3493)

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 requirements:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3493)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3493)

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:

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3493)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3494)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3494)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3494)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3494)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3495)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3495)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3495)

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3496)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3496)

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 house-keeping as defined in this article and by the board or its designated agent.

(Air Pollution Control Board; 326 IAC 6.5-9-10; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3496)

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
PSI	463.58	4375.20	Units 1-6	4102.3	0.1338	

(Air Pollution Control Board; 326 IAC 6.5-9-11; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3496)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3497)

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 Providence	460.48	4373.41	No. 2 and 3 Boilers	89.9		20.52 lb/hr
	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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3497)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3497)

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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3497)

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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3497)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3498)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3498)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3498)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3498)

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 speci-

fied emission limitations. *(Air Pollution Control Board; 326 IAC 6.5-10-1; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3499)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3499)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3499)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3499)

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

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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 <i>(Air Pollution Control Board; 326 IAC 6.5-10-5; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3499)</i>	0028	14P	Rotary Dryer	67.4		0.218

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 <i>(Air Pollution Control Board; 326 IAC 6.5-10-6; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3500)</i>	0014	10P	Gas Boiler 50 MMBtu/Hr.	2.10	0.010	

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:

Source	NEDS Plant ID	Point Input ID	Process	Emission Limits		
				tons/yr	lbs/million Btu	grains/dscf
Dana Perfect Circle-Richmond <i>(Air Pollution Control Board; 326 IAC 6.5-10-7; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3500)</i>	0004	2P	Cupola	51.50		0.133

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 <i>(Air Pollution Control Board; 326 IAC 6.5-10-8; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3500)</i>		34P	1 Coal Boiler 43.5 MMBtu/Hr.	38.20	0.350	

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	

(Air Pollution Control Board; 326 IAC 6.5-10-9; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3500)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3501)

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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3501)

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	
		6P	Oil Boiler 22.5 MMBtu/Hr.	1.0	0.015	
PLT-B	0031	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	

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(Air Pollution Control Board; 326 IAC 6.5-10-12; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3501)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3502)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3502)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3502)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3502)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3503)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3503)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3503)

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

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Pollution Control Board; 326 IAC 6.8-1-1; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3503)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3504)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3504*)

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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 6.8-1-3;*

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filed Aug 10, 2005, 1:00 p.m.: 28 IR 3505)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3506)

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 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 6.8-2 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 permits in subsection (b) 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3506)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3506)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3506)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3506*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3507*)

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:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3507*)

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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3507)

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 Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3508)

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 heaters	0.004 lbs/MMBtu	0.290
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

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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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3508)

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 Limit (Units)	Emission Limit (lbs/hr)
Rotary dryer	0.017 lbs/hr	4.440

(Air Pollution Control Board; 326 IAC 6.8-2-7; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3509)

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

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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
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 93-07-W-P	0.23	0.01
Frodex semibulk packing system, building 93	93-08-W-P	0.083	0.01

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Each stack serving bag dump numbers 1 and 2	93-09-W-P and 93-10-W-P	0.10	0.01
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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3509)

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 Limit (Units)	Emission Limit (lbs/hr)
Sodium silicate furnace	1.439 lbs/ton	6.0

(Air Pollution Control Board; 326 IAC 6.8-2-9; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3511)

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:

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Source	Emission Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3511)

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 Limit (Units)	Emission Limit (lbs/hr)
Boiler number 1	0.129 lbs/MMBtu	9.380

(Air Pollution Control Board; 326 IAC 6.8-2-11; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3512)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3512)

326 IAC 6.8-2-13 Hammond Group Inc. (HGI)-Halox Division

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)-Halox Division in Lake County shall meet the following emission limits:

Source	Emission Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3512)

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 Limit (Units)	Emission Limit (lbs/hr)
Stack S-1	0.022 gr/dscf	0.220
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3513)

326 IAC 6.8-2-15 Hammond Group Inc. (HGI)-Expander Division

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)-Expander Division 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3513)

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 Limit(Units)	Emission Limit(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

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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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3513)

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 Limit (Units)	Emission Limit (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

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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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3514)

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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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3516)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3516)

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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3516)

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 Limit (Units)	Emission Limit (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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3516)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3517)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3517)

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:

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Source	Emission Limit (Units)	Emission Limit (lb/hr)
Boiler number 1	0.044 lbs/MMBtu	0.350

(Air Pollution Control Board; 326 IAC 6.8-2-24; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3517)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3518)

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) 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 seventy-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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3518*)

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 Limit (Unit)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3519*)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3519*)

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:

Source	Emission Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3519*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3519*)

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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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3520)

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 Limit (Units)	Emission Limit (lb/hr)
Central mix	0.0013 lbs/ton	0.350

(Air Pollution Control Board; 326 IAC 6.8-2-32; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3520)

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 Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3520)

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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3520)

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 Limit (Units)	Emission Limit (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
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

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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 <i>(Air Pollution Control Board; 326 IAC 6.8-2-35; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3521)</i>	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 Limit (Units)	Emission Limit (lbs/hr)
Grit blaster	0.01 gr/dscf	9.9

(Air Pollution Control Board; 326 IAC 6.8-2-36; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3522)

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 Limit (Units)	Emission Limit (lbs/hr)
Raw material handling		
Rail car unloading, stack J10	0.010 gr/dscf	0.070
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3522)

326 IAC 6.8-2-38 U.S. Steel-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. U.S. Steel-Gary Works in Lake County shall meet the following emission limits:

Source	Emission Limit (Units)	Emission Limit (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
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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3523)

Rule 3. Lake County: Opacity Limits; Exceptions to 326 IAC 5-1-2

tion Control Board; 326 IAC 6.8-3-1; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3524)

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

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. 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 Pollu-*

Sec. 2. Inland Steel in Lake County shall meet the following opacity limits:

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3524)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3524)

326 IAC 6.8-3-4 U.S. Steel-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. U.S. Steel-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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3525)

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. (±25°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 accor-

dance 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 U.S. Steel-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:

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(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 condensable 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3525*)

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 U.S. Steel-Gary Works.

(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, U.S. Steel-Gary Works 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.

U.S. Steel-Gary Works shall include information on the moisture content 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3526*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3526*)

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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3526*)

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 Limit (Units)	Emission Limit (lb/hr)
F-100 marine docks distillate heater	0.003 lbs/MMBtu	0.020

(*Air Pollution Control Board; 326 IAC 6.8-6-3; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3526*)

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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3527)

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 Limit (Units)	Emission Limit (lb/hr)
Power house (1 unit)	0.003 lbs/MMBtu	0.100

(Air Pollution Control Board; 326 IAC 6.8-6-5; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3527)

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:

Source	Emission Limit (Units)	Emission Limit (lb/hr)
Stress relief furnace	0.003 lbs/MMBtu	0.120

(Air Pollution Control Board; 326 IAC 6.8-6-6; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3527)

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 Limit (Units)	Emission Limit (lb/hr)
Tunnel kiln	0.003 lbs/MMBtu	0.040

(Air Pollution Control Board; 326 IAC 6.8-6-7; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3527)

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 Limit (Units)	Emission Limit (lb/hr)
Stack 18-S-24	0.003 lbs/MMBtu	0.025
Stack 18-S-49	0.003 lbs/MMBtu	0.025

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(Air Pollution Control Board; 326 IAC 6.8-6-8; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3527)

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 Limit (Units)	Emission Limit (lb/hr)
Stack S-18	0.003 lbs/MMBtu	0.008
Stack S-19	0.003 lbs/MMBtu	0.008

(Air Pollution Control Board; 326 IAC 6.8-6-9; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3528)

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 Limit (Units)	Emission Limit (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
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3528)

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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3528)

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:

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Source	Emission Limit (Units)	Emission Limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3528)

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 Limit (Units)	Emission Limit (lb/hr)
Number 9A gas turbine	0.003 lbs/MMBtu	0.660

(Air Pollution Control Board; 326 IAC 6.8-6-13; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3529)

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 Limit (Units)	Emission Limit (lb/hr)
Package boilers (2 units)	0.003 lbs/MMBtu	0.618
Plants numbers 6, 7, and 8 regenerator heaters	0.003 lbs/MMBtu	0.097

(Air Pollution Control Board; 326 IAC 6.8-6-14; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3529)

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 Limit (Units)	Emission Limit (lb/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)	0.003 lbs/MMBtu	0.150

(Air Pollution Control Board; 326 IAC 6.8-6-15; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3529)

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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 Limit (Units)	Emission Limit (lb/hr)
Stack serving 2 boiler units	0.003 lbs/MMBtu	0.035

(Air Pollution Control Board; 326 IAC 6.8-6-16; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3530)

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 Limit (Units)	Emission Limit (lb/hr)
Stack serving emergency backup boiler numbers 2-1 and 2-2	0.003 lbs/MMBtu	0.900

(Air Pollution Control Board; 326 IAC 6.8-6-17; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3530)

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:

Source	Emission Limit (Units)	Emission Limit (lb/hr)
American hydrotherm boiler number 1	0.003 lbs/MMBtu	0.040

(Air Pollution Control Board; 326 IAC 6.8-6-18; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3530)

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 Limit (Units)	Emission Limit (lb/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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3530)

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 Limit (Units)	Emission Limit (lb/hr)
Each stack serving wallboard drying furnace, stacks B4, B5, and B6 <i>(Air Pollution Control Board; 326 IAC 6.8-6-20; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3530)</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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3531)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3531)*

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 Limit
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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3531)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3531)*

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

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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 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 Limit (Units)	Emission limit (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3531*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3532)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3533)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3533)

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) Bucko 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) U.S. Steel-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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3533)*

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,

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326 IAC 6.8-2, and 326 IAC 6.8-3. (*Air Pollution Control Board; 326 IAC 6.8-8-2; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3533*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3534*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3534*)

326 IAC 6.8-8-5 Plan; source categories

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 contin-

uous 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.
 - (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 equip-

ment 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, offtakes, 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3534)

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 recommendations 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3537)

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.

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- (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3537)

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 department'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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3539)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3539)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3539)

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 U.S. Steel -Gary Works. 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 U.S. Steel -Gary Works 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3540*)

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) U.S. Steel-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*.

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/*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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3541*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3542*)

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

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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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3543)

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.

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(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, inplant 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3545*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3547*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3547*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3547*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3548*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3548*)

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 (µg/m³) 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 PM₁₀ 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3549*)

Final Rules

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.

LSA Document #02-335(F)

Proposed Rule Published: March 1, 2005; 28 IR 1714

Hearing Held: May 4, 2005

Approved by Attorney General: July 20, 2005

Approved by Governor: August 9, 2005

Filed with Secretary of State: August 10, 2005, 1:00 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #04-300(F)

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.

Proposed Rule and Notice of Second Hearing: March 1, 2005, Indiana Register (28 IR 1816).

Date of Second Hearing: May 4, 2005.

326 IAC 20-90 **326 IAC 20-93**
326 IAC 20-91 **326 IAC 20-94**
326 IAC 20-92

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3550)

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 AAAAA* (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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3550)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3550*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3551*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3551*)

LSA Document #04-300(F)

Proposed Rule Published: March 1, 2005; 28 IR 1816

Hearing Held: May 4, 2005

Approved by Attorney General: August 5, 2005

Approved by Governor: August 8, 2005

Filed with Secretary of State: August 10, 2005, 1:00 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: Stationary Combustion Turbines (40 CFR 63, Subpart YYYY) (69 FR 10512-10548); Lime Manufacturing Plants (40 CFR 63, Subpart AAAAA) (69 FR 394-433); Iron and Steel Foundries (40 CFR 63, Subpart EEEEE) (69 FR 21906-21940); Integrated Iron and Steel Manufacturing (40 CFR 63, Subpart FFFFF) (68 FR 27646-27677); Mercury Cell Chlor-Alkali Plants (40 CFR 63, Subpart IIIII) (68 FR 70904-70946).

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #04-320(F)

DIGEST

Adds 327 IAC 3-2-1.5, 327 IAC 3-2-3.5, and 327 IAC 3-2-5.5 concerning state permits for the construction of water pollution treatment/control facilities and sanitary sewers. Effective 30 days after filing with the Secretary of State.

HISTORY

Second Notice of Comment Period and Notice of First Hearing: #04-320(WPCB) January 1, 2005, Indiana Register (28 IR 1368).

Date of First Hearing: March 9, 2005.

Publication of Proposed Rule and Notice of Second Hearing: LSA Document #04-320, April 1, 2005, Indiana Register (28 IR 2192).

Date of Second Hearing and Final Adoption: April 13, 2005.

327 IAC 3-2-1.5

327 IAC 3-2-3.5

327 IAC 3-2-5.5

SECTION 1. 327 IAC 3-2-1.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 3-2-1.5 Valid permit requirement

Authority: IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-4-1

Affected: IC 13-18-2

Final Rules

Sec. 1.5. No person shall cause or allow the construction, installation, or modification of any water pollution treatment/control facility or sanitary sewer without a valid construction permit issued by the commissioner. (*Water Pollution Control Board; 327 IAC 3-2-1.5; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3551*)

SECTION 2. 327 IAC 3-2-3.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 3-2-3.5 Conditions of approval

Authority: IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-4-1

Affected: IC 13-18-2

Sec. 3.5. (a) The permit may specify expiration dates by which the construction must be started and completed, which dates shall be compatible with any federal or state, or both, grants or grant funds impacted. The commissioner may grant an extension of time for start and completion of construction if the commissioner believes the extension is necessary and justified.

(b) The commissioner shall have the authority to specify the limits and conditions necessary to ensure proper design and ease of operation of water pollution treatment/control facilities.

(c) Sanitary sewers that have been issued construction permits shall be tested for infiltration/exfiltration in a method approved by the commissioner. All force mains shall be tested for leakage in an approved method. Results of the infiltration/exfiltration test for sanitary sewers and leakage test for force mains shall be submitted for approval within ninety (90) days of completion of construction. Failure to submit test results within the allotted time period or failure to meet guidelines for infiltration/inflow and leakage would be subject to enforcement proceedings as provided by 327 IAC 3-5-3.

(d) Sanitary sewers that are flexible in type and that are issued construction permits shall be tested for vertical deflection. The tests shall be conducted after the final backfill has been in place at least thirty (30) days. No flexible sewer shall exceed a vertical deflection of five percent (5%). (*Water Pollution Control Board; 327 IAC 3-2-3.5; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3552*)

SECTION 3. 327 IAC 3-2-5.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 3-2-5.5 Nonsite-specific permit

Authority: IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-4-1

Affected: IC 13-18-2

Sec. 5.5. The commissioner may grant a nonsite-specific construction permit for the following category of dis-

charger: Short term drainage/sediment control lagoons.

(1) Said lagoons are those constructed according to approved general plans and specifications; however, the specific site location changes with time.

(2) Any request for issuance of such a nonsite-specific, ongoing construction permit shall be made by the applicant in conjunction with the application information presented in section 2 of this rule.

(3) It shall be the responsibility of the recipient of such a permit to notify the commissioner each time of a change in location of the permitted facility.

(*Water Pollution Control Board; 327 IAC 3-2-5.5; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3552*)

LSA Document #04-320(F)

Proposed Rule Published: April 1, 2005; 28 IR 2192

Hearing Held: April 13, 2005

Approved by Attorney General: July 6, 2005

Approved by Governor: July 18, 2005

Filed with Secretary of State: July 20, 2005, 1:00 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #04-318(F)

DIGEST

Amends 329 IAC 3.1-6-6 to increase the amount of treated electric arc furnace dust generated by Heritage Environmental Services, LLC and Nucor Corporation at the Nucor Steel, Division of Nucor Corporation, facility located in Crawfordsville, Indiana that can be excluded from regulation as hazardous waste from 30,000 cubic yards to 60,000 cubic yards per year. Effective 30 days after filing with the Secretary of State.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-7, Tentative Recommendation for Rulemaking, and Second Notice of Comment Period: January 1, 2005, Indiana Register (28 IR 1370).

Notice of First Hearing: January 1, 2005, Indiana Register (28 IR 1373).

Date of First Hearing: February 15, 2005.

Proposed Rule: April 1, 2005, Indiana Register (28 IR 2193).

Notice of Second Hearing: April 1, 2005, Indiana Register (28 IR 2195).

Date of Second Hearing: April 19, 2005.

329 IAC 3.1-6-6

SECTION 1. 329 IAC 3.1-6-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-6-6 Waste excluded from regulation; Heritage Environmental Services, LLC and Nucor Steel Corporation, Crawfordsville, Indiana

Authority: IC 13-14-8; IC 13-22-2
Affected: IC 13-22

Sec. 6. Electric arc furnace dust (EAFD), hazardous waste code K061, that is generated by Heritage Environmental Services, LLC (Heritage) and Nucor Steel, Division of Nucor, Corporation (Nucor) at Nucor’s Crawfordsville, Indiana plant, and treated to be nonhazardous is excluded from regulation under this article so long as management of the waste complies with all of the following conditions:

(1) Delisting levels for the waste excluded by this section are as follows:

(A) The constituent concentrations measured in any of the extracts required by subdivision (2) must not exceed any of the levels listed in Table 1:

Table 1. Maximum Constituent Concentrations in TCLP Extracts

Antimony	0.206 mg/L
Arsenic	0.0936 mg/L
Barium	55.7 mg/L
Beryllium	0.416 mg/L
Cadmium	0.15 mg/L
Chromium (total)	1.55 mg/L
Lead	5.0 mg/L
Mercury	0.149 mg/L
Nickel	28.3 mg/L
Selenium	0.58 mg/L
Silver	3.84 mg/L
Thallium	0.088 mg/L
Vanadium	21.1 mg/L
Zinc	280 mg/L

(B) Total mercury in the treated EAFD must not exceed one (1.0) milligram per kilogram.

(2) Heritage shall demonstrate on a monthly basis that the constituents in the treated EAFD do not exceed the delisting levels in subdivision (1) as follows:

(A) Heritage shall collect two (2) representative samples of the treated EAFD each month. Each sample must be analyzed using all of the following tests:

(i) Method 1311, Toxicity Characteristic Leaching Procedure (TCLP), described in U.S. Environmental Protection Agency Publication SW-846, “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, 3rd Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), and III (December 1996) (SW-846).

(ii) Method 1311, described in item (i), substituting an extraction fluid with a pH of 12.0 ± 0.05 standard units for the normal extraction fluid. Heritage may remove dissolved oxygen to less than five-tenths (0.5) parts per million by the addition of a stoichiometric amount of

sodium hydrosulfite.

(iii) Method 7471A, Mercury in Solid or Semi-Solid Waste (Manual Cold-Vapor Technique), described in SW-846.

(B) Detection levels must be less than the delisting levels in subdivision (1).

(C) Heritage must comply with Chapter 1, “Quality Control”, of SW-846.

U.S. Environmental Protection Agency Publication SW-846 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(3) Changes in the manufacturing process or the treatment process must be managed as follows:

(A) Heritage must notify the department in writing if any of the following occur:

(i) If Nucor changes the manufacturing process or chemicals used in the manufacturing process from those described in the petition for delisting.

(ii) If Heritage changes the treatment process or the chemicals used in the treatment process from those described in the petition for delisting.

(B) Heritage must handle all wastes generated after any process change as hazardous waste until all of the following occur:

(i) Heritage has demonstrated that:

(AA) the wastes continue to meet all delisting levels in subdivision (1); and

(BB) no new hazardous constituents listed in 40 CFR Part 261, Appendix VIII have been introduced.

(ii) Heritage has received written approval from the department to continue to manage the treated EAFD under this exclusion.

(4) Heritage must submit an annual report that summarizes the data obtained through monthly verification testing to IDEM by February 1 of each year. The report must include the results of each month’s analysis required by subdivision (2) for the previous calendar year.

(5) Heritage must compile, summarize, and maintain records of operating conditions and analytical data. The records must be maintained for a minimum of five (5) years. The records must be made available for inspection by the department during normal working hours.

(6) All data required by subdivisions (4) and (5) must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

(7) The treated EAFD must be disposed of in accordance with:

(A) 329 IAC 10; or

(B) this article.

(8) Solid waste landfill units permitted under 329 IAC 10 that accept the treated EAFD must comply with the ground water monitoring requirements of 329 IAC 10-21.

(9) The treated EAFD must be covered in accordance with 329 IAC 10-20-13 through 329 IAC 10-20-14.

(10) Only the following materials may be used as alternative daily cover over the treated EAFD:

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- (A) Category B slag debris.
- (B) Foundry sand.
- (C) Petroleum contaminated soils.
- (D) Fly ash.
- (E) Conditioned fly ash.
- (F) Coal ash.
- (G) Uncontaminated rocks, bricks, concrete, road demolition waste materials, or dirt.
- (H) Other materials approved in accordance with 329 IAC 10-20-14.1 for use over the treated EAFD after the effective date of this rule.

(11) No waste that is capable of providing oxygen or acting as a source of oxygen may be disposed of in the same cell or unit as the treated EAFD.

(12) If, at any time after disposal of the delisted waste, Heritage possesses or is otherwise made aware of any data relevant to the delisted waste indicating that any constituent identified in subdivision (1) is at a level in a test extract or in the leachate that is higher than the delisting level listed in subdivision (1), then Heritage must report such data in writing to the commissioner within ten (10) days of first possessing or being made aware of that data.

(13) If, at any time after disposal of the treated EAFD, Heritage possesses or is otherwise made aware of any data relevant to the delisted waste indicating that any of the following constituents is at a level in the ground water higher than the levels listed in Table 2:

Table 2. Maximum Allowable Concentrations in Ground Water

Antimony	0.006 mg/L
Arsenic	0.005 mg/L
Barium	2.0 mg/L
Beryllium	0.004 mg/L
Cadmium	0.005 mg/L
Chromium	0.1 mg/L
Lead	0.015 mg/L
Mercury	0.002 mg/L
Nickel	0.753 mg/L
Selenium	0.05 mg/L
Silver	0.187 mg/L
Thallium	0.002 mg/L
Vanadium	0.263 mg/L
Zinc	11.25 mg/L
Sulfides	1.0 mg/L

then Heritage must report such data in writing to the commissioner with [*sic.*, *within*] ten (10) days after first possessing or being made aware of that data.

(14) No more than ~~thirty sixty~~ thousand ~~(30,000)~~ **(60,000)** cubic yards of treated EAFD may be treated or disposed of annually under this exclusion.

(Solid Waste Management Board; 329 IAC 3.1-6-6; filed Oct 3, 2001, 9:43 a.m.: 25 IR 372; filed Jul 20, 2005, 1:00 p.m.: 28 IR 3553)

LSA Document #04-318(F)

Proposed Rule Published: April 1, 2005; 28 IR 2193

Hearing Held: April 19, 2005

Approved by Attorney General: June 27, 2005

Approved by Governor: July 18, 2005

Filed with Secretary of State: July 20, 2005, 1:00 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #04-248(F)

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3554)

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3555)

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.

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(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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3555)

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3556)

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.

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, cassowaries, 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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3556)

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, cassowaries, and emus.

(Indiana State Board of Animal Health; 345 IAC 7-4.5-1; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3556, eff Sep 1, 2006)

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3557, eff Sep 1, 2006)

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3557, eff Sep 1, 2006)

SECTION 3. SECTION 2 of this document takes effect September 1, 2006.

LSA Document #04-248(F)
Notice of Intent Published: October 1, 2004; 28 IR 236
Proposed Rule Published: March 1, 2005; 28 IR 1818
Hearing Held: April 21, 2005
Approved by Attorney General: June 27, 2005
Approved by Governor: July 15, 2005
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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #04-286(F)
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 8-2-1.5
- 345 IAC 8-2-1.6
- 345 IAC 8-2-1.7
- 345 IAC 8-2-1.9
- 345 IAC 8-2-4
- 345 IAC 8-3-1
- 345 IAC 8-3-2
- 345 IAC 8-3-12
- 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

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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 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; ~~ice milk;~~
- (C) goat's milk ice cream;
- (D) sherbets;
- (E) mellorine; and
- (F) 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

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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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3557*)

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

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3560*)

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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3560*)

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**, eggnog shall be heated to at least the following temperature and time specifications:

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

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

- (1) The process has been officially recognized by the United States Food and Drug Administration to be equally effective.
- (2) The state veterinarian approves the procedure as being equally effective.

(c) As used in this article, “ultra pasteurized” means dairy products that have been thermally processed at or above two hundred eighty (280) degrees Fahrenheit (**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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3560)

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.

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(e) The state veterinarian shall issue the following permits to persons meeting the appropriate requirements in IC 15-2.1-23 and this article:

- (1) A milk distributor permit for persons acting as a milk distributor.
- (2) A bulk milk hauler/sampler permit to persons acting as a bulk milk hauler/sampler.
- (3) Milk tank truck operator for persons operating milk tank trucks.
- (4) A permit to operate a milk tank truck cleaning facility.
- (5) A permit to manufacture containers for milk or milk products.

(f) All permits issued under this article are subject to the provisions in IC 15-2.1-23-2 and IC 15-2.1-23-3. The state veterinarian may take any action with respect to permits the board is authorized to take under IC 15-2.1-23. (*Indiana State Board of Animal Health; 345 IAC 8-2-1.9; filed Sep 27, 2002, 2:40 p.m.: 26 IR 332; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3561*)

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 milkhouse 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.

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(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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3562*) 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 appen-

dixes, 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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3564*) *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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3565*) *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

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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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3565)

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:

$$(DP) (2 \text{ days}) (\$3) - (PR)$$

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:

$$(DP) (4 \text{ days}) (\$3)$$

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

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milk, not including the value of the positive producer's contaminated milk for which he or she was not paid.

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

(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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3566)

LSA Document #04-286(F)

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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #04-287(F)

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.**

~~(3)~~ **(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) A meat processor inspected under IC 15-2.1-24 for processing.**
- ~~(B)~~ **(B) A commercial deer processor registered with the Indiana department of natural resources under 312 IAC 9-3-10 for processing.**
- ~~(C)~~ **(C) A taxidermist licensed by the Indiana department of natural resources under IC 14-22-21.**
- ~~(4)~~ **(4) A person may move the following parts into the state:**
 - ~~(A)~~ **(A) Antlers, including antlers attached to skull caps, if the skull cap is cleaned of all brain and muscle tissue.**
 - ~~(B)~~ **(B) Hides.**
 - ~~(C)~~ **(C) Upper canine teeth, also known as “buglers”, “whistlers”, or “ivories”.**
 - ~~(F)~~ **(F) Heads if they are delivered to a taxidermist licensed by the Indiana department of natural resources within seventy-two (72) hours after entry.**
 - ~~(D)~~ **(D) Finished taxidermist mounts.**

~~(5)~~ **(5) A person licensed as a disposal plant or collection service under IC 15-2.1-16 may move carcasses and parts into**

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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; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3569)

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TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

LSA Document #04-312(F)

DIGEST

Amends 355 IAC 2-1-1 to correct spelling of word sieve. Amends 355 IAC 2-1-6 to reduce font size required on label when Boron guarantee is made. Amends 355 IAC 2-2-1 to make editorial change to approving individual. Adds 355 IAC 2-2-1.5 to provide definition of appurtenance not previously defined in rule. Amends 355 IAC 2-2-6 to include dry with fluid in field operations. Amends 355 IAC 2-2-9 editorial change for clarification by removing and/or. Amends 355 IAC 2-2-10 to make editorial change to provide clarification. Amends 355 IAC 2-2-13 to make editorial change which clarifies intent. Amends 355

IAC 2-2-14 to make editorial change to remove gender specific reference. Amends 355 IAC 2-2-15 to make editorial change for clarification. Amends 355 IAC 2-2-17 to make editorial change and indicate scope includes all storage locations and be more directive relevant to materials used for storage. Amends 355 IAC 2-3-6 to make editorial change for clarification. Amends 355 IAC 2-3-8 to providing clarification for compliant piping and that requiring containment and further specifies requirement for underground piping. Amends 355 IAC 2-3-11 to make editorial change to simplify requirements. Amends 355 IAC 2-3-12 to set time frame for compliance. Amends 355 IAC 2-4-1 to make editorial change for clarification. Amends 355 IAC 2-5-1 to make editorial change for clarification and expands the state chemist authority to accept compliant alternative means as specified under IC 15-3-3-12(b). Amends 355 IAC 2-5-2 to make editorial change for clarification. Amends 355 IAC 2-5-3 to make editorial change for clarification. Amends 355 IAC 2-5-4 to make editorial change for clarification. Amends 355 IAC 2-5-6 to make editorial change for clarification. Amends 355 IAC 2-5-8 to clarify specific cutoff date for exemption and make editorial changes. Amends 355 IAC 2-5-12 to make editorial changes for clarification. Amends 355 IAC 2-5-12.5 to make editorial changes which eliminates records keeping and required inspection. Amends 355 IAC 2-6-1.5 to make editorial changes for clarification. Amends 355 IAC 2-9-1 to make editorial changes for clarification. Repeal 355 IAC 2-4-4, 355 IAC 2-5-14, 355 IAC 2-6-2, and 355 IAC 2-8 as sections are no longer necessary or applicable. 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 ~~seive~~ 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3570)

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~~ (†) **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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3571)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3571)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3571)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3571)

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 twenty-eight percent (28%), thirty percent (30%), or 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3571)

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

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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 Jun 20, 2001, 3:20 p.m.: 24 IR 3822; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3571)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3572)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3572)*

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, nurse tank, or 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3572)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3572)*

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 twenty-eight percent (28%), thirty percent (30%), or 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3572)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3573)*

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, except for schedule 80 or greater or made of stainless steel, 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3573)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3573)*

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

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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.

(c) (b) Full compliance by existing storage facilities shall be required no later than twelve (12) months two (2) years from 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3573*)

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 above-ground container, provided a pump is installed that automatically transfers the contents of the sump into an aboveground container. Such containers used for the temporary storage of liquids collected from the operational area containment shall be located within secondary containment. 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3574)

SECTION 18. 355 IAC 2-5-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 2-5-1 General requirements

Authority: IC 15-3-3-12
 Affected: IC 15-3-2; IC 15-3-3-7

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3575)*

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3575)*

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24 IR 3822; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3575)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3576)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3576)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3576)

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 inspec-

tion, 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3576*)

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 containing 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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3577*)

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

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Sec. 12.5. (a) ~~Diked~~ **Secondary containment** 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.

(b) ~~Any~~ Accumulated liquids shall be promptly removed from the ~~diked~~ **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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3577*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3578*)

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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3578)

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) ~~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; filed Aug 10, 2005, 1:00 p.m.: 28 IR 3578*)

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.

LSA Document #04-312(F)

Notice of Intent Published: January 1, 2005; 28 IR 1198

Proposed Rule Published: March 1, 2005; 28 IR 1838

Hearing Held: April 29, 2005

Approved by Attorney General: July 13, 2005

Approved by Governor: August 8, 2005

Filed with Secretary of State: August 10, 2005, 1:00 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #04-321(F)

DIGEST

Adds 405 IAC 1-1-3.1 to specify the responsibilities of Medicaid providers when providing services to members enrolled under the Medicaid spend-down provision. Amends 405 IAC 2-3-10 to set out the policies and procedures that apply

to Medicaid spend-down eligibility. Effective 30 days after filing with the Secretary of State.

405 IAC 1-1-3.1
405 IAC 2-3-10

SECTION 1. 405 IAC 1-1-3.1 IS ADDED TO READ AS FOLLOWS:

405 IAC 1-1-3.1 Providing services to members enrolled under the Medicaid spend-down provision

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
 Affected: IC 12-15

Sec. 1. (a) This section applies to a Medicaid-participating provider furnishing services to an individual enrolled in Medicaid under the spend-down provision set out at 405 IAC 2-3-10.

(b) A provider must submit a claim to Medicaid for any service for which Medicaid reimbursement may be available under 405 IAC 5. Such services include services provided in excess of Medicaid benefit limitations. The provider must comply with any prior authorization requirements applicable to the service.

(c) Except for applicable copayments, a provider may not bill a Medicaid member for any part of the provider's charge for a service billed to Medicaid until:

- (1) Medicaid has adjudicated the provider's claim for the service; and**
- (2) the provider has been notified of the portion of the claim that was credited to the Medicaid member's monthly spend-down obligation.**

The provider may bill the member for the amount that was credited toward the member's spend-down as well as any unpaid copayment amount due.

(d) A provider may not refuse service to a Medicaid member pending verification that the member's monthly spend-down obligation has been satisfied. A provider may not refuse service to a Medicaid member solely on the basis of the member's spend-down status. (*Office of the Secretary of Family and Social Services; 405 IAC 1-1-3.1; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3579*)

SECTION 2. 405 IAC 2-3-10, AS AMENDED AT 28 IR 178, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-3-10 Spend-down eligibility

Authority: IC 12-13-5-3; IC 12-13-7-3; IC 12-15-1-10
 Affected: IC 12-15-4; IC 12-15-5

Sec. 10. (a) As used in The following definitions apply throughout this section: "countable income"

(1) "County office" means the county office of the division of family resources of the family and social services

administration.

(2) "Incurred medical expenses" have has the meanings meaning set forth in 42 CFR 435.121(f) and section 3 of this rule. For purposes of this section, "third party" subsection (e). The term includes expenses incurred by the applicant's or recipient's spouse or parent whose income is counted in determining the applicant's or recipient's eligibility for Medicaid. The term does not include expenses that are subject to payment or have been paid by a third party, except expenses paid by the following:

- (+) (A) A state program.**
- (-) (B) A local program.**
- (+) (C) Discounts or assistance received under the Medicare drug discount card and transitional assistance program authorized under 42 U.S.C. 1395w-141.**

(3) "Spend-down obligation" means the amount of any excess monthly income remaining in the eligibility determination in section 20(a)(14) of this rule.

(b) Any In order to be enrolled in Medicaid under the spend-down provision, an otherwise eligible applicant or recipient whose countable monthly income exceeds the applicable income limit specified in section 18 of this rule is eligible for medical assistance for that part of any month after his or her must provide documentation to the county office of incurred medical expenses in excess of the spend-down obligation. If the applicant's ongoing incurred medical expenses equal do not exceed his or her excess income, his or her application will be denied. Medicaid coverage will be approved for any month prior to the denial date in which incurred medical expenses equaled or exceeded the spend-down obligation, if all other eligibility requirements are met for the month. The Medicaid program will reimburse covered services in accordance with 405 IAC 5 for incurred medical expenses in excess of the spend-down obligation.

(c) In order to be determined eligible for medical assistance under this section, the applicant or recipient must provide to the county department, for each month in which he or she requests medical assistance, documentary verification of his or her Incurred medical expenses for which he or she remains currently liable. The county department will promptly determine the date on which the applicant became eligible for medical assistance and issue the appropriate eligibility documents for the remainder of that month: will credit the spend-down obligation in the following order and manner:

- (1) Incurred medical expenses submitted to the county office as described in subsections (e) and (f).**
- (2) Medicaid copayments beginning with the month the service requiring the copayment was incurred and continuing in subsequent months until the full copayment has credited the spend-down obligation.**
- (3) Medicaid claims filed by Medicaid providers in accordance with 405 IAC 1-1-3.1.**

(d) If a medical expense that is subject to payment by a third

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party is submitted to the county department in a month later than the month in which the service is provided; no portion of the expense will be allowed in the spend-down eligibility determination until the third party has adjudicated and paid its obligated amount. The portion of the expense that is paid by the third party shall not be allowed in the spend-down eligibility determination. The portion of the expense for which the recipient remains liable after the third party has paid its obligated amount shall be allowed toward spend-down eligibility.

(e) An expense that is subject to payment by a third party shall be allowed in the spend-down eligibility determination if it is submitted to the county department in the month in which the service is provided; with the following limitations:

(1) Expenses for Medicare covered services are not allowed for recipients who are eligible as qualified Medicare beneficiaries under 42 U.S.C. 1396a(a)(10)(E)(i).

(2) The allowed amount of an incurred expense for which the provider of service accepts Medicare assignment shall not exceed the Medicare approved amount. However, if the Medicare approved amount is not verifiable, the provider's usual and customary charge for the service will be allowed.

(3) If a liable third party has paid a portion of the expense at the time the expense is submitted, the portion of the expense that has been paid by the third party shall not be allowed in the spend-down eligibility determination.

(f) If the applicant's anticipated medical expenses do not exceed his or her excess income, his or her application will be denied. Such an applicant may reapply at any time.

(d) Claims submitted by Medicaid participating providers for services rendered to enrolled Medicaid recipients will credit the recipient's spend-down obligation in the month of the service and in the order of submission. A service that is not payable by the Medicaid program under 405 IAC 5 will not credit the spend-down obligation, except for a service that is not covered for the following reasons:

(1) The service is subject to a benefit limit; and

(2) There is no provision for obtaining prior authorization for coverage for services that exceed the benefit limit.

Any amount paid or payable by a third party will not credit the spend-down obligation. The amount owed by the recipient after the third party has adjudicated the claim will credit the spend-down.

(e) Incurred medical expenses for services for which claims cannot be submitted directly by Medicaid providers must be submitted to the county office for the purpose of crediting the spend-down obligation. The documentation of an expense submitted to the county office must be a bill, a receipt, or other documentation of the individual's liability for the expense. The following are examples of expenses that must be submitted to the county office:

(1) Expenses incurred before the individual was eligible for Medicaid.

(2) Expenses incurred by the recipient's spouse or other person whose income is considered in determining the recipient's eligibility.

(3) Expenses incurred for services provided by a non-Medicaid provider.

(f) For expenses submitted to the county office under subsection (e), the spend-down obligation will be credited for the month following the month of submission to the county office or, at the request of the recipient, in the month of service or in the month of submission of the expense to the county office. The incurred medical expense shall credit spend-down in subsequent months until the entire balance of the expense has been applied. The following incurred medical expenses will be credited toward spend-down under this subsection:

(1) Medical care provided by physicians, psychiatrists, and other licensed medical practitioners.

(2) Laboratory testing, x-rays, and other diagnostic procedures.

(3) Dental services provided by a licensed dentist, including dentures.

(4) Hospitalization and outpatient treatment.

(5) Nursing facility services and rehabilitative services.

(6) Respiratory, occupational, speech, physical, and audiology therapy services.

(7) Prescription drugs and over-the-counter medication, including insulin, when prescribed by a licensed medical practitioner who is authorized to prescribe legend drugs under Indiana law.

(8) The cost of postage incurred by the individual for mail order prescriptions.

(9) Medical supplies, if ordered in writing by a licensed physician or dentist for treatment of a medical condition, except those items identified as noncovered medical supplies under 405 IAC 5.

(10) Durable medical equipment if ordered in writing by a licensed physician except those items listed as noncovered equipment under 405 IAC 5-19-18.

(11) Home health care provided by a licensed home health agency.

(12) Nursing services provided by a registered nurse or licensed practical nurse.

(13) Audiology services and hearing aids if ordered in writing by a physician.

(14) Prosthetic devices other than those dispensed for purely cosmetic purposes, if ordered in writing by a physician, optometrist, or dentist.

(15) Vision care services including eyeglasses, examinations, and diagnostic procedures.

(16) Cost of transportation to obtain medical services that are allowable medical expenses. If transportation is provided by a business transportation carrier, the verified carrier's charge will be allowed. If the individual or a friend or family member drives the individual to medical services, mileage cost is allowed at the rate per mile

- established by the Indiana legislature for state employees.
- (17) The premium of the recipient's spouse who receives Medicaid for Employees with Disabilities (MED Works).
- (18) Medicaid copayments and any copayments required by other health coverage programs or health insurance carriers.
- (19) Premiums for health and hospitalization insurance policies that limit benefits to the reimbursement of medical expenses.
- (20) Medicare premiums.

(g) If a recipient does not submit medical expenses to the county department to meet his or her spend-down for four (4) consecutive months, medical assistance shall be discontinued. (Office of the Secretary of Family and Social Services; 405 IAC 2-3-10; filed Mar 1, 1984, 2:31 p.m.: 7 IR 1021, eff Apr 1, 1984; filed Feb 16, 1993, 5:00 p.m.: 16 IR 1785; filed Jul 25, 1995, 5:00 p.m.: 18 IR 3382; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Sep 7, 2004, 5:00 p.m.: 28 IR 178; filed Jul 18, 2005, 1:00 p.m.: 28 IR 3579) NOTE: Transferred from the Division of Family and Children (470 IAC 9.1-3-12) to the Office of the Secretary of Family and Social Services (405 IAC 2-3-10) by P.L.9-1991, SECTION 131, effective January 1, 1992.

LSA Document #04-321(F)
Notice of Intent Published: January 1, 2005; 28 IR 1199
Proposed Rule Published: April 1, 2005; 28 IR 2196
Hearing Held: April 26, 2005
Approved by Attorney General: July 6, 2005
Approved by Governor: Not dated by Governor
Filed with Secretary of State: July 18, 2005, 1:00 p.m.
IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

LSA Document #04-295(F)

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 examination.

(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; filed Jun 27, 2005, 10:00 a.m.: 28 IR 3581)

LSA Document #04-295(F)
Notice of Intent Published: December 1, 2004; 28 IR 985
Proposed Rule Published: March 1, 2005; 28 IR 1849
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Approved by Attorney General: June 10, 2005
Approved by Governor: June 24, 2005
Filed with Secretary of State: June 27, 2005, 10:00 a.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 #05-212(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #05-212(E), printed at 28 IR 3608:

- (1) In SECTION 1(a), on page 1 of the original document (28 IR 3608), delete “312 IAC 18-3-19(c)” and insert “312 IAC 18-3-18(c)”.
- (2) In SECTION 1(b), on page 1 of the original document (28 IR 3608), delete “312 IAC 18-3-19(c) [sic., 312 IAC 18-3-19]” and insert “312 IAC 18-3-18(c)”.

Filed with Secretary of State: August 10, 2005, 1:00 p.m.

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

NOTE: This change was incorporated into the printed version of LSA Document #05-212(E) and may be found at 28 IR 3608 as corrected.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #03-129(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #03-129(F), printed at 28 IR 2046:

- (1) In 327 IAC 2-1-8.9(b)(2), on page 23 of the original document (28 IR 2059), after “include”, insert “the following”.
- (2) In 327 IAC 2-1-8.9(c), on page 23 of the original document (28 IR 2059), after “shall”, insert “do the following”.
- (3) In 327 IAC 2-1.5-16(b)(2), on page 93 of the original document (28 IR 2095), after “include”, insert “the following”.
- (4) In 327 IAC 2-1.5-16(c), on page 93 of the original document (28 IR 2095), after “shall”, insert “do the following”.
- (5) In 327 IAC 5-2-11.4(c)(1)(B), on page 121 of the original document (28 IR 2110), after “subdivision”, delete “(6)” and insert “(8)”.
- (6) In 327 IAC 5-2-11.4(c)(1)(C), on page 121 of the original document (28 IR 2110), after “subdivision”, delete “(6)” and insert “(8)”.
- (7) In 327 IAC 5-2-11.4(d), on page 124 of the original document (28 IR 2112), delete “of this section”.

Filed with Secretary of State: July 6, 2005, 3:12 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 327 WATER POLLUTION CONTROL BOARD

LSA Document #03-130(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #03-130(F), printed at 28 IR 2348:

- In 327 IAC 5-3.5-3, on page 2 of the original document (28 IR 2349), delete “327 IAC 5” and insert “this article”.

Filed with Secretary of State: July 6, 2005, 3:15 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 327 WATER POLLUTION CONTROL BOARD

LSA Document #04-13(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #04-13(F), printed at 28 IR 3184:

- (1) In 327 IAC 8-2-4.2, on page 28 of the original document (28 IR 3197), at (6) in the list under “*Methods referenced in this section may be obtained as follows:”, delete “D”, and insert “4500-F-D”.
- (2) In 327 IAC 8-2-4.2, on page 29 of the original document (28 IR 3198), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.
- (3) In 327 IAC 8-2-5.2, on page 37 of the original document (28 IR 3203), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.
- (4) In 327 IAC 8-2-5.5, on page 43 of the original document (28 IR 3206), after “Indianapolis, Indiana”, delete “46206” and insert “46204”.
- (5) In 327 IAC 8-2-8.7, on page 48 of the original document (28 IR 3209), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.
- (6) In 327 IAC 8-2-10.1(a)(10)(I), on page 51 of the original document (28 IR 3210), delete “D 4785-91*.” and insert “D 4785-93*.”.
- (7) In 327 IAC 8-2-10.1(d)(5), on page 52 of the original document (28 IR 3211), delete “Spectometry” and insert “Spectrometry”.
- (8) In 327 IAC 8-2-10.1(d)(7), on page 53 of the original document (28 IR 3211), after “of ASTM”, delete “of ASTM”.
- (9) In 327 IAC 8-2-10.2(a)(3)(B)(ii), on page 56 of the original document (28 IR 3213), after “one (1) sample for radium-226 and radium-228” insert “at”.

(10) In 327 IAC 8-2-45, on page 68 of the original document (28 IR 3220), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.

(11) In 327 IAC 8-2.1-3, on page 78 of the original document (28 IR 3226), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.

(12) In 327 IAC 8-2.1-16, on page 99 of the original document (28 IR 3240), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.

(13) In 327 IAC 8-2.6-2(b)(4)(A)(ii), on page 114 of the original document (28 IR 3250), delete “Ó” and insert “Σ”.

(14) In 327 IAC 8-2.6-2(b)(4)(B)(ii) [*sic*, 327 IAC 8-2.6-2(b)(4)(B)], on page 114 of the original document (28 IR 3250), delete “Ó” and insert “Σ”.

(15) In 327 IAC 8-2.6-2, on page 115 of the original document (28 IR 3250), after “Room”, delete “1255” and insert “N1255”, and after “Indianapolis, Indiana”, delete “46206” and insert “46204”.

(16) In 327 IAC 8-2.6-2.1(c)(1)(B), on page 116 of the original document (28 IR 3251), after “according”, insert “to”.

Filed with Secretary of State: July 6, 2005, 3:15 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 575 STATE SCHOOL BUS COMMITTEE

Under IC 4-22-2-38, corrects the following inaccurate reference to a statute in the Indiana Administrative Code, 2005 Edition:

(1) In 575 IAC 1-1-1(b), delete “IC 20-9.1-1-5” and insert “IC 20-27-2-8”.

(2) In 575 IAC 1-1-5(a), delete “IC 20-9.1” and insert “IC 20-27”.

(3) In 575 IAC 1-5.5-1(d), delete “IC 20-1-6-1” and insert “IC 20-35”.

Filed with Secretary of State: June 27, 2005, 1:45 p.m.

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

Notice of Withdrawal

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-138(APCB)

LSA Document #00-138(APCB), printed at 23 IR 2606, is withdrawn.

**TITLE 820 STATE BOARD OF COSMETOLOGY
EXAMINERS**

LSA Document #05-68

Under IC 4-22-2-41, LSA Document #05-68, printed at 28 IR 3044, is withdrawn.

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #05-40

LSA Document #05-40, printed at 28 IR 2158, is withdrawn.

TITLE 45 DEPARTMENT OF STATE REVENUE

LSA Document #05-188(E)

DIGEST

Temporarily adds provisions to explain and implement the Tax Amnesty Program as contained in HEA 1004-2005. Authority: HEA 1004-2005, SECTION 4. Effective July 8, 2005.

SECTION 1. (a) The definitions in this SECTION apply throughout this document.

(b) "Amnesty period" means the period of September 15, 2005, through November 15, 2005, when a taxpayer can elect to take advantage of the provisions contained in IC 6-8.1-3-17.

(c) "Department" means the department of state revenue.

(d) "Due and payable" means:

(1) the department has issued an assessment of the listed tax and demand for payment under IC 6-8.1-5-3;

(2) the department has issued a demand notice for payment of the listed tax under IC 6-8.1-8-2;

(3) the taxpayer has filed a return or an amended return in which the taxpayer has reported a liability for the listed tax; or

(4) the taxpayer has filed a written statement of liability in the form of an original return for the tax period and has filed an amnesty agreement with the department for the listed tax.

(e) "Listed taxes" means the taxes and fees described in IC 6-8.1-1-1 as in effect on May 12, 2005.

(f) "Taxpayer" means an individual, corporation, trust, estate, financial institution, insurance company, or a partner, shareholder, or member of a pass through entity.

(g) For purposes of liabilities assessed against an individual officer or employee under IC 6-2.5-9-3, IC 6-3-4-8, or IC 6-6-2.5-38, "taxpayer" shall collectively refer to all such individuals who have been assessed as well as the entity that is responsible for collection and remittance of such taxes.

(h) For purposes of liabilities under IC 6-3-4-8.1, IC 6-3-4-8.2, IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15, "taxpayer" shall also refer to the entity responsible for withholding and remitting the taxes.

(i) For purposes of IC 6-3-4-8.5, "taxpayer" shall collectively refer to the entity that incurred the initial tax liability and the transferee of property subject to tax under IC 6-3-4-8.5.

(j) "Tax period" means a reporting period ending on or before June 30, 2004.

SECTION 2. The inheritance tax, estate tax, and generation skipping tax are not subject to the provisions of the amnesty program.

SECTION 3. (a) The department shall establish an amnesty program that applies to unpaid tax liabilities for listed taxes that are due and payable for a tax period ending before July 1, 2004.

(b) Individuals with unpaid individual income tax liabilities are eligible for amnesty if the liability is for a taxable year ending on or before June 30, 2004. This applies to liabilities that are outstanding and due for resident individuals, partial year residents, and nonresidents.

(c) Taxpayers who are liable for sales and withholding taxes for tax periods ending on or before June 30, 2004, are eligible for amnesty on those outstanding liabilities.

(d) Corporations with unpaid tax liabilities are eligible for amnesty if the liability is for a tax period ending on or before June 30, 2004.

(e) Taxpayers that filed a tax return for an amnesty eligible tax period, but underreported the tax liability that was actually due, may participate in the amnesty program by completing an amnesty agreement, filing an amended return for the tax period, and paying the base tax that is due.

(f) Taxpayers that have not filed a tax return, or paid taxes for an amnesty eligible tax period, and have not been assessed by the department may participate in the amnesty program by completing an amnesty agreement, filing the original tax return for the tax period, and paying the base tax that is due.

SECTION 4. (a) The amnesty period is from September 15, 2005, up to and including November 15, 2005.

(b) No extensions of payments are permitted unless the taxpayer has established a payment plan with the department under SECTION 10 of this document.

(c) A payment received by the department before September 15, 2005, for an amnesty eligible tax period is not eligible for the abatement of penalties, interest, and costs, and fees under SECTION 7 [of this document].

SECTION 5. (a) Except as provided in SECTION 6 of this document, a taxpayer with an eligible outstanding tax liability that is due and payable to the department for an eligible tax period is eligible to participate in the amnesty program.

(b) A taxpayer that properly protests a liability in accordance with IC 6-8.1-5-1 is eligible to participate in the amnesty program.

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(c) A taxpayer that has a departmental hold on a tax liability payment resulting from an audit, bankruptcy, taxpayer advocate action, criminal investigation, or criminal prosecution is eligible to participate in the amnesty program.

(d) A taxpayer that negotiated a payment plan on or prior to May 12, 2005, with the department, a sheriff, collection attorney, or collection agency is eligible to participate in the amnesty program.

SECTION 6. A tax liability incurred because of a taxpayer's failure to add back the riverboat wagering tax to federal adjusted gross income or federal taxable income of the taxpayer is not eligible for the amnesty program. This includes the entity's distributive income passed through to its partners, shareholders, or other members of a pass through entity. The exclusion includes any income taxes attributable to the addback for which a pass through entity is responsible for withholding on behalf of nonresident shareholders or partners.

SECTION 7. (a) A taxpayer that elects to voluntarily take advantage of the amnesty program in a timely manner and complies with all requirements of the department concerning the amnesty program has the assurance that:

- (1) the department shall abate and not seek to collect any applicable interest, penalties, collection fees, or costs related to those tax liabilities that are paid under amnesty;
- (2) the department shall release any liens that are imposed after the full amount of the applicable tax liability is paid;
- (3) the department shall not seek civil or criminal prosecution against any individual or entity that participates in the amnesty program. The provision not to seek any civil or criminal prosecution only applies to tax liabilities that are included in the amnesty program; and
- (4) the department shall not issue or if issued shall withdraw an assessment, a demand notice, or a warrant for payment for liabilities paid under the amnesty program.

(b) A taxpayer that has an outstanding tax liability for taxes related to the International Fuel Tax Agreement (IFTA) that participates in the amnesty program will have penalty and interest abated for the Indiana portion of penalty and interest assessed. The IFTA prohibits Indiana from eliminating another state's penalty and interest assessment.

SECTION 8. (a) A taxpayer that participates in the amnesty program is not eligible to participate in any future amnesty program.

(b) The provision contained in subsection (a) does not apply to an amnesty agreement entered into under Section 402 of the Streamlined Sales and Use Tax Agreement.

SECTION 9. (a) A taxpayer that fails to pay the department the full amount of base tax for a listed tax that is due and payable for a tax period shall have the amnesty agreement voided and will be subject to all penalties, including the additional penalty provided in SECTION 11 of this document, and interest and costs related to the listed tax for the tax period that would be incurred if the taxpayer had not participated in the amnesty program.

(b) Any liability that is not eligible for the amnesty program will not be subject to the additional penalty provided in SECTION 11 of this document.

SECTION 10. (a) A taxpayer that enters into an amnesty payment plan shall comply with a written agreement stating the requirements of the payment plan.

(b) An amnesty payment plan agreement that is entered into by the taxpayer and the department shall require that the full amount of base tax due as established in the agreement must be remitted by June 15, 2006.

(c) If the amnesty payment plan agreement is entered into on or before September 30, 2005, the taxpayer is required to pay twenty percent (20%) of the base tax due at the time of signing the agreement and ten percent (10%) of the base tax on the fifteenth of each month beginning on November 15, 2005, until the balance is paid in full.

(d) If the amnesty payment plan agreement is entered into after September 30, 2005, and on or before November 15, 2005, the taxpayer is required to pay thirty percent (30%) of the base tax due at the time of signing the agreement and ten percent (10%) of the base tax on the fifteenth of each month beginning on December 15, 2005, until the balance is paid in full.

(e) A taxpayer may pay more than the minimum monthly payment provided in the amnesty payment plan agreement.

(f) Payments received that are less than the minimum monthly payment amount provided in the payment plan agreement shall result in default of the amnesty agreement.

SECTION 11. (a) A taxpayer that fails to participate in the amnesty program or does not pay the entire base tax liability for a tax period that is due and payable for a tax period ending before July 1, 2004, shall be assessed a penalty that is double the amount of the penalty originally assessed.

(b) The penalty that is originally assessed is equal to ten percent (10%) of:

- (1) the full amount of tax due if the taxpayer fails to file a return;
- (2) the amount of tax not paid if the taxpayer fails to pay the full amount of tax shown on the taxpayer's return;

- (3) the amount of tax held in trust that is not timely remitted;
- (4) the amount of deficiency as finally determined by the department; or
- (5) the amount of tax due if the taxpayer fails to remit a payment by electronic funds transfer.

(c) The penalty that is originally assessed is equal to twenty percent (20%) if the taxpayer fails to withhold tax for nonresident shareholders that are shareholders in an S Corporation.

(d) The penalty that is originally assessed on a return that shows no tax liability for a taxable year is ten dollars (\$10) per day for each day that the return is past due up to a maximum of two hundred fifty dollars (\$250).

(e) The penalty that is originally assessed on a return prepared by the department based on best information available is twenty percent (20%) of the unpaid tax.

(f) The penalty that is originally assessed for failure to file a return or failure to make full payment with the fraudulent intent of evading the tax is one hundred percent (100%).

(g) The penalty that is originally assessed for a check where the department is unable to obtain payment on the check when the check is presented for payment through normal banking channels is one hundred percent (100%) of the face value of the check if the taxpayer fails to make the payment by check, certified check, or other guaranteed payment within ten (10) days of being notified by the department that the check has been dishonored.

(h) The penalty that is originally assessed for failure to file an information return (Schedule K-1 of Form IT-20S, IT-41, or IT-65) is ten dollars (\$10) for each failure to file a timely return up to a maximum of twenty-five thousand dollars (\$25,000). The term information return does not include form IT-20FIT, IT-20S, IT-20SC, IT-41, or IT-65.

(i) The penalty that is originally assessed on a corporate officer for violations concerning the dissolution of a corporation is thirty percent (30%) of the unpaid tax for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(j) The penalty that is originally assessed for selling gasoline in Indiana with the intent to avoid payment of the gasoline tax is fifty percent (50%) of the tax that has not been paid to the department.

(k) The penalty that is originally assessed for failure to remit the special fuel tax is one hundred percent (100%) of the uncollected tax.

SECTION 12. The provision for doubling the penalty as

contained in SECTION 11 of this document does not apply if all of the following conditions are present:

- (1) The department imposes a penalty on a taxpayer or otherwise calculates the penalty under the provisions described in SECTION 11 of this document.
- (2) The taxpayer against whom the penalty is imposed:
 - (A) timely files an original tax appeal in the tax court; and
 - (B) contests the department's imposition of the penalty or the tax on which the penalty is based.
- (3) The taxpayer meets all other jurisdictional requirements to initiate the original tax appeal.
- (4) Either:
 - (A) the tax court enjoins collection of the penalty or the tax on which the penalty is based; or
 - (B) the department consents to an injunction against collection of the penalty or tax without entry of an order by the tax court.

SECTION 13. The provision for doubling the penalty as contained in SECTION 11 of this document does not apply if any of the following circumstances apply:

- (1) the taxpayer has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, criminal investigation, or prosecution;
- (2) the taxpayer had established a payment plan with the department by May 12, 2005; or
- (3) the taxpayer proves that the taxpayer did not ever receive notice of the outstanding tax liability.

SECTION 14. (a) A taxpayer that has a legitimate hold on making a payment or had established a payment plan with the department by May 12, 2005, may participate in the amnesty program and have penalty, interest, and costs waived by the department.

(b) A taxpayer that claims they never received the notice described in SECTION 15 of this document must prove that the taxpayer never resided or never operated a business at the address to which the notification of the amnesty program was mailed.

SECTION 15. (a) All taxpayers that are eligible for amnesty that have an outstanding tax liability for a listed tax that is due and payable will be notified by first class mail between August 15, 2005, and September 15, 2005, at the last known address of the taxpayer that they are eligible to participate in the amnesty program.

(b) The taxpayer will be notified of all known outstanding tax liabilities that qualify for amnesty by tax type and tax period.

(c) The notification will include the amount of payment required to take advantage of the amnesty program and the amount of tax, penalty, interest, and costs that will be due if

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the taxpayer does not take advantage of the amnesty program.

SECTION 16. (a) A taxpayer desiring to take advantage of the amnesty program can pay the base tax due by mailing to the department the amount of tax due.

(b) The taxpayer can remit the payment by check, money order, or certified funds through the U.S. mail.

(c) If the taxpayer chooses to remit via the Internet, they can pay with a credit card, debit card, or by eCheck.

SECTION 17. (a) A taxpayer that participates in the amnesty program must agree to all provisions contained in SECTIONS 7 through 9 of this document. The taxpayer acknowledges all terms of the agreement when they sign the coupon that is to be sent to the department when the taxpayer pays the liability.

(b) A taxpayer that remits and agrees to amnesty through the department's amnesty Web site by clicking on the "I accept the terms of the agreement" checkbox is consenting to the amnesty agreement.

SECTION 18. (a) A taxpayer agreement is completed when the taxpayer signs the amnesty agreement and returns the amnesty payment coupon to the department, or files amended returns to report a previous tax deficiency, or files an initial return if the taxpayer had failed to file and remit for amnesty eligible tax periods.

(b) A taxpayer may appoint a personal representative to sign the amnesty agreement. However, the taxpayer shall complete a Power of Attorney (Form POA-1) giving the representative authorization to sign on behalf of the taxpayer.

SECTION 19. A prerequisite to participation in the amnesty program requires the taxpayer to:

- (1) pay the full amount of a tax liability for a tax period;
- (2) relinquish all rights to protest a tax liability that is being paid; and
- (3) agree not file a claim for refund of the tax paid.

SECTION 20. (a) A taxpayer that has multiple tax liabilities that are eligible for the tax amnesty program shall have any payment applied to the oldest tax liability for which the taxpayer's payment can satisfy the tax liability in full.

(b) The oldest liability shall be determined by the date of the tax period.

(c) The allocation of a payment to the oldest tax liability first may be altered if the taxpayer specifically indicates the allocation of a payment to another liability.

SECTION 21. Any overpayment by a taxpayer during the amnesty period for an amnesty eligible liability that is a computational error may be refunded to the taxpayer at the department's discretion. If the overpayment is not refunded, it shall be credited to the taxpayer.

SECTION 22. If a taxpayer properly protests a proposed assessment of the department, the tax liability protested is eligible for the amnesty program.

SECTION 23. (a) A taxpayer that receives an assessment based on best information available (BIA) that is issued for a tax period that qualifies for amnesty is allowed to pay the amount of the base tax assessed.

(b) If the taxpayer remits an amount that is different than the base tax amount assessed, the taxpayer must file a tax return for the tax period.

(c) A taxpayer that files a return reporting zero (0) tax liability as the result of a BIA assessment shall attach a verification that no tax liability exists.

(d) Verification of no tax liability can be proven by attaching evidence that no tax liability exists. Examples of documents the department will consider acceptable include the following:

- (1) Minutes of the final board of directors meeting.
- (2) Records of bank accounts closed.
- (3) Articles of dissolution.
- (4) Notarized statement of dissolution from an officer of the business.
- (5) Final utility bills.
- (6) Any proof of dissolution filed with the Internal Revenue Service.
- (7) Books and records or any other pertinent information.

SECTION 24. (a) A taxpayer that established a payment plan with the department on or before May 12, 2005, is eligible to participate in the amnesty program.

(b) The taxpayer may pay the remaining balance of the payment plan in full during the amnesty program.

(c) The taxpayer, upon approval of the department, may establish an amnesty payment plan and shall conform to the requirements of SECTION 10 of this document.

(d) If the taxpayer is not able to pay the remaining balance during the amnesty period, or will not be able to pay the remaining balance through an amnesty payment plan, the taxpayer may elect not to participate in the amnesty program without being subject to the double penalty assessment.

SECTION 25. (a) A payment by a taxpayer that is made in anticipation of an audit assessment for a listed tax is not

considered an amnesty payment unless the taxpayer is filing an amended return admitting to previous under reporting of a tax liability for the tax period.

(b) A taxpayer that makes a payment as part of an amended return pursuant to the amnesty program cannot file a claim for refund if an audit determines that the taxpayer overpaid the tax liability for the reporting period.

SECTION 26. (a) A taxpayer that has established a payment plan with a sheriff, collection attorney, or collection agency will discontinue making payments as of June 15, 2005, and will be eligible for the tax amnesty program.

(b) A taxpayer that had been on a payment plan will receive an amnesty packet from the department before the amnesty program begins.

(c) A taxpayer may elect to pay the remaining balance to the department during amnesty, and all remaining penalties, interest, and costs will be waived.

(d) If the taxpayer does not pay the balance of tax due, or does not establish a payment plan within the amnesty program, the taxpayer is subject to the double penalty after the amnesty period ends.

SECTION 27. This document expires December 31, 2006.

*LSA Document #05-188(E)
Filed with Secretary of State: July 8, 2005, 10:35 a.m.*

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-186(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 038. Effective July 7, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 038, Mustang Sally".

SECTION 2. Pull-tab tickets for pull-tab game number 038 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. Pull-tab game number 038 is a criss-cross game.

SECTION 4. A pull-tab ticket in pull-tab game number 038 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 038 shall consist of the following possible play symbols:

- (1) A picture of a car
CAR
- (2) A picture of a horse
HORSE
- (3) A picture of a guitar
GUITAR
- (4) A picture of an odometer
SPEED
- (5) A picture of a heart with an arrow through it with "Sally" written in the middle
HEART
- (6) A picture of a checkered flag
FLAG
- (7) A picture of a woman's head
SALLY
- (8) A picture of a gear shift with the number 8 printed on it
SHIFT
- (9) A picture of a road sign with the words "Funky Broadway" and an arrow printed on it
SIGN

SECTION 5. A line on a pull-tab ticket in pull-tab game number 038 which contains three (3) identical play symbols is not a criss-cross winning combination unless all of the following are true:

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

SECTION 6. Subject to SECTION 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 038 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows for each two million (2,000,000) pull-tab tickets in pull-tab game number 038:

Matching Play Symbol in Criss-Cross Winning Combination	Prize Amount	Approximate Number of Prizes
2 – Car + 1 – Flag	\$0.50	214,320
2 – Car + 1 – Heart	\$1	29,469
2 – Car + 1 – Speed	\$3	10,716
2 – Car + 1 – Guitar	\$10	2,679
2 – Car + 1 – Horse	\$20	2,679
3 – Car	\$125	2,679

SECTION 7. A total of approximately two million (2,000,000) pull-tab tickets will be initially available for pull-tab game number 038. The odds of winning a prize in pull-tab game 038 are approximately 1 in 6.86. If additional pull-tab tickets are made available for this pull-tab game, the

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approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 038 shall be sixty (60) days after the end of the game. End of game dates are available at any retailer location, on the commission's Web site at www.hoosierlottery.com, and via the commission's customer service center which can be contacted toll-free at 1-800-955-5886.

*LSA Document #05-186(E)
Filed with Secretary of State: July 7, 2005, 4:15 p.m.*

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-187(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 039. Effective July 7, 2005.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 039, Hands Down".

SECTION 2. Pull-tab tickets for pull-tab game number 039 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Pull-tab game number 039 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number 039 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 039 shall consist of the following possible play symbols:

- (1) A picture of an ace of spades
ACE SPADE
- (2) A picture of an ace of hearts
DEUCE
- (3) A picture of a king of diamonds
KING
- (4) A picture of a queen of hearts
QUEEN
- (5) A picture of a jack of clubs
JACK
- (6) A picture of a joker
JOKER
- (7) A picture of poker chips
CHIPS
- (8) A picture of paper money
CASH

SECTION 5. A row on a pull-tab ticket in pull-tab game

number 039 which contains three (3) specified 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 blue arrow.
- (3) The prize amount appears on the left side of the row in black ink on a yellow oval.

SECTION 6. Subject to SECTION 5 of this document, the holder of a valid pull-tab ticket for pull-tab game number 039 containing a match 3 winning row is entitled to the associated prize. The matching play symbols, prize amounts, and approximate number of prizes are as follows:

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
2 – Ace Spade + 1 – Jack	\$0.25	375,060
2 – Ace Spade + 1 – Queen	\$1.00	80,370
2 – Ace Spade + 1 – King	\$10.00	8,930
2 – Ace Spade + 1 – Ace Heart	\$50.00	4,465

SECTION 7. A total of approximately three million (3,000,000) pull-tab tickets will be initially available for pull-tab game number 039. The odds of winning a prize in pull-tab game 039 are approximately 1 in 6.40. 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 039 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 #05-187(E)
Filed with Secretary of State: July 7, 2005, 4:15 p.m.*

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-204(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 770. Effective July 15, 2005. *NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Secretary of State. This document was filed with the Secretary of State on July 18, 2005.*

SECTION 1. The name of this scratch-off game is “Scratch-Off Game Number 770, NASCAR”.

SECTION 2. Scratch-off tickets for scratch-off game number 770 shall sell for five dollars (\$5) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 770 shall contain twenty-two (22) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled “WINNING NUMBERS”. Twenty (20) play symbols and play symbol captions shall appear in the area labeled “YOUR NUMBERS” arranged in pairs representing numbers or pictures and prize amounts.

(b) The play symbols and play symbol captions in scratch-off game number 770, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1
ONE
- (2) 2
TWO
- (3) 3
THR
- (4) 4
FOR
- (5) 5
FIV
- (6) 6
SIX
- (7) 7
SVN
- (8) 8
EGT
- (9) 9
NIN
- (10) 10
TEN
- (11) 11
ELVN
- (12) 12
TWLV
- (13) 13
THRTN
- (14) 14
FORTN
- (15) 15
FIFTN
- (16) 16
SIXTN
- (17) 17
SEVTN
- (18) 18
EGHTN

- (19) 19
NINTN
- (20) 20
TWTY
- (21) A picture of a checkered flag
WIN

(c) The play symbols and play symbol captions representing prize amounts in scratch-off game number 770 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) \$6.00
SIX
- (6) \$10.00
TEN
- (7) \$20.00
TWENTY
- (8) \$40.00
FORTY
- (9) \$50.00
FIFTY
- (10) \$500
FIVE HUN
- (11) \$1,000
ONE THOU
- (12) \$100,000
HUN THOU

SECTION 4. The holder of a scratch-off ticket for scratch-off game 770 shall remove the latex material covering the twenty-two (22) play symbols and play symbol captions. If any of “YOUR NUMBERS” match either of the “WINNING NUMBERS”, the holder is entitled to the paired prize amount.

SECTION 5. The prize amounts and number of winners in scratch-off game number 770 are as follows:

Number of Matches and Paired Prize Amount	Total Prize Amount	Approximate Number of Winners
5 – \$1.00	\$5	142,800
1 – \$5.00	\$5	81,600
3 – \$2.00	\$6	102,000
1 – \$6.00	\$6	61,200
10 – \$1.00	\$10	40,800
5 – \$2.00	\$10	40,800
2 – \$5.00	\$10	40,800
1 – \$10.00	\$10	20,400
10 – \$2.00	\$20	20,400

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5 – \$4.00	\$20	10,200
4 – \$5.00	\$20	10,200
2 – \$10.00	\$20	10,200
1 – \$20.00	\$20	10,200
10 – \$4.00	\$40	3,400
8 – \$5.00	\$40	3,400
4 – \$10.00	\$40	3,400
2 – \$20.00	\$40	1,700
1 – \$40.00	\$40	1,700
10 – \$10.00	\$100	1,275
5 – \$20.00	\$100	1,275
2 – \$50.00	\$100	680
1 – \$500	\$500	680
1 – \$1,000	\$1,000	170
1 – \$100,000	\$100,000	3

SECTION 6. (a) A total of approximately two million (2,000,000) scratch-off tickets will be initially available for scratch-off game number 770.

(b) The odds of winning a prize with a scratch-off ticket in scratch-off game number 770 are approximately 1 in 3.35.

(c) All reorders of tickets for scratch-off game number 770 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. Drawing procedures for the second chance drawing for a NASCAR prize package or a trip to a NASCAR race are available on the commission's Web site at www.hoosierlottery.com or will be provided upon a written request sent to the attention of customer service at the commission's headquarters at 201 South Capitol Avenue, Indianapolis, IN 46225.

SECTION 8. The last day to claim a prize in scratch-off game number 770 is July 31, 2006.

SECTION 9. This document expires August 31, 2006.

LSA Document #05-204(E)

Filed with Secretary of State: July 18, 2005, 10:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-205(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 759. Effective July 15, 2005. *NOTE: IC 4-22-2-37.1 establishes*

the effectiveness of an emergency rule upon filing with the Secretary of State. This document was filed with the Secretary of State on July 18, 2005.

SECTION 1. The name of this scratch-off game is "Scratch-Off Game Number 759, Code Breakers Cash Vault".


SECTION 2. Scratch-off tickets in scratch-off game number 759 shall sell for one dollar (\$1) per ticket.

SECTION 3. (a) Each scratch-off ticket in scratch-off game number 759 shall contain fifteen (15) play symbols and play symbol captions all concealed under a large spot of latex material. The twelve (15) [*sic.*] play symbols and play symbols [*sic., symbol*] captions shall be arranged in a matrix of four (4) rows and four (4) columns. The first column shall be labeled "VAULT CODE NUMBERS" and shall contain three (3) play symbols and play symbol captions representing numbers. The remaining columns shall be separate and independent games labeled "GAME 1", "GAME 2", and "GAME 3", respectively, and shall each contain three (3) play symbols and play symbol captions representing numbers followed by one (1) play symbol and play symbol caption representing a prize amount.

(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) 11
ELVN
- (12) 12
TWLV
- (13) 13
THRTN
- (14) 14

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FORTN
 (15) 15
 FIFTN
 (16) 16
 SIXTN
 (17) 17
 SVNTN
 (18) 18
 EIGHTN
 (19) 19
 NINTN
 (20) 20
 TWTY
 (21)  DBLE

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

(1) \$1.00
 ONE
 (2) \$2.00
 TWO
 (3) \$3.00
 THREE
 (4) \$5.00
 FIVE
 (5) \$10.00
 TEN
 (6) \$15.00
 FIFTEEN
 (7) \$20.00
 TWENTY
 (8) \$25.00
 TWY FIVE
 (9) \$30.00
 THIRTY
 (10) \$50.00
 FIFTY
 (11) \$100
 ONE HUN
 (12) \$500
 FIVE HUN
 (13) \$2,500
 TWY FIV HUN

SECTION 4. The holder of a ticket in scratch-off game number 759 shall remove the latex material covering the fifteen (15) play symbols and play symbol captions. If the numbers in columns labeled "GAME 1", "GAME 2", or "GAME 3" match the numbers in the column labeled "VAULT CODE NUMBERS" in the exact order, the holder wins the corresponding prize amount for that game. If a  symbol is displayed in "GAME 1", "GAME 2", or "GAME 3", the player wins double the corresponding prize amount shown for that game. The winning play symbols,

prize amounts, and number of winners in scratch-off game number 759 are as follows:

Number of Winning Rows and Prize Pay [sic.] Symbol	Prize Amount	Approximate Number of Winners
1 – \$1.00	\$1	376,000
1 – \$1.00 (double)	\$2	32,000
1 – \$2.00	\$2	32,000
1 – \$3.00	\$3	16,000
1 – \$5.00	\$5	16,000
1 – \$5.00 (double)	\$10	16,000
1 – \$10.00	\$10	8,000
3 – \$5.00	\$15	8,000
1 – \$10.00 (double)	\$20	4,000
2 – \$10.00	\$20	2,000
1 – \$20.00	\$20	2,000
1 – \$10.00 + 1 – \$15.00	\$25	2,500
1 – \$25.00	\$25	2,000
1 – \$15.00 (double)	\$30	700
1 – \$30.00	\$30	700
1 – \$25.00 (double)	\$50	500
1 – \$50.00	\$50	500
2 – \$50.00	\$100	250
1 – \$100	\$100	250
1 – \$500	\$500	50
1 – \$2,500	\$2,500	10

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 759.

(b) The odds of winning a prize in scratch-off game number 759 are approximately 1 in 4.62.

(c) All reorders of tickets for scratch-off game number 759 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 759 is July 31, 2006.

SECTION 7. This document expires August 31, 2006.

LSA Document #05-205(E)

Filed with Secretary of State: July 18, 2005, 10:00 a.m.

Emergency Rules

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-206(E)

DIGEST

Temporarily adds rules concerning instant game number 767. Effective July 15, 2005. *NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Secretary of State. This document was filed with the Secretary of State on July 18, 2005.*

SECTION 1. The name of this instant game is “Instant Game Number 767, Hit \$50”.

SECTION 2. Instant tickets in instant game number 767 shall sell for one dollar (\$1) per ticket.

SECTION 3. (a) Each instant ticket in instant game number 767 shall contain twelve (12) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled “WINNING NUMBERS”. Ten (10) play symbols and play symbol captions shall appear in the area labeled “YOUR NUMBERS” and be arranged in pairs representing numbers or pictures and prize amounts.

(b) The play symbols and play symbol captions in instant game number 767, 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) \$\$
AUTO
- (12) \$50
WIN \$50

(c) The play symbols and play symbol captions representing prize amounts in scratch-off game number 767 shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$4.00
FOUR
- (4) \$5.00
FIVE
- (5) \$10.00
TEN
- (6) \$20.00
TWENTY
- (7) \$50.00
FIFTY
- (8) \$100
ONE HUN
- (9) \$500
FIVE HUN
- (10) \$1,000
ONE THOU

SECTION 4. The holder of a ticket in instant game number 767 shall remove the latex material covering the twelve (12) play symbols and play symbol captions. If any of “YOUR NUMBERS” match either of the “WINNING NUMBERS”, the holder is entitled to a prize of the paired amount. If the play symbol “\$\$” and play symbol caption “AUTO” is [sic., are] exposed in the “YOUR NUMBERS” area, the holder is automatically entitled to win the paired prize amount. If the play symbol “\$50” and the play symbol caption “WIN \$50” is [sic., are] exposed in the “YOUR NUMBERS” area, the holder [sic., is] automatically entitled to a prize of fifty dollars (\$50). The prize amounts and number of winners in instant game number 767 are as follows:

Matched Play Symbols	Prize Amount	Approximate Number of Winners
1 – \$1.00	\$1	480,000
1 – \$2.00	\$2	320,000
1 – \$4.00	\$4	48,000
2 – \$2.00	\$4	48,000
5 – \$1.00	\$5	16,000
1 – \$5.00	\$5	16,000
1 – \$10.00	\$10	16,000
5 – \$2.00	\$10	8,000
1 – \$20.00	\$20	8,000
1 – Autowin \$50.00 symbol	\$50	16,000
1 – \$100	\$100	400
1 – \$500	\$500	20
1 – \$1,000	\$1,000	6

SECTION 5. (a) There shall be approximately five million (5,000,000) instant tickets initially available in instant game number 767.

(b) The odds of winning a prize in instant game number 767 are approximately one in 4.92.

(c) All reorders of tickets for instant game number 767 shall have the same:

- (1) prize structure;
 - (2) number of prizes per prize pool of two hundred forty thousand (240,000); and
 - (3) odds;
- as contained in the initial order.

SECTION 6. The last day to claim a prize in instant game number 767 is July 31, 2006.

SECTION 7. This rule shall expire August 31, 2006.

LSA Document #05-206(E)
Filed with Secretary of State: July 18, 2005, 10:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-207(E)

DIGEST

Temporarily adds rules concerning instant game number 768. Effective July 18, 2005.

SECTION 1. The name of this instant game is "Instant Game Number 768, Black Jack".

SECTION 2. Instant tickets in instant game number 768 shall sell for one dollar (\$1) per ticket.

SECTION 3. (a) Each instant ticket in instant game number 768 shall contain thirteen (13) play symbols and play symbol captions in the game play data area all concealed under a spot of latex material. One (1) play symbol and play symbol caption representing a number shall appear in the box labeled "DEALER'S TOTAL". Three (3) play symbols and play symbol captions representing playing cards and prize amounts shall appear in each of four (4) separate and independent games labeled "HAND 1", "HAND 2", "HAND 3", and "HAND 4", respectively.

(b) The play symbols and play symbol captions representing prize amounts in instant game number 768 shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00
ONE

- (2) \$2.00
TWO
- (3) \$5.00
FIVE
- (4) \$10.00
TEN
- (5) \$20.00
TWENTY
- (6) \$25.00
TWY FIVE
- (7) \$50.00
FIFTY
- (8) \$100
ONE HUN
- (9) \$500
FIV HUN
- (10) \$2,500
TWF HUN

(c) 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) 16
SIXTN
- (2) 17
SEVTN
- (3) 18
EGHTN
- (4) 19
NINTN
- (5) 20
TWNTY
- (6) A
ACE
- (7) K
KNG
- (8) Q
QUN
- (9) 10
TEN
- (10) 9
NIN
- (11) 8
EGT
- (12) 7
SVN
- (13) 6
SIX
- (14) 5
FIV
- (15) 4
FOR
- (16) 3
THR
- (17) 2
TWO

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SECTION 4. The holder of a valid instant ticket in instant game number 768 shall remove the latex material covering the thirteen (13) play symbols and play symbol captions. If the total value of the play symbols and play symbol captions representing playing cards in "HAND 1", "HAND 2", "HAND 3", and/or "HAND 4" is higher than the number exposed in the "DEALER'S TOTAL" box, the holder is entitled to the corresponding prize amount. Face cards are valued at ten (10) and aces are valued at eleven (11). All others are valued at the number on the face.

SECTION 5. The prize amounts and number of winners in instant game number 768 are as follows:

Number of Matches and Matched Prize Amounts	Total Prize	Approximate Number of Winners
1 – \$1.00	\$1	752,000
2 – \$1.00	\$2	64,000
1 – \$2.00	\$2	64,000
3 – \$1.00	\$3	32,000
1 – \$5.00	\$5	32,000
2 – \$5.00	\$10	32,000
1 – \$10.00	\$10	16,000
3 – \$5.00	\$15	16,000
2 – \$5.00 + 1 – \$10.00	\$20	8,000
2 – \$10.00	\$20	4,000
1 – \$20.00	\$20	4,000
3 – \$5.00 + 1 – \$10.00	\$25	1,520
1 – \$25.00	\$25	1,520
2 – \$5.00 + 2 – \$10.00	\$30	1,000
3 – \$10.00	\$30	1,000
2 – \$25.00	\$50	600
1 – \$50.00	\$50	600
2 – \$50.00	\$100	1,100
1 – \$100	\$100	1,100
1 – \$500	\$500	260
1 – \$2,500	\$2,500	20

SECTION 6. (a) There shall be approximately five million (5,000,000) instant tickets initially available in instant game number 768.

(b) The odds of winning a prize in instant game number 768 are approximately 1 in 4.65.

(c) All reorders of tickets for instant game number 768 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 7. The last day to claim a prize in scratch-off game number 768 is July 31, 2006.

SECTION 8. This document expires August 31, 2006.

LSA Document #05-207(E)

Filed with Secretary of State: July 18, 2005, 10:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #05-208(E)

DIGEST

Temporarily adds rules concerning instant game number 763. Effective July 18, 2005.

SECTION 1. The name of this instant game is "Instant Game Number 763, \$500,000 Wild Winnings".

SECTION 2. Instant tickets in instant game number 763 shall sell for ten dollars (\$10) per ticket.

SECTION 3. (a) Each instant ticket in instant game number 763 shall contain fifty-five (55) play symbols and play symbol captions arranged among six (6) separate and independent games each concealed under a spot of latex material.

(b) The game on the top of each instant ticket shall be labeled "WILD CARD MATCH UP" and shall contain twenty-four (24) play symbols and play symbol captions arranged in six (6) rows labeled "ROW 1", "ROW 2", "ROW 3", "ROW 4", "ROW 5", and "ROW 6", respectively. Each row shall contain three (3) play symbols and play symbol captions representing pictures of objects and one (1) play symbol and play symbol caption representing a prize amount.

(c) The game on the middle left side of each instant ticket shall be labeled "WILD HIGH CARD" and shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. The rows shall be labeled "HAND 1", "HAND 2", and "HAND 3", respectively. The first column shall be labeled "YOUR CARD", the second column shall be labeled "DEALER'S CARD", and the last column shall be labeled "PRIZE".

(d) The game on the middle right side of each instant ticket shall be labeled "ON A WILD ROLL" and shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. The rows shall be labeled "ROLL 1", "ROLL 2", and "ROLL 3", respectively. The first column shall be labeled "YOUR ROLLS" and the second column shall be labeled "PRIZE".

(e) The game on the bottom left side of each instant ticket shall be labeled "CASH GONE WILD" and shall contain twelve (12) play symbols and play symbol captions repre-

senting prize amounts arranged in four (4) rows. Each row shall be a separate and independent game containing three (3) play symbols and play symbol captions and shall be labeled “GAME 1”, “GAME 2”, “GAME 3”, and “GAME 4”, respectively.

(f) The game on the bottom right side of each instant ticket shall be labeled “GIVE ME 5” and shall contain one (1) play symbol and play symbol caption representing a word.

SECTION 4. (a) The play symbols and play symbol captions appearing in the “CASH GONE WILD” game and representing prize amounts in all other games shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00
ONE
- (2) \$2.00
TWO
- (3) \$3.00
THREE
- (4) \$5.00
FIVE
- (5) \$10.00
TEN
- (6) \$20.00
TWENTY
- (7) \$50.00
FIFTY
- (8) \$100
ONE HUN
- (9) \$250
TWO FTY
- (10) \$500
FIVE HUN
- (11) \$1,000
ONE THOU
- (12) \$5,000
FIV THOU
- (13) \$10,000
TEN THOU
- (14) \$500,000
FIVE HUN THOU

(b) The play symbols and play symbol captions appearing in the “WILD MATCH UP” game, other than play symbols and play symbol caption [*sic., captions*] representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) A picture of a pot of gold
GOLD
- (2) A picture of a gold bar
BARR
- (3) A picture of a bag with a \$
SBAG

- (4) A picture of a roll of currency
BILLS
- (5) A picture of a stack of coins
COINS
- (6) A picture of poker chips
CHIPS
- (7) A picture of a wallet
WALLET
- (8) A picture of a piggy bank
BANK
- (9) A picture of a gem
GEM
- (10) A picture of a nugget
NUGT
- (11) WILD
5 TIMES

(c) The play symbols and play symbol captions appearing in the “WILD HIGH CARD” game, other than play symbols and play symbol caption [*sic., captions*] representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1)

2
TWO
- (2)

3
THR
- (3)

4
FOR
- (4)

5
FIV
- (5)

6
SIX
- (6)

7
SVN
- (7)

8
EGT
- (8)

9
NIN
- (9)

10
TEN
- (10)

J
JCK
- (11)

Q
QUN
- (12)

K
KNG
- (13)

A
ACE
- (14) WILD
5 TIMES

(d) The play symbols and play symbol captions appearing in the “ON A WILD ROLL” game, other than play symbols and play symbol caption [*sic., captions*] representing prize

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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) WILD
5 TIMES

(e) The play symbols and play symbol captions appearing in the “GIVE ME 5” game, other than play symbols and play symbol caption [*sic., captions*] representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) WILD
WIN \$5
- (2) PLAY
AGAIN
- (3) NO
BONUS
- (4) TRY
AGAIN

SECTION 5. (a) The holder of a ticket in instant game number 763 shall remove the latex material covering the fifty-five (55) play symbols and play symbol captions.

(b) If, in the “WILD MATCH UP” game, three (3) matching play symbols and play symbol captions are exposed in one (1) or more rows, the holder is entitled to the corresponding prize amount. If two (2) matching play symbols and play symbol captions are exposed in one (1) or more rows and the play symbol “WILD” is exposed, the holder is entitled to five (5) times the corresponding prize amount.

(c) If, in the “WILD HIGH CARD” game, the “YOUR CARD” column has a higher card than the “DEALER’S CARD” column in one (1) or more rows, the holder is entitled to the prize exposed for that row. If the play symbol “WILD” is exposed in the “YOUR CARD” column, the holder is entitled to five (5) times the prize exposed for that row.

(d) If, in the “ON A WILD ROLL” game, the total of the numbers in one (1) or more of the rows is seven (7) or eleven (11), the holder is entitled to the prize exposed for that row.

If the play symbol “WILD” is exposed in the “YOUR CARD” column, the holder is entitled to five (5) times the prize exposed for that row.

(e) If, in the “CASH GONE WILD” game, three (3) matching play symbols and play symbol captions are exposed in one (1) or more rows, holder is entitled to a prize of the matched prize amount. If two (2) matching play symbols and play symbol captions and “WILD” are exposed in one (1) or more rows, the holder is entitled to a prize of five (5) times the matched amount.

(f) If, in the “GIVE ME 5” game, the play symbol “WILD” is exposed, the holder automatically wins a prize of five dollars (\$5).

SECTION 6. The number of winning plays, prize amounts, and approximate number of winners in instant game number 763 are as follows:

Number of Winning Plays and Prize Amount Play Symbols	Prize Amount	Approximate Number of Winners
1 – \$10.00	\$10	64,800
1 – \$2.00 (WILD)	\$10	64,800
2 – \$5.00	\$10	21,600
1 – \$1.00 (WILD) + 1 – \$5.00	\$10	21,600
1 – \$2.00 + 1 – \$3.00 + 1 – \$5.00	\$10	43,200
1 – \$20.00	\$20	43,200
2 – \$10.00	\$20	21,600
1 – \$2.00 (WILD) + 1 – \$10.00	\$20	21,600
4 – \$5.00	\$20	10,800
1 – \$1.00 (WILD) + 3 – \$5.00	\$20	10,800
1 – \$50.00	\$50	1,575
1 – \$10.00 (WILD)	\$50	1,575
1 – \$1.00 (WILD) + 1 – \$5.00 (WILD) + 2 – \$10.00	\$50	1,575
10 – \$5.00	\$50	1,575
10 – \$1.00 + 2 – \$5.00 + 1 – \$10.00 + 1 – \$20.00	\$50	1,575
1 – \$100	\$100	1,350
1 – \$20.00 (WILD)	\$100	1,350
2 – \$50.00	\$100	1,350
5 – \$20.00	\$100	1,350
2 – \$5.00 + 1 – \$10.00 (WILD) + 2 – \$20.00	\$100	1,350
1 – \$1.00 (WILD) + 1 – \$5.00 (WILD) + 3 – \$10.00 + 2 – \$20.00	\$100	1,350
8 – \$5.00 + 2 – \$10.00 + 2 – \$20.00	\$100	1,350
1 – \$250	\$250	450
1 – \$50.00 (WILD)	\$250	225
2 – \$5.00 + 1 – \$10.00 (WILD) + 2 – \$20.00 + 1 – \$50.00 + 1 – \$100	\$250	225
1 – \$5.00 + 1 – \$5.00 (WILD) + 10	\$250	225

– \$10.00 + 1 – \$20.00 + 2 – \$50.00		
10 – \$5.00 + 1 – \$10.00 (WILD) +	\$250	225
3 – \$10.00 + 1 – \$20.00 + 2 –		
\$50.00		
1 – \$500	\$500	72
1 – \$100 (WILD)	\$500	72
1 – \$50.00 (WILD) + 1 – \$50.00 +	\$500	72
2 – \$100		
1 – \$5.00 + 1 – \$5.00 (WILD) + 1 –	\$500	72
\$20.00 + 2 – \$50.00 + 1 – \$100 + 1		
– \$250		
2 – \$5.00 + 1 – \$10.00 (WILD) + 2	\$500	72
– \$20.00 + 1 – \$50.00 + 1 – \$100 +		
1 – \$250		
1 – \$1,000	\$1,000	6
10 – \$100	\$1,000	6
1 – \$5,000	\$5,000	6
1 – \$1,000 (WILD)	\$5,000	6
1 – \$10,000 (WILD)	\$50,000	2
5 – \$10,000	\$50,000	2
1 – \$500,000	\$500,000	3

SECTION 7. (a) There shall be approximately one million (1,000,000) instant tickets initially available in instant game number 763.

(b) The odds of winning a prize in instant game number 763 are approximately one in 3.15.

(c) All reorders of tickets for instant game number 763 shall have the same:

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

SECTION 8. Lottery tickets do expire. For final claim dates and other information, please access the commission's Web site at www.hoosierlottery.com or contact the commission's customer service line at 1-800-955-6886. End of game date information is also available at participating retailers.

LSA Document #05-208(E)
Filed with Secretary of State: July 18, 2005, 10:00 a.m.

TITLE 68 INDIANA GAMING COMMISSION

LSA Document #05-202(E)

DIGEST

Temporarily adds a new rule to determine the graduated

wagering tax by a new licensed owner or operating agent following a transfer of controlling interest in an owner's license or operating agent contract. Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21; IC 4-33-13-1.5. *NOTE: The original emergency document, LSA Document #05-84(E), printed at 28 IR 2744, effective April 21, 2005, expires July 20, 2005. Effective July 21, 2005.*

SECTION 1. When a controlling interest, as determined by the commission, in an existing owner's license or operating agent contract is purchased or otherwise acquired from a licensed owner or operating agent, the subsequent licensed owner or operating agent must pay a wagering tax in accordance with IC 4-33-13-1.5 at a graduated tax rate to be calculated based upon the cumulative adjusted gross receipts received by both:

- (1) the previous licensed owner or operating agent; and
 - (2) the subsequent licensed owner or operating agent;
- during the entire fiscal year, as defined in IC 4-1-1-1, in which the transaction occurred.

LSA Document #05-202(E)
Filed with Secretary of State: July 13, 2005, 9:45 a.m.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #05-221(E)

DIGEST

Adds 71 IAC 8.5-13 concerning general provisions, specific levels requiring scratch, refusal to test, blood gas analyzer report, finding of normal levels, option to determine normal level, penalties, presence of horse in paddock, and presence of caretaker in paddock. Effective August 10, 2005.

71 IAC 8.5-13

SECTION 1. 71 IAC 8.5-13 IS ADDED TO READ AS FOLLOWS:

Rule 13. Excess Levels of Sodium, Bicarbonate, or pH

71 IAC 8.5-13-1 General provisions

Authority: IC 4-31-3-9
 Affected: IC 4-31-12

Sec. 1. An excess level of sodium (Na), bicarbonate (HCO₃), or pH shall be deemed to have an adverse effect on the horse by changing the normal physiological state of the horse. Excess levels of sodium (Na), bicarbonate (HCO₃), or pH in the horse are deemed to be contrary to the best interests of thoroughbred and quarter horse racing and to the best interests of the welfare of the equine participants

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and shall be a violation of these rules. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-1; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3599*)

71 IAC 8.5-13-2 Specific levels requiring scratch

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 2. (a) The stewards shall order scratched or disqualified:

(1) any horse that races or is scheduled to race that registers readings of:

(A) bicarbonate (HCO_3) at thirty-six (36) or higher; and
(B) a pH level at seven and four hundred forty-five thousandths (7.445) or higher; and

(2) any horse on the bleeder's list that races or is scheduled to race that registers readings of:

(A) bicarbonate (HCO_3) at thirty-eight (38) or higher; and

(B) a pH level at seven and four hundred seventy-thousandths (7.470) or higher;

and on each of the two (2) tests from a blood gas analyzer when such tests have been conducted. No horse shall be ordered scratched or disqualified in accordance with the provisions of this section unless both readings for bicarbonate (HCO_3), and pH are equal to or exceed the levels established in this section.

(b) In its discretion, the commission or commission designated track employees may retest a horse whose first test results are within allowable limits. Should a retest under this situation indicate high levels as provided in subsection (a), the retest shall be considered an initial screening. High levels on a subsequent test as provided in subsection (a) shall be considered a violation of this rule and the horse shall be scratched or disqualified.

(c) The provisions of subsection (a) notwithstanding, the stewards shall not order the disqualification of a horse selecting quarantine under these rules if the commission is satisfied on the basis of clear and cogent evidence derived from the testing of the horse's blood during quarantine that such levels are physiologically normal for that specific horse. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-2; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-3 Refusal to test

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 3. Any owner, trainer, or other licensed delegate of any owner or trainer who refuses or fails to permit any horse or horses to be tested when a demand or demands for such testing has been made by an [*sic., a*] track employee or commission employee shall have the applicable horse or horses scratched or disqualified by the stewards. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-3; emergency rule*

filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600)

71 IAC 8.5-13-4 Blood gas analyzer report

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 4. A finding by the technician licensed by the commission operating the blood gas analyzer that a test sample taken from a horse contains any substance foreign to the natural horse, including the levels of substance in excess of those established in this rule, shall be prima facie evidence that such foreign substance has been administered to the horse either internally or externally in violation of this rule. It is presumed that:

(1) the sample of blood or other acceptable specimen tested by the blood gas analyzer to which it is sent is taken from the horse in question, its integrity is preserved;

(2) all accompanying procedures of collection, preservation, transfer to the blood gas analyzer, and analyses of the sample are correct and accurate; and

(3) the report received from the blood gas analyzer pertains to the sample taken from the horse in question and correctly reflects the condition of the horse at the time the sample was done;

with the burden on the trainer, assistant trainer, or other responsible person to prove otherwise at any hearing in regard to the matter conducted by the stewards or the commission. The trainer shall be responsible for promptly notifying the owner of a horse with a blood gas analysis report indicating levels in violation of this rule. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-4; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-4.1 Finding of normal levels

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 4.1. For any horse whose levels equal or exceed the levels set forth in section 2 of this rule, it is presumed that the levels are not physiologically normal for that specific horse if the horse:

(1) has been tested by the commission at least twice in the past sixty (60) days; and

(2) has been found to have levels beneath the levels established in section 2 of this rule.

The prior results shall constitute a finding that excessive levels are not physiologically normal for that horse. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-4.1; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-5 Option to determine normal level

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5. (a) The quarantine provisions of this section shall apply only to horses who have not been found under section 4.1 of this rule to have physiologically normal levels beneath the levels established in section 2 of this rule.

(b) If a test sample from a horse contains levels of substance equal to or in excess of the levels in section 2 of this rule, the owner or trainer of that horse contending that such levels are physiologically normal for that specific horse may request the horse be held in approved quarantine on the grounds of the association. Such quarantine shall be in accordance with policies and procedures adopted by the commission and shall be for a period determined by the executive director or the stewards, but not greater than five (5) days, and is at the sole expense of the owner or trainer requesting the quarantine. Quarantine security shall be provided by the association per the instruction of the stewards. During the quarantine, the horse shall be retested periodically, but it shall not be permitted to race. In addition, during the period of the quarantine the horse may be exercised and trained at times prescribed by the commission. Removal of a horse from quarantine without the permission of the stewards shall constitute a waiver of any claim of normally high levels for that specific horse. A request for quarantine shall be made within seventy-two (72) hours of notification of a violation of this rule.

(c) Subsequent to the horse being quarantined and retested, if the commission is satisfied on the basis of clear and cogent evidence derived from the testing of the horse's blood that such levels are physiologically normal for that specific horse, the stewards may waive the provisions of this rule and permit the horse to race. Notwithstanding the provisions of subsection (b), the stewards shall assess the expense of quarantine to the association if they determine that high blood levels are physiologically normal for that specific horse. In addition, no disciplinary action will be pursued by the stewards or the commission against the trainer of any horse found, after quarantine, to have physiologically normal levels in excess of the levels established in section 2 of this rule.

(d) For purposes of this section, clear and cogent evidence shall mean continued and repeated levels in excess of the levels established in section 2 of this rule during the period of quarantine. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-5; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-6 Penalties

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 6. (a) The trainer or responsible party shall receive a warning for the first violation of this rule. No ruling shall be issued for the first violation of this rule.

(b) The stewards shall consider 71 IAC 2-11-1 when determining the penalty for a licensee who commits a second or subsequent violation of this rule or a comparable rule in another jurisdiction. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-6; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3601*)

71 IAC 8.5-13-7 Presence of horse in ship-in barn

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 7. The trainer is responsible for having any horse shipping to the track on race day to go directly to its assigned stall in the ship-in barn. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-7; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3601*)

71 IAC 8.5-13-8 Presence of caretaker with horse

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 8. The trainer is responsible for having a licensed person present with the horse until the horse leaves for the paddock. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-8; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3601*)

LSA Document #05-221(E)

Filed with Secretary of State: August 10, 2005, 1:00 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-176(E)

DIGEST

Temporarily amends 312 IAC 9, governing noncommercial hunts at Chain O'Lakes State Park, Charlestown State Park, Clifty Falls State Park, Fort Harrison State Park, Harmonie State Park, Lincoln State Park, McCormick's Creek State Park, Ouabache State Park, Pokagon State Park, Shades State Park, Shakamak State Park, Spring Mill State Park, Tippecanoe River State Park, Turkey Run State Park, Versailles State Park, Whitewater Memorial State Park, and Twin Swamps Nature Preserve, as adopted under IC 4-22-2-37.1, IC 14-22-2-6, IC 14-10-2-5, and IC 14-22-6-13 (applicable to state parks), by the director of the department of natural resources with the awareness the regulation of wild animals in Indiana is the responsibility of the department of natural resources, with a heightened awareness of that responsibility (as well as a responsibility for the welfare of flora and other fauna) within Indiana state parks and dedicated nature preserves, and, more particularly, based upon the opinion of professional biologists, because the director has determined white-tailed deer have caused, and will continue to cause, obvious and measurable damage, including reduction of rare plant species and sampling data that show, more generally, vegetation species disturbance in areas accessible to deer browsing, to the ecological balance within these properties and the ecological balance within these properties will not be maintained unless action is taken to control their populations. Effective June 22, 2005.

SECTION 1. (a) Notwithstanding 312 IAC 9-2-11, 312 IAC

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8-2, and any other provision governing hunting a wild animal within a state park, individuals qualified under this SECTION may hunt white-tailed deer on November 14 through November 15, 2005, and November 28 through November 29, 2005, at the following sites and within the following schedules:

- (1) Chain O'Lakes State Park from 7:30 a.m. until 4 p.m., EST.
- (2) Charlestown State Park from 7:30 a.m. until 4 p.m., EST.
- (3) Clifty Falls State Park from 7:30 a.m. until 4 p.m., EST.
- (4) Fort Harrison State Park from 7:30 a.m. until 4 p.m., EST.
- (5) Harmonie State Park from 6:30 a.m. until 3 p.m., CST.
- (6) Lincoln State Park from 7:30 a.m. until 4 p.m., EST.
- (7) McCormick's Creek State Park from 7:30 a.m. until 4 p.m., EST.
- (8) Ouabache State Park from 7:30 a.m. until 4 p.m., EST.
- (9) Pokagon State Park from 7:30 a.m. until 4 p.m., EST.
- (10) Shades State Park from 7:30 a.m. until 4 p.m., EST.
- (11) Shakamak State Park from 7:30 a.m. until 4 p.m., EST.
- (12) Spring Mill State Park from 7:30 a.m. until 4 p.m., EST.
- (13) Tippecanoe River State Park from 7:30 a.m. until 4 p.m., EST.
- (14) Turkey Run State Park from 7:30 a.m. until 4 p.m., EST.
- (15) Versailles State Park from 7:30 a.m. until 4 p.m., EST.
- (16) Whitewater Memorial State Park from 7:30 a.m. until 4 p.m., EST.

(b) Except as provided in subsection (q) for Clifty Falls State Park and Fort Harrison State Park, a deer may be lawfully taken under this SECTION only by the use of a firearm that may be lawfully used to hunt deer in Indiana.

(c) In order to apply for a license under this SECTION, an individual must satisfy both of the following requirements:

- (1) Possess at least one (1) valid resident license issued under 312 IAC 9-3-3, 312 IAC 9-3-4, or IC 14-22-12-7 to take deer.
- (2) Be at least eighteen (18) years old by November 14, 2005.

(d) For each state park other than Clifty Falls State Park and Fort Harrison State Park, the department will determine the participants for the hunt by first selecting individuals who have completed a course of instruction in hunter safety under IC 14-22-35. If more than the maximum number of individuals who have completed this course apply for a license under this SECTION, the department will select the participants for that state park by a drawing from those individuals who have completed the course. If fewer

than the maximum number of individuals who have completed this course apply for a license, the department shall supplement the participation list with applicants who have not completed a course of instruction in hunter safety. If supplementing the participation list with applicants who have not completed a course of instruction results in more applications than the maximum number of individuals who may be issued a license, the department will select the supplemental participants by a drawing from those individuals who have not completed the course.

(e) An application for a license under this SECTION must be completed on a department form as described in this subsection:

(1) The forms are available at all state parks and reservoirs, at the Customer Service Center in the Indiana Government Center-South, 402 West Washington Street, Room W160, Indianapolis, Indiana 46204 and on the Internet through the department's home page.

(2) In order to qualify an applicant for participation, a completed form (including a photocopy of a license issued to the applicant as identified in subsection (c)(1)) must be actually received by 12:00 noon, EST on Sept. 9, 2005, at the Department of Natural Resources, 402 West Washington Street, Room W264, Indianapolis, Indiana 46204.

(f) An individual may file no more than three (3) separate applications for three (3) individual applicants, as long as each application is accompanied by a deer license described in subsection (c)(1). Up to three (3) applications may be submitted as a unit so that all or none of the applicants will be selected to participate in the hunt. The submission by an individual of more than one (1) application per period disqualifies the individual (and any other individual submitting as a unit with the individual) from participating in the drawing. For the purposes of this subsection, one (1) "period" is November 14 through November 15, 2005, and the other "period" is November 28 through November 29, 2005.

(g) Any drawing required by this SECTION will be conducted on a random basis. Written notice will be mailed by the department to successful applicants.

(h) Each individual issued a license under this SECTION will be randomly assigned to specific management units with designated parking assignments. Each license holder must comply with the requirements set forth in the assignment.

(i) The form of the license under this SECTION shall be as determined by the department. Each participant in the hunt must possess and display evidence of the license as specified by the department.

(j) Notwithstanding 312 IAC 9-1-15, a participant (except for a participant at Clifty Falls State Park and Fort Harrison State Park) must expose outer garments with hunter

orange, which include both of the following:

- (1) A hat or cap.
- (2) A vest, coat, jacket, or coveralls.

(k) During the hunt, an individual must not take more than:

- (1) Three (3) total deer.
- (2) Included among the total deer taken, there must not be more than one (1) antlered deer.

(l) A deer taken under this SECTION does not apply to any bag limit for taking deer established by 312 IAC 9.

(m) All deer must be delivered to a designated check station within the state park.

(n) An individual must not enter a state park described in this SECTION during the following periods:

- (1) from 8 p.m., EST (7 p.m., CST) on Sunday, November 13 through 8 a.m., EST (7 a.m., CST) on Wednesday, November 16, 2005; or
- (2) from 8 p.m., EST (7 p.m., CST) on Sunday, November 27 through 8 a.m., EST (7 a.m., CST) on Wednesday, November 30, 2005;

unless the individual satisfies both subsection [*sic.*, subsections] (o) and (p).

(o) An individual shall enter a state park only at a site designated by the department.

(p) In order to enter a state park, an individual must be one (1) of the following:

- (1) An individual granted a license under this SECTION.
- (2) A representative of the media.
- (3) An employee of the department.
- (4) Another individual with credentials supplied by the department.

(q) This subsection provides additional requirements that must be satisfied by a participant in the hunts at Clifty Falls State Park and Fort Harrison State Park:

- (1) An applicant must include the following with the application:
 - (A) documents showing completion of the International Bowhunter Education Program; or
 - (B) a photocopy of a valid Hunter Education Card.
- (2) An individual who participates in the hunt must not discharge bow and arrows except from a tree stand.

SECTION 2. (a) Notwithstanding any other provision governing hunting a wild animal within a nature preserve dedicated under IC 14-31-1, individuals qualified under this SECTION may by firearms only hunt white-tailed deer at Twin Swamps Nature Preserve in Posey County from 6:30 a.m. until 3 p.m., CST on November 14 through November 15, 2005, and November 28 through November 29, 2005.

(b) In order to apply for a license under this SECTION, an individual must satisfy both of the following requirements:

- (1) Possess at least one (1) valid resident license issued under 312 IAC 9-3-3, 312 IAC 9-3-4, or IC 14-22-12-7 to take deer.
- (2) Be at least eighteen (18) years old by November 14, 2005.

(c) The department will determine the participants for the hunt by first selecting individuals who have completed a course of instruction in hunter safety under IC 14-22-35. If more than the maximum number of individuals who have completed this course apply for a license under this SECTION, the department will select the participants for that nature preserve by a drawing from those individuals who have completed the course. If fewer than the maximum number of individuals who have completed this course apply for a license, the department shall supplement the participation list with applicants who have not completed a course of instruction in hunter safety. If supplementing the participation list with applicants who have not completed a course of instruction results in more applications than the maximum number of individuals who may be issued a license, the department will select the supplemental participants by a drawing from those individuals who have not completed the course.

(d) An application for a license under this SECTION must be completed on a department form as described in this subsection:

- (1) The forms are available at all state parks and reservoirs, at Hovey Lake Fish and Wildlife Area, at the Customer Service Center in the Indiana Government Center-South, 402 West Washington Street, Room W160, Indianapolis, Indiana 46204 and on the Internet through the department's home page. Forms may also be available at other staffed DNR property offices.
- (2) In order to qualify an applicant for participation, a completed form (including a photocopy of a license issued to the applicant as identified in subsection (b)(1)) must be actually received by 12:00 noon, EST, on Sept. 9, 2005, at the Department of Natural Resources, 402 West Washington Street, Room W264, Indianapolis, Indiana 46204.

(e) An individual may file no more than three (3) separate applications for three (3) individual applicants, as long as each application is accompanied by a deer license described in subsection (b)(1). Up to three (3) applications may be submitted as a unit so all or none of the applicants will be selected to participate in the hunt. The submission by an individual of more than one (1) application per period disqualifies the individual (and any other individual submitting as a unit with the individual) from participating in the drawing. For the purposes of this subsection, one (1) "period" is November 14 through November 15, and the

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other "period" is November 28 through November 29, 2005.

(f) Any drawing required by this SECTION will be conducted on a random basis. Written notice will be mailed by the department to successful applicants.

(g) The form of the license under this SECTION shall be as determined by the department. Each participant in the hunt must possess and display evidence of the license as specified by the department.

(h) Notwithstanding 312 IAC 9-1-15, a participant must expose outer garments with hunter orange that include both of the following:

- (1) A hat or cap.
- (2) A vest, coat, jacket, or coveralls.

(i) During the hunt, an individual must not take more than:

- (1) Three (3) total deer.
- (2) Included among the total deer taken, there must not be more than one (1) antlered deer.

(j) A deer taken under this SECTION does not apply to any bag limit for taking deer established by 312 IAC 9.

(k) All deer must be delivered to a designated check station within the nature preserve.

(l) An individual must not enter Twin Swamps Nature Preserve during the following periods:

- (1) from 8 p.m., EST (7 p.m., CST) on Sunday, November 13 through 8 a.m., EST (7 a.m., CST) on Wednesday, November 16, 2005; or
- (2) from 8 p.m., EST (7 p.m., CST) on Sunday, November 27 through 8 a.m., EST (7 a.m., CST) on Wednesday, November 30, 2005;

unless the individual satisfies both subsection (n) and subsection (o) [subsections (n) and (o)].

(m) An individual shall enter Twin Swamps Nature Preserve only at a site designated by the department.

(n) In order to enter Twin Swamps Nature Preserve, an individual must be one (1) of the following:

- (1) An individual granted a license under this SECTION.
- (2) A representative of the media.
- (3) An employee of the department.
- (4) Another individual with credentials supplied by the department.

SECTION 3. SECTIONS 1 and 2 of this document expire on December 13, 2005.

LSA Document #05-176(E)

Filed with Secretary of State: June 22, 2005, 2:35 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-203(E)

DIGEST

Temporarily amends 312 IAC 9 as applicable to the management and licensure of activities pertaining to bobcats, river otters, and badgers. Effective July 13, 2005.

SECTION 1. (a) This SECTION of this document is supplemental to 312 IAC 9.

(b) A person must not take, sell, or possess a bobcat (*Lynx rufus*), river otter (*Lontra canadensis*), or badger (*Taxidea taxus*) except as provided by 312 IAC 9 and this document.

(c) A person must not possess or sell a carcass, hide, or any part of a bobcat, river otter, or badger unless the person:

- (1) possesses satisfactory documentation that the carcass, hide, or part was lawfully acquired. Satisfactory documentation must include one (1) or more of the following: a legible copy of any tag, receipt, hunting license, trapping license, permit, or other appropriate record from the state or country where the animal, including any part or portion of the animal, was acquired, or a receipt from fur buyer licensed under 312 IAC 9-10-12, or a taxidermist licensed under 312 IAC 9-10-5; or
- (2) obtains the carcass, hide, or part from a department employee with written permission.

(d) In addition to subsection (c)(1) of this document, a person must not possess a carcass or untanned hide of a bobcat, river otter, or badger for more than fourteen (14) days unless the person is a fur buyer licensed under 312 IAC 9-10-12.

(e) A fur buyer licensed under 312 IAC 9-10-12, or a taxidermist licensed under 312 IAC 9-10-5, who sells a carcass, hide, or any part of a bobcat, river otter, or badger must provide the purchaser with the documentation described in subsection (c)(1) of this SECTION. A purchaser who relies in good faith upon the documentation may offer it as an affirmative defense to an infraction or civil penalty alleging a violation of section [sic.] (c) of this SECTION.

SECTION 2. (a) This SECTION of this document supersedes 312 IAC 9-3-19.

(b) The following species of mammals are endangered and are subject to the protections provided under IC 14-22-34-12:

- (1) Indiana bat (*Myotis sodalis*).
- (2) Gray bat (*Myotis grisescens*).
- (3) Southeastern bat (*Myotis austroriparius*).
- (4) Evening bat (*Nycticeius humeralis*).
- (5) Eastern wood rat (*Neotoma floridana*).

- (6) Swamp rabbit (*Sylvilagus aquaticus*).
- (7) Franklin's ground squirrel (*Spermophilus franklinii*).

SECTION 3. (a) This SECTION of this document is supplemental to 312 IAC 9-10-12 and governs the activities of an individual who is a licensed fur buyer.

(b) A licensed fur buyer must not possess the carcass or untanned hide, or any part of a bobcat, river otter, or badger:

- (1) Unless the carcass, untanned hide, or part was lawfully acquired by the seller as evidenced by a legible copy of one (1) or more of the following: a tag, receipt, hunting license, trapping license, permit, or other appropriate record from the state or country where the animal, including any part or portion of the animal, was acquired.
- (2) Except as provided in subsection (c), for a period in excess of sixty (60) days from receipt of the carcass or untanned hide.

(c) A licensed fur buyer may, under this subsection, request written authorization from the division director to possess the carcass or untanned hide of a bobcat, river otter, or badger for a period in excess of sixty (60) days after its receipt. The request must include a report that identifies the species, number, and location of any carcass or untanned hide or part that the fur buyer requests to keep.

(d) A licensed fur buyer must issue a valid, dated receipt for all bobcats, river otters, and badgers sold, traded, bartered, or gifted and include the following information:

- (1) Fur buyer license number.
- (2) Buyer and seller name and address.
- (3) Number of animals, hides, or parts sold.
- (4) Species of animal sold.

SECTION 4. (a) This SECTION of this document is supplemental to 312 IAC 9-11-13(o) that sets standards a person must satisfy in order to lawfully confine, enclose, and house wild cats.

(b) For bobcats, the following must be provided:

- (1) Dens large enough for privacy and comfort to all animals in the enclosure.
- (2) An elevated wooden loafing platform or a dry elevated natural substrate loafing area. The wooden platform or elevated natural substrate must be large enough for all animals within the enclosure. The top of the den or den box may be designed to meet this requirement.
- (3) A tree limb or other suitable scratching block.
- (4) Walls, roof, and floor of the cage constructed of one (1) inch by two (2) inch maximum mesh. Any weld must be as strong as the wire.
- (5) An artificial heat source to maintain a minimum ambient air temperature of forty-five degrees Fahrenheit (45° F).

LSA Document #05-203(E)
Filed with Secretary of State: July 13, 2005, 11:30 a.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-210(E)

DIGEST

Temporarily amends 312 IAC 9-4-11, governing taking and possessing wild turkeys, to specify the locations for taking wild turkeys in the fall season as authorized by 312 IAC 9-4-11(g) and to provide for tagging of the carcass of a wild turkey taken under the "automated point of sale licensing system" authorized by IC 14-22-12-7.5. Effective September 1, 2005.

SECTION 1. (a) This SECTION of this document is supplemental to 312 IAC 9-4-11.

(b) A person may take a wild turkey under this SECTION of this document from October 1, 2005, through October 23, 2005, with a bow and arrow, in the following locations:

- (1) Bartholomew.
- (2) Brown.
- (3) Cass.
- (4) Clark.
- (5) Clay.
- (6) Crawford.
- (7) Daviess.
- (8) Dearborn.
- (9) Decatur.
- (10) Dekalb.
- (11) Dubois.
- (12) Fayette.
- (13) Floyd.
- (14) Franklin.
- (15) Fountain.
- (16) Fulton.
- (17) Gibson.
- (18) Greene.
- (19) Harrison.
- (20) Jackson.
- (21) Jasper, north of State Highway 114 or east of Interstate 65.
- (22) Jefferson.
- (23) Jennings.
- (24) Johnson.
- (25) Knox.
- (26) LaGrange.
- (27) LaPorte.
- (28) Lawrence.
- (29) Marshall.
- (30) Martin.
- (31) Monroe.

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- (32) Montgomery.
- (33) Morgan.
- (34) Newton, north of State Highway 114.
- (35) Ohio.
- (36) Orange.
- (37) Owen.
- (38) Parke.
- (39) Perry.
- (40) Pike.
- (41) Posey.
- (42) Pulaski.
- (43) Putnam.
- (44) Ripley.
- (45) St. Joseph.
- (46) Scott.
- (47) Spencer.
- (48) Starke.
- (49) Steuben.
- (50) Sullivan.
- (51) Switzerland.
- (52) Tippecanoe.
- (53) Union.
- (54) Vanderburgh.
- (55) Vermillion.
- (56) Vigo.
- (57) Warren.
- (58) Warrick.
- (59) Washington.
- (60) Wayne.

(c) A person may take a wild turkey under this SECTION of this document from October 19, 2005, through October 23, 2005, with a firearm, in the following locations:

- (1) Brown.
- (2) Clark.
- (3) Crawford.
- (4) Dearborn.
- (5) Dubois.
- (6) Floyd.
- (7) Franklin.
- (8) Greene, east of the White River.
- (9) Harrison.
- (10) Jackson.
- (11) Jefferson.
- (12) Jennings.
- (13) Lawrence.
- (14) Martin.
- (15) Monroe.
- (16) Ohio.
- (17) Orange.
- (18) Owen.
- (19) Perry.
- (20) Pike.
- (21) Ripley.
- (22) Scott.
- (23) Spencer.

- (24) Switzerland.
- (25) Warrick.
- (26) Washington.

(d) This subsection supercedes 312 IAC 9-4-11(h). The use of a dog, another domesticated animal, a live decoy, a recorded call, an electronically powered or controlled decoy, or bait to take a wild turkey is prohibited. An area is considered baited for ten (10) days after the removal of the bait, but an area is not considered to be baited that is attractive to wild turkeys resulting from a normal agricultural practice.

(e) This subsection supercedes 312 IAC 9-4-11(j). Except as provided under IC 14-22-11-1 and IC 14-22-11-11, a person must not hunt wild turkeys unless possessing a completed and signed license bearing the person's name. A person must not hunt with a wild turkey license issued to another person.

(f) This subsection supercedes 312 IAC 9-4-11(k). The paper described in subsection (e) [*sic.*, subsection (g)] must, immediately after taking a wild turkey, be attached to the unfeathered portion of the turkey's leg. A person who takes a turkey must cause delivery of the turkey to an official turkey checking station within forty-eight (48) hours of taking for registration. After the checking station operator records the permanent seal number on the log, the person is provided with that seal. The person must immediately and firmly affix the seal to the leg of the turkey through a section of skin or flesh to prevent its removal (without cutting the seal or the body part to which it is affixed). The seal must remain affixed until processing of the turkey begins. The official turkey checking station operator shall accurately and legibly complete all forms provided by the department and make those forms available to department personnel on request.

(g) A person who takes a wild turkey, pursuant to a license issued under IC 14-22-12-7.5, must tag the carcass immediately after taking with a paper that states the name and address of the individual, the license number (if applicable), the date, and the sex of the turkey that was taken.

SECTION 2. SECTION 1 of this document expires October 24, 2005.

LSA Document #05-210(E)

Filed with Secretary of State: July 27, 2005, 1:20 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-211(E)

DIGEST

Temporarily amends 312 IAC 9-3-2 that provides general requirements for hunting white-tailed deer, including those

pertaining to tagging. Temporarily amends 312 IAC 9-3-7 to govern hunting white-tailed deer in a designated county under an extra deer license and to identify counties for herd reduction. Effective September 1, 2005.

SECTION 1. (a) This SECTION of this document supersedes 312 IAC 9-3-2(f), 312 IAC 9-3-2(g), and 312 IAC 9-3-2(i).

(b) Except as provided under IC 14-22-11-1 and IC 14-22-11-11, a person must not hunt deer unless the person possesses a completed and signed license bearing the person's name. A person must not hunt with a deer license issued to another person.

(c) A person who takes a deer must attach a piece of paper to a leg of the deer before leaving the field. The piece of paper must state the name and address of the person, the sex of the deer, and the month and day the deer was taken. While in the field, the hunter is not required to tag the deer if maintaining immediate custody of, and constant visual contact with, the deer.

(d) After a checking station operator records the permanent seal number on the log, the hunter shall be provided with the seal. The hunter must immediately affix the seal:

- (1) between a tendon and bone;**
- (2) through a section of skin or flesh; or**
- (3) around a branched antler;**

to prevent its removal without cutting the seal or the body part to which it is affixed. The seal must be maintained until deer processing begins.

SECTION 2. (a) As anticipated by 312 IAC 9-3-7, this SECTION of this document governs hunting deer under an extra deer license.

(b) This SECTION of this document is supplemental to 312 IAC 9-3-2 and governs the activities of an individual who is either:

- (1) issued a license to take an extra deer under IC 14-22-12-1(a)(18) or IC 14-22-12-1(a)(19); or**
- (2) hunting under IC 14-22-11-1 with the use of an extra deer license under IC 14-22-12-1(a)(18) or IC 14-22-12-1(a)(19).**

(c) A person must not take an antlerless deer under this SECTION unless the person possesses an antlerless deer license issued by the department of natural resources, division of fish and wildlife, under this SECTION of this document.

(d) The season for hunting deer under this SECTION of this document is as follows:

- (1) From October 1, 2005, through November 27, 2005, with bow and arrows.**
- (2) From November 12, 2005, through November 27, 2005, with firearms.**
- (3) From December 3, 2005, through December 18, 2005,**

with muzzle loading guns.

(4) From December 3, 2005, through January 1, 2006, with bow and arrows or crossbows.

(e) The seasonal limit for hunting under this SECTION of this document is one (1) antlerless deer for each license issued under this SECTION of this document.

(f) A person who hunts under this SECTION of this document must obtain an extra deer license for each deer. 312 IAC 9-3-2(k), that governs the use of tags, applies to extra tags.

(g) A person who hunts under this SECTION of this document may use bow and arrows, crossbow, or any firearms that may otherwise be lawfully used to take deer under 312 IAC 9-3.

(h) 312 IAC 9-3-3(d) through 312 IAC 9-3-3(g) and 312 IAC 9-3-4(e) through 312 IAC 9-3-4(j) apply to a license issued under this SECTION of this document.

(i) The statewide bag limit for taking antlerless deer under this SECTION of this document is four (4), except as provided in subsection (k).

(j) A person must not exceed the county bag limit from each county as set forth in the following map:



(k) An additional four (4) antlerless deer may be taken in

Emergency Rules

each of the following counties:

- (1) Clark.
- (2) Clay.
- (3) Dearborn.
- (4) Floyd.
- (5) Franklin.
- (6) Harrison.
- (7) Jefferson.
- (8) Ohio.
- (9) Parke.
- (10) Scott.
- (11) Switzerland.
- (12) Vanderburgh.
- (13) Washington.

The additional antlerless deer taken in these counties under this subsection of this document do not count against the bag limit for antlerless deer of another county or the statewide bag limit for antlerless deer.

(l) The extra deer license authorized by this SECTION of this document does not apply to the department properties listed in this subsection. The license is invalid on these properties:

- (1) Atterbury Fish and Wildlife Area.
- (2) Blue Grass Fish and Wildlife Area.
- (3) Brush Creek Fish and Wildlife Area.
- (4) Chinook Fish and Wildlife Area.
- (5) Crosley Fish and Wildlife Area.
- (6) Fairbanks Landing Fish and Wildlife Area.
- (7) Francis Slocum State Forest.
- (8) Glendale Fish and Wildlife Area.
- (9) Green-Sullivan [*sic.*, *Greene-Sullivan*] State Forest.
- (10) Hillenbrand Fish and Wildlife Area.
- (11) Huntington Lake (including adjacent lands administered by the department of natural resources).
- (12) Kankakee Fish and Wildlife Area.
- (13) Kingsbury Fish and Wildlife Area.
- (14) Lasalle Fish and Wildlife Area.
- (15) Mississinewa Lake (including adjacent lands administered by the department of natural resources).
- (16) Patoka Lake, except east of State Road 145 (in Orange County and Crawford County) and south of State Road 164 (in Dubois County and Crawford County).
- (17) Pigeon River Fish and Wildlife Area.
- (18) Salamonie Lake (including adjacent lands administered by the department of natural resources).
- (19) Salamonie State Forest.
- (20) Splinter Ridge Fish and Wildlife Area.
- (21) Sugar Ridge Fish and Wildlife Area.
- (22) Tri-County Fish and Wildlife Area.
- (23) Wilbur Wright Fish and Wildlife Area.
- (24) Willow Slough Fish and Wildlife Area.
- (25) Winamac Fish and Wildlife Area.

SECTION 3. SECTION 1 and SECTION 2 of this docu-

ment expire on February 1, 2006.

LSA Document #05-211(E)

Filed with Secretary of State: July 27, 2005, 1:20 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-212(E)

DIGEST

Temporarily amends 312 IAC 18-3-18, pertaining to entomology and plant pathology to regulate the emerald ash borer (*Agrilus planipennis*) as a pest or pathogen, to provide standards for quarantine in Lima Township and Newbury Township in LaGrange County, which are infested with the species. Repeals LSA Document #05-56(E), printed at 28 IR 2403, that established a quarantine for Newbury Township, exclusively. Effective July 29, 2005.

SECTION 1. (a) This SECTION of this document is supplemental to 312 IAC 18-3-18(c).

(b) Lima Township and Newbury Township in LaGrange County contain emerald ash borers and are infested areas regulated under 312 IAC 18-3-18(c).

SECTION 2. SECTION 1 of this document expires July 1, 2006.

SECTION 3. LSA Document #05-56(E) IS REPEALED.

LSA Document #05-212(E)

Filed with Secretary of State: July 29, 2005, 10:50 a.m.

Change in Notice of Public Hearing

TITLE 329 SOLID WASTE MANAGEMENT BOARD

#05-85(SWMB)

The Solid Waste Management Board (board) gives notice that the date of the public hearing for consideration of preliminary adoption of #05-85(SWMB), the General Motors Fort Wayne Assembly Plant F019 delisting rule, has been changed. The hearing will be held now on September 20, 2005, at the Indiana Government Center South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana. If the date or location of this hearing is changed again, it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register. The corrected 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 **September 20, 2005**, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Solid Waste Management Board will hold a public hearing on proposed new rules at 329 IAC 3.1-6-7.*

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 Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Assistant Commissioner
Office of Land Quality

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #05-47

The Indiana Real Estate Commission gives notice that the date of the public hearing for consideration of final adoption of LSA Document #05-47, printed at 28 IR 2807, 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 **September 22, 2005**, at 10:10 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to allow for the voluntary transfer of any interest earned on the broker's escrow/trust account to a fund established for the sole purpose of providing affordable housing opportunities in Indiana.*

The Indiana Real Estate Commission has the authority to adopt rules regarding the transfer of funds from interest earned on real estate broker's escrow accounts. This proposed rule allows real estate brokers to transfer the interest earned on escrow accounts to a special fund established for the sole purpose of providing affordable housing opportunities in Indiana. This rule will have no costs on the regulated entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Acting Executive Director
Indiana Professional Licensing Agency

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #05-49

The Indiana Real Estate Commission gives notice that the date of the public hearing for consideration of final adoption of LSA Document #05-49, printed at 28 IR 2808, 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 **September 22, 2005**, at 10:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to allow an approved distance learning continuing education course to be conducted in a facility that is also used as a broker or salesperson office, to allow instruction for an approved distance learning education course to be more than eight hours of instruction in one*

Change in Notice of Public Hearing

day, to establish distance learning education requirements and procedures for real estate salespersons and brokers, and to establish the requirements and procedures for distance learning education providers.

The Indiana Real Estate Commission has the authority to adopt rules regarding continuing education requirements for real estate salespersons and real estate brokers. These proposed rules allow real estate salespersons and real estate brokers to complete their continuing education requirements by utilizing distance education courses as opposed to the historical classroom setting. These rules will have no additional costs on the regulated entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Acting Executive Director
Indiana Professional Licensing Agency

Notice of Intent to Adopt a Rule

TITLE 140 BUREAU OF MOTOR VEHICLES

LSA Document #05-237

Under IC 4-22-2-23, the Bureau of Motor Vehicles intends to adopt a rule concerning the following:

OVERVIEW: Adds a rule to establish issuance standards for operator's licenses under Indiana Code chapter 9-24-9 and identification cards for nondrivers under Indiana Code chapter 9-24-16. Submit questions or comments to the Indiana Bureau of Motor Vehicles, Attention: David Certo, Chief Legal Counsel, Indiana Government Center-North, 100 North Senate Ave., Room N440, Indianapolis, Indiana 46204, or by electronic mail to dcerto@bmv.in.gov. Statutory authority: IC 9-14-2-2; IC 9-24-16-10; IC 9-24-16-11.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Mike Barnhart
Indiana Bureau of Motor Vehicles
Indiana Government Center-North
100 North Senate Ave., Room N440
Indianapolis, Indiana 46204
(317) 233-1218
JMBarnhart@bmv.in.gov

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-213

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

OVERVIEW: Amends 312 IAC 18-3-12, which governs standards for the control of larger pine shoot beetles, by adding Dearborn County to the state quarantine area. Dearborn County is already subject to a federal quarantine for larger pine shoot beetles. 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, IN 46204; (317) 233-3322; slucas@nrc.in.gov. Statutory authority: IC 14-10-2-4; IC 14-24-3.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Stephen L. Lucas
Division of Hearings
Natural Resources Commission
Indiana Government Center-South
402 West Washington Street, Room W272
Indianapolis, IN 46204
(317) 233-3322
slucas@nrc.in.gov

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #05-214

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

OVERVIEW: Amends 312 IAC 9 concerning taking, chasing, and possessing wild animals; fishing, hunting, and trapping without a license by owners and lessees of farmland; tagging requirements for deer hunting; hunting deer by firearms; coyotes; bobcats; river otters; badgers; endangered species of mammals; migratory birds and waterfowl; mute swans; tagging requirements for wild turkey hunting; special purpose turtle possession permits; taxidermist licenses; nuisance wild animal control permits; and fur buyers licenses. Establishes new requirements for confining, enclosing, and housing of bobcats under a wild animal possession permit. Questions concerning the proposed rule amendments may be directed to (317) 232-4699 or jkane@nrc.in.gov. Statutory authority: IC 14-10-2-4; IC 14-22-2-6.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Gregg McCollam, Assistant Director
Division of Fish and Wildlife
Department of Natural Resources
Indiana Government Center-South
402 W. Washington Street, Room W273
Indianapolis, Indiana 46204
(317) 233-9382
gmccollam@dnr.in.gov

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #05-216

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

OVERVIEW: The rule will modify requirements to move sheep and goats into Indiana and identification and health requirements for exhibiting sheep and goats. Comments on the proposed rule may be sent to the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis, IN 46224, or by electronic mail to gghaynes@boah.state.in.us. Statutory authority: IC 15-2.1-3-19.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Gary L. Haynes
Director of Legal Affairs
805 Beachway Drive, Suite 50
Indianapolis, IN 46224
(317) 227-0300
gghaynes@boah.state.in.us

Notice of Intent to Adopt a Rule

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

LSA Document #05-215

Under IC 4-22-2-23, the Indiana Pesticide Review Board intends to adopt a rule concerning the following:

OVERVIEW: Adds 357 IAC 1-12 to establish definitions for the term drift and other related terms and to prohibit anyone from applying a pesticide in a manner that results in drift of the pesticide from the target site in sufficient quantities to cause harm to a nontarget site. Effective 30 days after filing with the Secretary of State. Questions concerning the proposed rule may be directed to David E. Scott at (765) 494-1587, scottde@purdue.edu, or Office of the Indiana State Chemist, 175 S. University St., West Lafayette, IN 47904-2063. Statutory authority: IC 15-3-3.6-4.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

David E. Scott
Office of the Indiana State Chemist
175 S. University St.
West Lafayette, IN 47904-2063
(765) 494-1587
scottde@purdue.edu

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #05-220

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 405 IAC 5-3-13 to allow for Medicaid reimbursement for genetic testing for detection of cancer of the breast or breasts or ovaries. Amends 405 IAC 5-5-1 to allow for Medicaid reimbursement for diagnostic services, including genetic testing, when provided out-of-state. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Kate Bowen
Program Operations - Acute Care
Office of Medicaid Policy and Planning
Indiana Government Center-South
402 West Washington Street, Room W382
Indianapolis, IN 46204
(317) 233-1662
kate.bowen@fssa.in.gov

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #05-209

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

OVERVIEW: Adds rules to implement a program to complement the federal Medicare Prescription Drug Benefit and to establish program eligibility and enrollment guidelines. Questions or comments on the proposed rule may be directed to: Indiana Prescription Drug Program, Attn: Grace Chandler, 402 West Washington Street, Room W374, Indianapolis, IN 46204 or by e-mail at grace.chandler@fssa.in.gov. Statutory authority: IC 12-10-16-5.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Grace Chandler
Indiana Prescription Drug Program
Indiana Government Center-South
402 West Washington Street, Room W374
Indianapolis, Indiana 46204
(317) 234-1341
grace.chandler@fssa.in.gov

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

LSA Document #05-225

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

OVERVIEW: Amends 646 IAC 3-1-7 to reflect changes created by Senate Enrolled Act 612 regarding unemployment insurance tax rate manipulation. Adds 646 IAC 3-4-12 because Senate Enrolled Act 612 repeals 646 IAC 3-4-10 and requires the Department to adopt rules explaining how transfers of a portion of a trade or business are affected by this new law enacted to prevent unemployment insurance tax rate manipulation. It requires the Department to establish guidelines to divide the experience account balance of a predecessor employer, the payroll of a predecessor employer, and the benefits chargeable to a predecessor employer's original experience account after the date of transfer between the predecessor employer and the successor employer. This division will take place when a transfer of a portion of a trade or business occurs. Adds 646 IAC 3-5-5 to define "motor carrier." Public comments are invited. Contact Person: Diana Gushrowski, Director, UI Integrity, Department of Workforce Development, (317) 232-2968. Statutory authority: IC 22-4-18-1(d).

Notice of Intent to Adopt a Rule

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Diana Gushrowski
Director, UI Integrity
Department of Workforce Development
10 N. Senate Ave.
Indianapolis, IN 46204
(317) 232-2968
dgushrowski@dwd.in.gov

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

LSA Document #05-228

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

OVERVIEW: 646 IAC 2 contains rules that pertain to federal laws no longer in existence. The department will amend and, where appropriate, repeal rules that were previously used in the administration of federal programs that are no longer in operation. Contact Person: William R. Miller, Director, Career Services, Department of Workforce Development, (317) 233-4010. Statutory authority: IC 22-4-18-1(d).

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

William R. Miller
Director, Career Services
Department of Workforce Development
10 N. Senate Ave.
Indianapolis, IN 46204
(317) 233-4010
wmiller@dwd.in.gov

TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #05-226

Under IC 4-22-2-23, the State Board of Dentistry intends to adopt a rule concerning the following:

OVERVIEW: Amends 828 IAC 0.5-2 concerning fees for licensure to practice dentistry and dental hygiene. Amends 828 IAC 1-1 concerning the requirements for licensure of dentists by examination to facilitate the outsourcing of the administration of the examinations. Amends 828 IAC 1-2 concerning the requirements for licensure of dental hygienists by examination to facilitate the outsourcing of the administration of the examination. Amends 828 IAC 1-3 concerning licensure to practice dentistry by endorsement. Repeals 828 IAC 1-1-8, 828 IAC 1-1-12, 828 IAC 1-2-7, 828 IAC 1-2-8,

828 IAC 1-2-9, and 828 IAC 1-2-12. Questions or comments concerning the proposed rules may be directed to: State Board of Dentistry, ATTENTION: Board Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or by e-mail at smazo@pla.in.gov. Statutory authority: IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Shelly L. Mazo
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-2007
smazo@pla.in.gov

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

LSA Document #05-223

Under IC 4-22-2-23, the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board intends to adopt a rule concerning the following:

OVERVIEW: Amends 839 IAC 1-6-1 concerning continuing education. Amends 839 IAC 1-6-2 concerning approval of continuing education programs. Amends 839 IAC 1-6-3 concerning the continuing education requirements for social workers, clinical social workers, marriage and family therapists, and mental health counselors. Amends 839 IAC 1-6-4 concerning continuing education audits. Amends 839 IAC 1-6-5 concerning request for waiver of the continuing education requirements. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Valerie Jones, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204 or by electronic mail at vjones@pla.in.gov. Statutory authority: IC 25-23.6-2-8.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Valerie Jones
Indiana Professional Licensing Agency
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-2064
vjones@pla.in.gov

Notice of Intent to Adopt a Rule

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

LSA Document #05-222

Under IC 4-22-2-23, the State Board of Registration for Professional Engineers intends to adopt a rule concerning the following:

OVERVIEW: Amends 864 IAC 1.1-8-1 to require a statement of compliance with continuing education requirements and to grant the board the authority to verify continuing education compliance. Adds 864 IAC 1.1-15 to establish the continuing education requirements for professional engineers. Adds 864 IAC 1.1-16 to establish the requirements for continuing education providers. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, State Board of Registration for Professional Engineers, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla10@pla.in.gov. Statutory authority: IC 25-31-1-7; IC 25-31-1-17.5.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Angela Smith Jones
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3022
ajones@pla.in.gov

may be directed to: Indiana Professional Licensing Agency, ATTENTION: Board Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204 or by electronic mail at vjones@pla.in.gov. Statutory authority: IC 25-35.6-1-8; IC 25-35.6-2-2.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Valerie Jones
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-2064
vjones@pla.in.gov

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

LSA Document #05-224

Under IC 4-22-2-23, the Speech-Language Pathology and Audiology Board intends to adopt a rule concerning the following:

OVERVIEW: Amends 880 IAC 1-1, 880 IAC 1-2.1, and 880 IAC 1-3.1 to implement rule changes based on House Enrolled Act 1098-2005 (P.L.212-2005) and Senate Enrolled Act 607 (P.L.206-2005), including defining the role of support personnel, revising the definitions, licensure, ethics, and continuing education requirements, revising and establishing the educational and tasks requirements for speech-language aides, associates, and assistants, revising and establishing the registration and renewal requirements for speech-language aides, associates, and assistants, and establishing the requirements for the collection and use of a Social Security number for applicants who apply for a license, certificate, or permit under IC 25-35.6-1. Questions or comments concerning the proposed rules

TITLE 42 OFFICE OF THE INSPECTOR GENERAL

Proposed Rule
LSA Document #05-124

DIGEST

Adds 42 IAC to establish the Indiana code of ethics for the conduct of state business. Effective 30 days after filing with the Secretary of State.

42 IAC

SECTION 1. 42 IAC IS ADDED TO READ AS FOLLOWS:

TITLE 42 OFFICE OF THE INSPECTOR GENERAL

ARTICLE 1. INDIANA CODE OF ETHICS

Rule 1. Purpose

42 IAC 1-1-1 Purpose

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Sec. 1. (a) This section:

- (1) is intended as a guide to those under the jurisdiction of the state ethics commission;
- (2) is not a basis for sanctions by the state ethics commission;
- (3) is aspirational in character; and
- (4) represents the objective toward which every public servant should strive.

42 IAC 1-3 through 42 IAC 1-8 are mandatory in character and state minimum levels of conduct below which those under the jurisdiction of the state ethics commission may not fall without being subject to sanctions by the state ethics commission.

(b) The purpose of this article is to set ethical standards for:

- (1) the official conduct of the current and former officers, employees, and special state appointees of the executive and administrative branches of state government; and
- (2) persons who have or had a business relationship with an agency;

so that the general public will have confidence that the conduct of state business is always conducive to the public good. This article promotes the principle that public office is a public trust where government is based upon the consent of its citizens who are entitled to have complete confidence in the integrity of their government. Thus, the business of the state will be conducted in such a manner as to reassure the citizens of Indiana that the character and conduct of its officials, employees, and special state employees are above reproach.

(c) The following are goals toward which those under the

jurisdiction of the state ethics commission should strive:

- (1) Duties should be carried out impartially.
- (2) Decisions and policy should not be made outside of proper channels of state government.
- (3) Public office should not be used for private gain.
- (4) Public confidence in the integrity of government is essential to the exercise of good government.
- (5) Actions, transactions, or involvements should not be performed or engaged in which have the potential to become a conflict of interest.

(d) This article is not meant to unduly restrict or limit the behavior of the officers, employees, and special state appointees of this state during the time when they are not on duty. Each state officer, employee, and special state appointee retains lawful rights and privileges as a private citizen to interests of a personal or private financial nature. These rights and privileges will be honored by the commission to the extent that they are compatible with an individual's public office or employment. (*Office of the Inspector General; 42 IAC 1-1-1*)

Rule 2. Definitions

42 IAC 1-2-1 Applicability

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-1; IC 4-2-6-2.5; IC 4-13-1-4

Sec. 1. The definitions in IC 4-2-6-1 and this rule apply throughout this article. (*Office of the Inspector General; 42 IAC 1-2-1*)

42 IAC 1-2-2 "Ethics" defined

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-2.5

Sec. 2. "Ethics" means the standards of official conduct for those persons listed in IC 4-2-6-2.5. (*Office of the Inspector General; 42 IAC 1-2-2*)

42 IAC 1-2-3 "Honorarium" defined

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Sec. 3. "Honorarium" means a payment of money for:

- (1) an appearance;
- (2) a speech; or
- (3) an article;

but does not include payment or reimbursement of travel expenses for a state employee. (*Office of the Inspector General; 42 IAC 1-2-3*)

42 IAC 1-2-4 "Immediate family" defined

Authority IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-9

Sec. 4. "Immediate family" means a person's:

Proposed Rules

- (1) spouse;
- (2) partner;
- (3) housemate; or
- (4) unemancipated dependent.

(Office of the Inspector General; 42 IAC 1-2-4)

42 IAC 1-2-5 “Inspector general” defined

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7-2

Sec. 5. “Inspector general” means the office of the inspector general as established by IC 4-2-7-2. *(Office of the Inspector General; 42 IAC 1-2-5)*

42 IAC 1-2-6 “Public official” defined

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Sec. 6. “Public official” means anyone who holds a public office, elected or appointed, at the federal, state, county, or local level. *(Office of the Inspector General; 42 IAC 1-2-6)*

42 IAC 1-2-7 “Relative” defined

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-15-7-1

Sec. 7. “Relative” means any person related as:

- (1) father;
- (2) mother;
- (3) stepfather;
- (4) stepmother;
- (5) brother;
- (6) sister;
- (7) stepbrother;
- (8) stepsister;
- (9) uncle;
- (10) aunt;
- (11) husband;
- (12) wife;
- (13) son;
- (14) daughter;
- (15) stepchild;
- (16) son-in-law;
- (17) daughter-in-law;
- (18) grandchild;
- (19) stepgrandchild;
- (20) niece; or
- (21) nephew.

(Office of the Inspector General; 42 IAC 1-2-7)

42 IAC 1-2-8 “Travel expenses” defined

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-13-1-4

Sec. 8. “Travel expenses” means transportation, lodging, and meals. The term includes actual travel expenses or an amount approximating those expenses that would be

allowed by state travel policies and procedures authorized under IC 4-13-1-4(7). *(Office of the Inspector General; 42 IAC 1-2-8)*

Rule 3. Ethics Education

42 IAC 1-3-1 Training requirements

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7-1

Sec. 1. (a) All state officers, employees, special state appointees, and persons who have a business relationship with an agency shall be properly trained in the code of ethics as described in this article.

(b) Each agency’s appointing authority shall do the following:

- (1) Require all new employees to participate in ethics training within six (6) weeks of the employee’s starting employment date with the agency.
- (2) Require all employees to participate in ethics training at least every two (2) years during an employee’s tenure with the agency.
- (3) Maintain documentation to demonstrate an employee’s compliance with subdivisions (1) and (2).

(Office of the Inspector General; 42 IAC 1-3-1)

Rule 4. Gifts; Travel Expenses; Waivers

42 IAC 1-4-1 State employees and special state appointees

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 3-9-2; IC 4-2-6

Sec. 1. A state employee or special state appointee, or the spouse or unemancipated child of a state employee or special state appointee, shall not knowingly solicit, accept, or receive any:

- (1) gift;
- (2) favor;
- (3) service;
- (4) entertainment;
- (5) food; or
- (6) drink;

from a person who has a business relationship with the employee’s agency or is seeking to influence an action by the employee in his or her official capacity. *(Office of the Inspector General; 42 IAC 1-4-1)*

42 IAC 1-4-2 Exceptions

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 3-9-2; IC 4-2-6

Sec. 2. The following shall not be subject to this rule:

- (1) Gifts, favors, services, entertainment, food, or drink from public agencies or public institutions.
- (2) Food or drink consumed at a public meeting to which at least twenty-five (25) individuals are invited. A meeting

will be considered public if:

- (A) the event is a reception or other gathering for public officials that is not arranged to solicit government procurement of goods or services;
- (B) the employee is giving a speech or participating in a presentation in the employee's official capacity; or
- (C) the meeting has a formal educational program that the employee is attending to assist him or her in performing official duties.

- (3) Mementos or souvenirs of nominal value.
- (4) Food or drink consumed by an employee during negotiations or other activities related to an Indiana economic development corporation economic development project.
- (5) Gifts, favors, services, entertainment, food, or drinks from relatives, so long as:
 - (A) the gifts or other items of value are not deducted as a business expense; and
 - (B) the gift giver is not seeking to influence an action by an employee in his or her official capacity.
- (6) In cases involving ongoing social relationships, employees should seek a waiver under section 3 of this rule before accepting a gift.
- (7) Political contributions subject to IC 3-9-2 that are reported in accordance with applicable law.
- (8) Nominal refreshments offered to a state employee conducting official state business while he or she is at a workplace of a person who:
 - (A) has a business relationship; or
 - (B) seeks to influence official action;
 with the employee's agency.
- (9) Discount and other promotional programs approved and made available to state employees through the state personnel department or the Indiana department of administration.

(Office of the Inspector General; 42 IAC 1-4-2)

42 IAC 1-4-3 Waivers

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Sec. 3. (a) An employee's state officer or appointing authority may waive application of section 1 of this rule in individual cases when consistent with the public interest. The waiver shall:

- (1) be in writing; and
- (2) identify the following:
 - (A) The employee.
 - (B) The nature and value of the gift.
 - (C) The donor of the gift.
 - (D) Why acceptance of the gift is in the public interest.

(b) Written waivers must be filed with the commission within thirty (30) days of receipt of the gift. The commission may review the written waivers. An appointing authority or state officer may designate authority to the agency's ethics

officer to waive application of this rule on behalf of the appointing authority or state officer. The designation shall be in writing and filed with the commission. *(Office of the Inspector General; 42 IAC 1-4-3)*

42 IAC 1-4-4 Persons with a business relationship with an agency

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7-3

Sec. 4. (a) A person who has a business relationship with an employee's agency shall not provide any:

- (1) gifts;
- (2) favors;
- (3) services;
- (4) entertainment;
- (5) food; or
- (6) drink;

to such employee if the employee would not be permitted to accept the gift, favor, service, entertainment, food, or drink under this rule.

(b) A person who has a business relationship with an employee's agency shall not pay the employee's travel expenses, including, but not limited to, any lodging, transportation, or registration fees, if the employee would not be permitted to accept the payment under section 1 of this rule. *(Office of the Inspector General; 42 IAC 1-4-4)*

42 IAC 1-4-5 Honoraria

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Sec. 5. (a) An employee shall not personally accept an honorarium for himself or herself for anything that may be considered part of the state employee's official duties. However, a state employee may accept an honorarium in this situation on behalf of the state. The state employee accepting the honorarium shall remit to the treasurer of state any amount received. The treasurer of state shall quietus such funds into the general fund. A state employee may personally accept an honorarium or fee for activities not done in connection with the employee's official duties and that are prepared on the employee's own time and without the use of state resources. However, in no case may a state employee accept an honorarium from a person who has a business relationship or seeks to influence an official action with the employee's agency.

(b) Nothing in this section prohibits contributions to agencies that are made in accordance with applicable law. *(Office of the Inspector General; 42 IAC 1-4-5)*

42 IAC 1-4-6 Travel expenses; waivers

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Proposed Rules

Sec. 6. (a) A state officer or employee shall not solicit, accept, or receive payment for travel expenses, including, but not limited to, any lodging, transportation, or registration fees, for attending events concerning state business from a person who:

- (1) has a business relationship with the employee's agency; or
- (2) is seeking to influence an action by an employee in his or her official capacity.

(b) An employee's appointing authority or state officer may waive application of subsection (a) in individual cases when consistent with the public interest. The waiver shall:

- (1) be in writing; and
- (2) identify the following:
 - (A) The employee.
 - (B) The setting of the event.
 - (C) The amount and payer of the expenses.
 - (D) Why payment of the expenses is in the public interest.

(c) The written waiver shall be filed with the commission the earlier of:

- (1) within thirty (30) days of the event; or
- (2) receipt of the expenses.

The commission may review the written waivers. A state officer or appointing authority may designate authority to the agency's ethics officer to waive application of this rule on behalf of the appointing authority or state officer. The designation shall be in writing and filed with the commission.

(d) If a person wishes to reimburse the state for any part or all of the expenses incurred by the state for appearances of a state officer or employee or their official representatives on behalf of the state, the person is requested to remit to the treasurer of state any such amounts. The treasurer of the state shall quietus the funds into the general fund.

(e) Nothing in this section prohibits contributions to agencies that are made in accordance with applicable law. (*Office of the Inspector General; 42 IAC 1-4-6*)

Rule 5. Political Activity

42 IAC 1-5-1 Political activity

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 3-9-2; IC 4-2-6-1

Sec. 1. (a) A state employee or special state appointee shall not engage in political activity including solicitation of political contributions from:

- (1) another employee; or
 - (2) any other person;
- when on duty or acting in an official capacity.

(b) This section does not prohibit a state employee or special state appointee from engaging in such activity when not on duty.

(c) A state employee or special state appointee shall not solicit political contributions at any time from:

- (1) persons whom the employee or special state appointee knows to have a business relationship with the employee's or the special state appointee's agency; or
- (2) state employees or special state appointees directly supervised by the employee or the special state appointee.

(d) The heads of all agencies 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. (*Office of the Inspector General; 42 IAC 1-5-1*)

Rule 6. Conflict of Interest

42 IAC 1-6-1 Conflict of interest; prohibitions

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7-3

Sec. 1. A state officer, employee, or special state appointee shall not engage in the following conduct:

- (1) Solicit or accept compensation for the performance of official duties other than provided for by law.
- (2) Pay or offer to pay any compensation for the performance of official duties, other than in performing duties in making payments to other state officers, employees, or special state appointees as provided for by law.
- (3) Benefit from, or permit any other person to benefit from, information of a confidential nature except as permitted or required by law.
- (4) Divulge information of a confidential nature, except as permitted by law.
- (5) Make use of state materials, funds, property, personnel, facilities, or equipment for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation.
- (6) Engage in, or direct others to engage in, work other than the performance of official duties during working hours, except as permitted by general written agency, departmental, or institutional policy or regulation.

(*Office of the Inspector General; 42 IAC 1-6-1*)

Rule 7. Financial Disclosure to the State Ethics Commission

42 IAC 1-7-1 Persons required to file

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-8

Sec. 1. (a) Under IC 4-2-6-8(a)(6), the following persons

are required to file a written financial disclosure statement:

- (1) Members of the alcohol and tobacco commission.
- (2) Members of the worker's compensation board of Indiana.
- (3) Members of the Indiana utility regulatory commission.
- (4) Any person with final purchasing authority within the commission for higher education for the state of Indiana and the Indiana department of transportation.

(b) By December 31 of each year, the agency's appointing authority shall submit to the commission the name, mailing address, and business e-mail address of the following persons for the reporting year:

- (1) The agency's appointing authority and any former appointing authority.
- (2) The agency's ethics officer.
- (3) The director or former director of each division of the Indiana department of administration.
- (4) Any purchasing agent or purchasing agent within the procurement division of the Indiana department of administration.
- (5) Any agency employee or former employee within the commission for higher education for the state of Indiana or the Indiana department of transportation with final purchasing authority.

(Office of the Inspector General; 42 IAC 1-7-1)

Rule 8. Advisory Opinions Before the State Ethics Commission

42 IAC 1-8-1 Procedures

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6; IC 4-2-6-2.5

Sec. 1. (a) The commission may render advisory opinions with respect to the interpretation and applicability of IC 4-2-6, this title, or any other statute or rule establishing standards of official conduct of all persons over whom the commission has jurisdiction under IC 4-2-6-2.5.

(b) An advisory opinion may be requested by a current or former state officer, employee, special state appointee, or a person who has or had a business relationship with an agency.

(c) Requests for advisory opinions shall:

- (1) be in writing and signed by the person making the request;
- (2) state the official employment position or status of the person making the request;
- (3) state all relevant and material facts necessary for the commission to render an informed decision; and
- (4) be based upon actual facts and circumstances as they exist and may not be based on hypothetical situations.

Failure to follow this section may render a request or an

advisory opinion void.

(d) A request for an advisory opinion shall be considered by the commission at the next available monthly meeting of the commission. Notice shall be sent to the person requesting the advisory opinion including the date, time, and location of the meeting.

(e) A request for an advisory opinion shall be submitted to the director not later than seven (7) business days before the monthly meeting at which the request is to be considered.

(f) The commission shall decide the matter in a public meeting.

(g) A final decision on the request for an advisory opinion shall be rendered upon a vote of a majority of commission members present.

(h) Following the commission's decision, the director shall prepare the advisory opinion in writing, and a copy shall be forwarded to the person requesting the advisory opinion. A copy may also be forwarded to the ethics officer for an agency involved or affected by the advisory opinion.

(i) Any advisory opinion rendered by the commission, until amended or revoked, is binding on the commission in any subsequent allegations concerning the person who requested the advisory opinion and who acted on it in good faith unless material facts were omitted or misstated to the commission. The advisory opinion is not binding upon the commission concerning any other person or fact situation.
(Office of the Inspector General; 42 IAC 1-8-1)

42 IAC 1-8-2 Appeal from advisory opinions

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-4

Sec. 2. (a) The person who made an inquiry and any person directly affected by the commission's advisory opinion may appeal to the commission for reconsideration or clarification of the advisory opinion.

(b) Any such appeal shall be made, in writing, to the commission within fifteen (15) days of receipt of the advisory opinion letter. *(Office of the Inspector General; 42 IAC 1-8-2)*

42 IAC 1-8-3 Signed by director

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-4

Sec. 3. All advisory opinions rendered by the commission shall be signed by the director or a designee of the director or the commission. *(Office of the Inspector General; 42 IAC 1-8-3)*

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42 IAC 1-8-4 Others may provide information

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-4

Sec. 4. The commission may permit or request any person to submit memoranda, briefs, or other relevant material or to provide oral information relevant to its determination. (*Office of the Inspector General; 42 IAC 1-8-4*)

Rule 9. Informal Advisory Opinions

42 IAC 1-9-1 Procedures

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 5-14-3-4

Sec. 1. (a) The inspector general or the inspector general's designee shall have the authority to render informal advisory opinions. Informal advisory opinions are not binding on the commission. Nevertheless, the commission shall consider that a state officer, employee, or special state appointee, a former state officer, employee, or special state appointee, or a person who has or had a business relationship with an agency acted in good faith if it is determined that the person committed a violation after receiving advice and the alleged violation is directly related to the advice rendered.

(b) Informal advisory opinions are expressions of opinion that are communicated for the purpose of deliberation and decision making. The information and advice contained in an informal advisory opinion:

- (1) are specific to the person who requests the opinion and the facts presented; and
- (2) shall be considered to be confidential under IC 5-14-3-4(b)(6).

(*Office of the Inspector General; 42 IAC 1-9-1*)

Rule 10. Adjudication Proceedings Before the State Ethics Commission

42 IAC 1-10-1 Applicable statutes and rules

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-21.5; IC 4-2-6; IC 5-14-1.5

Sec. 1. All proceedings before the commission shall be governed by:

- (1) IC 4-2-6;
- (2) IC 4-21.5;
- (3) IC 5-14-1.5; and
- (4) any applicable rule adopted by the commission.

On any procedural matter not dealt with by the statutes and rules in subdivisions (1) through (4), the commission shall be guided to the extent practicable by the Indiana Rules of Trial Procedure. (*Office of the Inspector General; 42 IAC 1-10-1*)

Rule 11. General Procedural Provisions of the State Ethics Commission

42 IAC 1-11-1 Notice of meetings and agendas

Authority: IC 4-2-5-7
Affected: IC 5-14-1.5

Sec. 1. (a) The commission shall give notice of meetings and emergency meetings in conformance with IC 5-14-1.5.

(b) The director shall prepare an agenda listing specific items to be considered. The commission:

- (1) shall adopt an agenda at the beginning of its meeting; and
- (2) may make changes in the agenda for good cause.

(c) The director or the director's designee shall sign on behalf of the commission notices of meetings. (*Office of the Inspector General; 42 IAC 1-11-1*)

42 IAC 1-11-2 Rulemaking

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-22

Sec. 2. Proceedings held for the adoption, amendment, or repeal of a commission rule shall be conducted according to the provisions of IC 4-22. (*Office of the Inspector General; 42 IAC 1-11-2*)

42 IAC 1-11-3 Meeting by telephone and other communications media technology

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 5-14-1.5-4

Sec. 3. (a) The commission may utilize telephone conference calls, speaker phone, and other communications media technology as it becomes available to conduct commission business when necessary. However, the commission's view is that the public interest is best served by having public hearings held in person, rather than by the use of communication media technology.

(b) A member of the commission may participate in a meeting of the commission by using a means of communication that permits all members:

- (1) participating in the meeting; and
- (2) of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in the meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

- (1) was physically present at the place where the meeting was conducted;
- (2) participated in the meeting by using a means of communication described in subsection (b); and
- (3) was absent.

(e) A meeting conducted under this section does not violate IC 5-14-1.5. (*Office of the Inspector General; 42 IAC 1-11-3*)

42 IAC 1-11-4 Certification of documents and records

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-14-3

Sec. 4. The director is authorized to copy and certify all documents and records of the commission that may be released in accordance with public records laws. (*Office of the Inspector General; 42 IAC 1-11-4*)

Rule 12. Other Sources

42 IAC 1-12-1 Other sources

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-6-4

Sec. 1. An appointing authority of an agency or a state officer may adopt policies, rules, or regulations concerning the subject matter of this rule provided that the policies, rules, or regulations are at least as strict as this rule. All such policies, rules, or regulations shall be filed with the commission, but failure to file does not affect the validity of such policies, rules, or regulations as applied to the agency's or state officer's employees. (*Office of the Inspector General; 42 IAC 1-12-1*)

Rule 13. Severability

42 IAC 1-13-1 Severability

Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

Sec. 1. If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application. (*Office of the Inspector General; 42 IAC 1-13-1*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 22, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Office of the Inspector General will hold a public hearing on proposed new rules relating to the code of ethics for the conduct of state business.

The Office of the Inspector General is required to adopt these rules by Indiana Code 4-2-7-5. There is no economic impact on persons subject to these rules.

Copies of these rules are now on file at the Office of the Inspector General, 150 West Market Street, Suite 414 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David O. Thomas
Inspector General
Office of the Inspector General

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Proposed Rule
LSA Document #05-142

DIGEST

Adds 50 IAC 21-1-3 in accordance with P.L.228-2005 (SEA 327-2005). Adds 50 IAC 21-2-1.5 to define commissioner. Amends 50 IAC 21-2-2 with minor technical changes. Adds 50 IAC 21-2-2.5 to define department. Amends 50 IAC 21-2-3 with minor technical changes. Amends 50 IAC 21-3-3 in accordance with P.L.228-2005 (SEA 327-2005). Amends 50 IAC 21-4-1, 50 IAC 21-4-2, and 50 IAC 21-5-2 to reflect statutory changes regarding PTABOA involvement in setting land values. Amends 50 IAC 21-6-1 in accordance with P.L.228-2005 (SEA 327-2005). Amends 50 IAC 21-7-1 to make minor technical changes. Amends 50 IAC 21-8-1 to fully incorporate ratio assessment studies into the annual adjustment process. Amends 50 IAC 21-9-1 and 50 IAC 21-10-1 to make minor technical changes. Amends 50 IAC 21-11-1 to include price-related differential analysis. Repeals 50 IAC 21-4-3 to reflect statutory changes regarding PTABOA involvement in setting land values. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The Department estimates that zero small businesses will be directly affected by this rule. Property tax liability of small businesses may be affected either positively or negatively by operation of the assessment procedures set forth by statute and described in these rules. Every small business in any industry sector that owns real or personal property could be indirectly affected.

The Department determines that the substance of these amendments to the annual adjustment rule do not, in and of themselves, directly affect small businesses in any way. The rules set requirements on local assessing officials in fulfilling their duty to annually adjust the assessment of properties within their political subdivision. There are no compliance requirements placed on private entities.

The implementation of the annual adjustment rule, which is required by IC 6-1.1-4-4.5, may result in changes to property tax liability for all taxpayers, including small businesses as defined in IC 4-22-2.1-4. The effect of the implementation of annual adjustment on specific businesses or industry sectors cannot be reliably estimated at this time.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Department estimates that there will be no annual reporting, record keeping, or administrative costs incurred by

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small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Department estimates that there will be no impact on small businesses as a result of compliance with this rule.

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There are no compliance costs that need to be justified for this proposed rule.
- Supporting Data, Studies, or Analyses: The Department has not relied on any studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

Due to the fact that much of the amendments found in this proposed rule were mandated by P.L.228-2005 (SEA 327-2005), the Department has not analyzed alternatives to this proposed rule.

- Explanation of Preliminary Determination: The General Assembly required the Department to enact and amend these rules, and thus the Department did not explore alternative measures.
- Supporting Data, Studies, or Analyses: The Department did not rely on any studies in its decision not to employ alternatives to rulemaking.

50 IAC 21-1-3	50 IAC 21-4-3
50 IAC 21-2-1.5	50 IAC 21-5-2
50 IAC 21-2-2	50 IAC 21-6-1
50 IAC 21-2-2.5	50 IAC 21-7-1
50 IAC 21-2-3	50 IAC 21-8-1
50 IAC 21-3-3	50 IAC 21-9-1
50 IAC 21-4-1	50 IAC 21-10-1
50 IAC 21-4-2	50 IAC 21-11-1

SECTION 1. 50 IAC 21-1, AS ADDED AT 28 IR 1452, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

50 IAC 21-1-3 Characteristics

Authority: IC 6-1.1-4-4.5; IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4

Sec. 3. In making annual adjustments in assessed valuations of real property, local assessing officials are required to do the following:

- (1) Reevaluate the factors that affect value.
 - (2) Express the interactions of those factors mathematically.
 - (3) Use mass appraisal techniques to estimate updated property values within statistical measures of accuracy.
 - (4) Provide notice to taxpayers of an assessment increase that results from the application of annual adjustments.
- (Department of Local Government Finance; 50 IAC 21-1-3)

SECTION 2. 50 IAC 21-2, AS ADDED AT 28 IR 1452, SECTION 1, IS AMENDED BY ADDING A NEW SECTION

TO READ AS FOLLOWS:

50 IAC 21-2-1.5 “Commissioner” defined

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-30-6.5

Sec. 1.5. “Commissioner” means the commissioner of the department. (Department of Local Government Finance; 50 IAC 21-2-1.5)

SECTION 3. 50 IAC 21-2-2, AS ADDED AT 28 IR 1452, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-2-2 “Contract” defined

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4; IC 6-1.1-31.7

Sec. 2. ~~The word “Contract” refers to an agreement under IC 6-1.1-4-17 to 19.5~~ **through IC 6-1.1-4-19.5** between a township assessor or county assessor and an appraiser under IC 6-1.1-31.7 to perform services related to the requirements under this article. (Department of Local Government Finance; 50 IAC 21-2-2; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1452)

SECTION 4. 50 IAC 21-2, AS ADDED AT 28 IR 1452, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

50 IAC 21-2-2.5 “Department” defined

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-30-1.1

Sec. 2.5. “Department” means the department of local government finance. (Department of Local Government Finance; 50 IAC 21-2-2.5)

SECTION 5. 50 IAC 21-2-3, AS ADDED AT 28 IR 1452, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-2-3 “IAAO standard” defined

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 3. “IAAO standard” refers to the 1999 International Association of Assessing Officers (IAAO) Standards on Ratio Studies, which is hereby incorporated by reference in this article. Copies of the 1999 IAAO Standard on Ratio Studies are available for purchase from the International Association of Assessing Officers, ~~130 East Randolph, Suite 850, Chicago, Illinois 60601-6217~~. **Contact information for the IAAO is on file in the offices of the department.** Unless otherwise indicated, the definitions in the glossary section of the IAAO standard apply to all terms defined in the IAAO standard that are used in this article. (Department of Local Government Finance; 50 IAC 21-2-3; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1452)

SECTION 6. 50 IAC 21-3-3, AS ADDED AT 28 IR 1453,

SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-3-3 Valuation date and time adjustment

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 3. (a) The local assessing official shall use sales of properties occurring between January 1, ~~2003~~, **2004**, and December 31, ~~2004~~, **2005**, in performing sales ratio studies for the March 1, ~~2005~~, **2006**, assessment date. For assessment years occurring March 1, ~~2006~~, **2007**, and thereafter, the local assessing official shall use sales of properties occurring the two (2) calendar years preceding the relevant assessment date.

(b) The valuation date is January 1 of the year preceding the year of the assessment date. Sales occurring before or after that date shall be trended if appropriate, in accordance with the IAAO standard. The time adjusted sale price shall become the basis for all ensuing analysis undertaken under this article.

(c) If the sales data available is insufficient to satisfy the IAAO standard, the local assessing official may use sales from earlier or more recent time periods, or both, by adjusting and time trending the sales data as described in the IAAO standard. If the local assessing official wishes to use a method for adjusting sales data that is not permitted by the IAAO standard, the county assessor shall obtain prior written approval from the director of the assessment division of the department of ~~local government finance~~ for that alternative method for adjusting more recent sales data.

(d) If, after expanding the sales window, the local assessing official determines that insufficient data is available to perform a statistically valid study of sales data, the county assessor shall explain in writing to the director of the assessment division of the department of ~~local government finance~~ the reasons for using other data. County assessors shall not use performance audits in determining annual adjustment factors. (*Department of Local Government Finance; 50 IAC 21-3-3; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1453*)

SECTION 7. 50 IAC 21-4-1, AS ADDED AT 28 IR 1453, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-4-1 Review of neighborhood delineations

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 1. (a) The township assessor shall review the residential neighborhood delineations established for the 2002 general reassessment to determine if the delineations used adequately placed like property into homogeneous geographic groups. For purposes of this rule, the local assessing official shall modify neighborhood boundaries if their neighborhood review identifies inadequacies in the original delineations; this may include the development of new neighborhood delineations. The township assessors shall base new delineations on geographical

areas exhibiting a high degree of similarity in **the following:**

- (1) Amenities.
- (2) Use.
- (3) Economic trends. ~~and~~
- (4) Building characteristics, such as **the following:**
 - (A) Improvement quality.
 - (B) Age. ~~and~~
 - (C) Physical characteristics.

(b) If the local assessing official determines through review, ratio studies, or appeals from previous ~~assessments~~ **assessment** years that the neighborhood delineations need to be modified, the local assessing official shall ~~notify the PTABOA in the county the neighborhood is located and ask to be placed on the next agenda for PTABOA approval.~~ **proceed in setting new neighborhood boundaries in accordance with IC 6-1.1-4.**

(c) In areas where values are erratic and geographic neighborhood delineations are not sufficiently homogeneous, it is appropriate either to reassess the properties in that area or to further stratify properties by property characteristics, developing separate factors for various property strata. For example, if older homes in a specific neighborhood are appreciating or depreciating at a more rapid rate than new homes, the two (2) groups should be stratified and analyzed separately with a factor determined for each property type within the specific neighborhood.

(d) It may not be sufficient to merely stratify properties and sales according to their classification, that is, residential and commercial, and develop one (1) neighborhood and one (1) annual adjustment factor for the entire class of property. Properties throughout any given municipality or area, even though they have the same classification, may vary considerably in quality, style, age, location, and amenities and, therefore, may change in value at differing rates. Sales used to develop annual adjustment factors must be comparable to the properties for which the factors are being developed. In other words, the assessor should endeavor to ensure that the factors are developed from a sample of sales that is representative to the population of parcels to which the **factor or** factors will ultimately be applied.

(e) The assessing official may also determine that it is inappropriate to apply an annual adjustment factor on all parts of a property. For example, the assessing official may determine to apply the annual adjustment factor:

- (1) only to the land; ~~or the assessing official may determine to apply the annual adjustment factor~~
- (2) to the dwelling and one (1) outbuilding or garage and not on other outbuildings, recent additions, or other improvements.

In that case, the assessing official shall document the reasons for application of the annual adjustment factor to some, but not all, of the improvements. ~~and submit the evidence to the~~

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~~PTABOA~~: The assessing official must be able to demonstrate that the factor was calculated based upon a sales analysis including the same subset of parcel data. That is, if the trend factor was developed based upon an analysis of the values of all improvements, then the factor must be applied to all improvements and not merely a subset of the improvements. Before a separate adjustment factor is applied, the local assessing official must confirm that separate factors can be accommodated in the computer-assisted mass appraisal system in the county.

(f) The assessing official shall also delineate commercial, utility, and industrial properties into market areas or otherwise stratify for purposes of applying annual adjustment factors. Assessors shall base market areas on geographic delineations of areas exhibiting a high degree of similarity in **the following**:

- (1) Amenities.
- (2) General use groupings.
- (3) Economic trends.
- (4) Desirability. ~~and~~
- (5) Property characteristics, such as **the following**:
 - (A) Improvement quality.
 - (B) Age. ~~and~~
 - (C) Physical characteristics.

(Department of Local Government Finance; 50 IAC 21-4-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1453)

SECTION 8. 50 IAC 21-4-2, AS ADDED AT 28 IR 1454, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-4-2 Review of land values

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 2. (a) The township assessor shall review land values established for the 2002 general reassessment to determine if the evidence used to calculate the base rates adequately reflect current market data value adjustments. If upon review it is determined that modifications need to be made in order to promote uniform and equal assessments, the local assessing official shall update the data to achieve the most accurate factor to adjust valuations.

(b) The township assessor's proposal of modification of land values must be uniform and consistent with regard to the valuation date of the base unit land values. That is, if the local assessing official is not revising all base unit land values to reflect the valuation date, then the township assessor must make time value adjustments consistent with the other market areas.

(c) If the township assessor determines through review, ratio studies, or appeals from previous ~~assessments~~ **assessment** years that the land base rate units ~~in fact~~ need to be modified, the local assessing official shall ~~notify the PTABOA in the county in which the property is located and ask to be placed on the next agenda for PTABOA approval.~~ **proceed to set new land base**

rates and apply them in accordance with IC 6-1.1-4.

(d) The local assessing official shall provide all supporting documentation to the PTABOA, upon request, including sales ratio studies and electronic data concerning all sales in the affected neighborhood. *(Department of Local Government Finance; 50 IAC 21-4-2; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1454)*

SECTION 9. 50 IAC 21-5-2, AS ADDED AT 28 IR 1455, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-5-2 Application of factor

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 5-14-1.5; IC 6-1.1-4-4.5

Sec. 2. (a) If, upon review of the ratio studies, the local assessing official determines that a factor must be applied to the specified property group, the local assessing official shall ~~contact the PTABOA in the county the property is located and request to be placed on the next agenda for PTABOA approval.~~

~~(1) The PTABOA shall review the proposed changes and annual adjustment factors in a public hearing, with notice to the public in accordance with IC 5-14-1.5.~~

~~(2) The PTABOA may subpoena additional information or perform additional studies, including an independent ratio study, to determine whether to approve or reject modifications to the neighborhood delineations, land values, and annual adjustment factors.~~

~~(3) Any taxpayer may appear at the public hearing and submit additional evidence supporting or countering the proposed modifications and proceed with the application of the annual adjustment factors.~~ **factor in accordance with this article.**

(b) If assessing officials determine that there are insufficient sales of commercial or industrial improved property in a township or county to determine ~~a an~~ annual adjustment factor, the county shall use one (1) or more of the following to derive annual adjustment factors or modify the values of commercial and industrial property:

(1) Marshall and Swift cost and depreciation tables from the first quarter of the calendar year preceding the assessment date.

(2) Income data, rental data, market value appraisals, and other relevant evidence derived from appeals of the 2002 reassessment and adjusted, as applicable, to the January 1 of the year preceding the assessment date.

(3) Commercial real estate reports.

(4) Governmental studies.

(5) Census data.

(6) Multiple listing service (MLS) data.

(7) The independent study performed by the Indiana Fiscal Policy Institute.

(Department of Local Government Finance; 50 IAC 21-5-2;

filed Dec 30, 2004, 5:28 p.m.: 28 IR 1455)

SECTION 10. 50 IAC 21-6-1, AS ADDED AT 28 IR 1456, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-6-1 Agricultural property

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 1. (a) Land used for agricultural purposes shall be adjusted consistent with the guideline methodology developed for the 2002 general reassessment agricultural land value **except, in determining the annual base rate, the department shall adjust the methodology to use a six (6) year rolling average instead of a four (4) year rolling average.** The department will issue annually, before January 1, the base rate to be applied for the following March 1 assessment date.

(b) Those portions of agricultural parcels that include land and buildings not used agriculturally, such as homes, homesites, and excess land and commercial or industrial land and buildings, shall be adjusted by the factor or factors developed for other similar property within the geographic stratification. The residence portion of agricultural properties will be adjusted by the factors applied to similar residential properties. *(Department of Local Government Finance; 50 IAC 21-6-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1456)*

SECTION 11. 50 IAC 21-7-1, AS ADDED AT 28 IR 1456, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-7-1 Time

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5; IC 6-1.1-4-22; IC 6-1.1-13-7; IC 6-1.1-33.5

Sec. 1. (a) Assessing officials shall **do the following:**

(1) Perform annual adjustments compliant with this article before tax rates are set by the department ~~of local government finance~~ based on values generated by any form of annual adjustment performed under this rule. ~~Assessing officials shall~~

(2) Execute the adjustment and subsequent finalization of values without interruption.

If the department ~~for whatever reason~~ determines that further review of a ~~counties county's~~ assessed values is warranted, the department will notify the county in accordance with 50 IAC 21-10, 50 IAC 21-11, or IC 6-1.1-33.5.

(b) If any annual adjustment factor is applied, a notice of ~~valuation assessment~~ shall be sent to ~~the each affected taxpayer (Form H)~~ pursuant to IC 6-1.1-4-22(a). *(Department of Local Government Finance; 50 IAC 21-7-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1456)*

SECTION 12. 50 IAC 21-8-1, AS ADDED AT 28 IR 1456, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-8-1 Mandatory analysis

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 1. (a) After the application of annual adjustment factors, the county assessor shall calculate an assessment ratio for each of the following classes of property in each township:

- (1) Improved residential:
- (2) Unimproved residential:
- (3) Improved commercial:
- (4) Unimproved commercial:
- (5) Improved industrial:
- (6) Unimproved industrial:

(b) If any of the classes of property listed in subsection (a) consists of fewer than twenty-five (25) parcels in a township, the assessing official shall combine or otherwise stratify similar classes or subclasses of property in order to determine assessment ratio statistics:

(c) ~~In calculating assessment ratios, each county assessor shall disregard distributable utility property. The county assessor shall classify locally assessed utility real property according to its use, for example, commercial or industrial, for purposes of calculating assessment ratios. studies and provide the results to the department in the manner specified in 50 IAC 14-5-1 through 50 IAC 14-5-3.~~ *(Department of Local Government Finance; 50 IAC 21-8-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1456)*

SECTION 13. 50 IAC 21-9-1, AS ADDED AT 28 IR 1456, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-9-1 Transfer of data

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5; IC 6-1.1-4-25; IC 6-1.1-5-14; IC 6-1.1-33.5-3

Sec. 1. (a) On or before March 1 of each assessment year, the county assessors must submit to the department all sales disclosure data in the formats specified by the department in electronic form. The data format must include all sales disclosure data on all sales occurring in the county for the preceding calendar year. For the 2005 assessment year, the county assessor must provide sales data for both the 2003 and 2004 assessment ~~year years~~ by the March 1, **2005**, deadline.

(b) The county assessor must submit to the department all parcel data in the specified formats as required by IC 6-1.1-4-25 to be utilized by the department in accordance with IC 6-1.1-33.5-3. The data may be submitted upon certification of values by the assessor to the auditor on July 1 as required by IC 6-1.1-5-14 or thereafter, but in no event later than October 1.

(c) Upon request, the county assessor or any person that the county or township assessor has contracted to perform any studies associated with this annual adjustment rule shall provide, at no cost to the department, any further information

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that the department determines is necessary or proper to the department's determination of compliance with the requirements of IC 6-1.1-4-4.5, this rule, or the IAAO standard. (*Department of Local Government Finance; 50 IAC 21-9-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1456*)

SECTION 14. 50 IAC 21-10-1, AS ADDED AT 28 IR 1457, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-10-1 Provision of information to the department

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 1. (a) If the median ratio calculated for any class in a township, as verified by the department, falls outside the range specified in the IAAO standard, the county assessor shall apply the factor required to bring the median ratio to one (1.0).

(b) If the county assessor believes that reasons exist why no factor, or a factor other than that required to bring the median ratio to one (1.0), should be applied in a particular township, the county assessor shall immediately:

- (1) notify the commissioner of the department of local government finance in writing of those reasons; and
- (2) request permission to take:
 - (A) action other than that mandated in the preceding subsection (a); or to take
 - (B) no action.

(c) The commissioner shall act on the request within thirty (30) days of receiving the request. In response to a county assessor's request for permission to take action other than that mandated in subsection (a), the commissioner may:

- (1) require the county assessor to take the action mandated in subsection (a);
- (2) permit the action requested by the county assessor; or
- (3) require the county assessor to take other action short of that required in subsection (a).

(*Department of Local Government Finance; 50 IAC 21-10-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1457*)

SECTION 15. 50 IAC 21-11-1, AS ADDED AT 28 IR 1457, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 21-11-1 Reassessment

Authority: IC 6-1.1-31-1; IC 6-1.1-31-12
Affected: IC 6-1.1-4-4.5

Sec. 1. (a) If the coefficient of dispersion for any class in a township, as verified by the department, falls outside the range specified in the IAAO standard (fifteen (15.0) for residential improved property; twenty (20.0) for all other classes), the county assessor shall direct the township assessor to reassess the class in that township.

(b) If the price-related differential for any class in a township, as verified by the department, falls outside the range specified in the IAAO standard (0.98 to 1.03), the county assessor shall direct the township assessor to reassess the class in that township.

(b)(c) If the county assessor believes that reasons exist not to reassess a class in a particular township under subsection (a), the county assessor shall immediately:

- (1) notify the commissioner of the department of local government finance in writing of those reasons; and
- (2) request permission to take:
 - (A) action other than that mandated in the preceding subsection (a); or to take
 - (B) no action.

(c)(d) The commissioner shall act on the request within thirty (30) days of receiving the request. In response to a county assessor's request for permission to take action other than mandated in subsection (a), the commissioner may:

- (1) require the county assessor to take the action mandated in subsection (a);
- (2) permit the action requested by the county assessor; or
- (3) require the county assessor to take other action short of that required in subsection (a).

(*Department of Local Government Finance; 50 IAC 21-11-1; filed Dec 30, 2004, 5:28 p.m.: 28 IR 1457*)

SECTION 16. 50 IAC 21-4-3 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 28, 2005 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room N1045, Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on proposed amendments to the annual adjustment rule including substantive provisions in response to P.L.228-2005 (SEA 327-2005), amendments to reflect that PTABOA action is no longer necessary to change land base rates and neighborhood delineations, and other technical changes.

This proposed rule does not impose any requirement or costs on a regulated entity not expressly required by state or federal law.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N1058(B) and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael C. Dart
General Counsel
Department of Local Government Finance

TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule
LSA Document #05-107
DIGEST

Adds 68 IAC 15-5-1.5 to determine the graduated wagering tax by a new licensed owner or operating agent following a transfer of controlling interest in an owner's license or operating agent contract. Effective 30 days after filing with the Secretary of State.

68 IAC 15-5-1.5

SECTION 1. 68 IAC 15-5-1.5 IS ADDED TO READ AS FOLLOWS:

68 IAC 15-5-1.5 Transfer of ownership

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3; IC 4-33-4-21; IC 4-33-13-1.5
Affected: IC 4-1-1-1; IC 4-33

Sec. 1.5. When a controlling interest, as determined by the commission, in an existing owner's license or operating agent contract is purchased or otherwise acquired from a licensed owner or operating agent, the subsequent licensed owner or operating agent must pay a wagering tax in accordance with IC 4-33-13-1.5 at a graduated tax rate to be calculated based upon the cumulative adjusted gross receipts received by both the:

- (1) previous licensed owner or operating agent; and**
 - (2) subsequent licensed owner or operating agent;**
- during the entire fiscal year, as defined in IC 4-1-1-1, in which the transaction occurred. (Indiana Gaming Commission; 68 IAC 15-5-1.5)**

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 23, 2005 at 9:00 a.m., at the Indiana Gaming Commission, 115 West Washington Street, South Tower, Suite 950, Indianapolis, Indiana the Indiana Gaming Commission will hold a public hearing on a proposed new rule concerning the calculation of the graduated wagering tax following a transfer of a controlling interest in an owner's license or operating agent contract.

These changes will not add any new costs to small businesses.

Copies of these rules are now on file at the Indiana Gaming Commission, 115 West Washington Street, South Tower, Suite 950 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Ernest E. Yelton
Executive Director
Indiana Gaming Commission

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule
LSA Document #05-100
DIGEST

Amends 170 IAC 5-1-15 and 170 IAC 5-1-16 regarding customer deposits, service disconnections, and reconnections for gas utilities. Effective 30 days after filing with the Secretary of State.

170 IAC 5-1-15
170 IAC 5-1-16

SECTION 1. 170 IAC 5-1-15 IS AMENDED TO READ AS FOLLOWS:

170 IAC 5-1-15 Creditworthiness of customer; deposit; refund

Authority: IC 8-1-1-3
Affected: IC 8-1-2-87; IC 12-14-11; IC 32-34-1-20

Sec. 15. (a) Each utility shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:

- (1) without regard to the economic character of the area wherein the applicant or customer resides; and
- (2) solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or she lives.

(b) Each new applicant for residential gas service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving service if the applicant satisfies the following criteria:

- (1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:
 - (A) owes no outstanding bills for service rendered within the past four (4) years by any such utility;
 - (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such the period; and
 - (C) within the last two (2) years, did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.
- (2) If the applicant has not been a customer of a utility during the previous two (2) years, any two (2) of the following criteria are met:

- (A) The applicant either:
 - (i) has been employed by his or her present employer for two (2) years;
 - (ii) has been employed by his or her present employer for

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less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or (iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

(AA) graduating from a school, university, or vocational program; or

(BB) being discharged from military service.

(B) The applicant either:

(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) Deposits for residential customers shall be assessed as follows:

(1) Deposits for utilities serving at least thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission, shall be assessed as follows:

(A) New applicants who have not been a customer of the utility during the previous four (4) years who fail to establish creditworthiness under subsection (b)(2) may be required to make a deposit not to exceed one-sixth ($\frac{1}{6}$) of the estimated annual cost of regulated utility service to be rendered to the applicant.

(B) Subject to the requirements of clause (D), an applicant that has been a customer of the utility during the previous four (4) years may be required to make a deposit not to exceed one-third ($\frac{1}{3}$) of the estimated annual cost of regulated utility service to be rendered to the applicant when the applicant:

(i) owes an outstanding bill for service rendered by the utility within the past four (4) years;

(ii) during the last twelve (12) consecutive months that the service was provided, had more than two (2) bills that were delinquent to the utility or, if service was rendered for a period of less than twelve (12) months, had more than one (1) delinquent bill in such period; or

(iii) within the last two (2) years had service disconnected by the utility for nonpayment of a bill for services rendered by that utility.

(C) Subject to the requirements of clause (D), a present customer may be required to make a deposit not to exceed one-third ($\frac{1}{3}$) of the estimated annual cost of regulated utility service to be rendered to the customer when:

(i) the customer has been mailed disconnect notices for two (2) consecutive months;

(ii) the customer has been mailed disconnect notices

for any three (3) months within the preceding twelve (12) month period; or

(iii) the service to the customer has been disconnected within the previous two (2) years under section 16 of this rule.

(D) From December 1 to March 15 of any year, applicants or customers who the utility has been informed by the state or its agent:

(i) are eligible for;

(ii) have applied for; and

(iii) have been approved to receive;

low income heating assistance under IC 12-14-11, may be required to make a deposit not to exceed one-sixth ($\frac{1}{6}$) of the estimated annual cost of regulated utility service to be rendered to the applicant or customer.

(E) An initial deposit made by an applicant shall be subject to reevaluation upon the request of either the utility or the applicant, based upon actual charges for services rendered, at any time after service has been provided.

(F) The provisions of this subdivision shall apply to any utility, regardless of size, that has an affiliate utility serving at least thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission.

(2) Subject to the provisions of subdivision (1)(F), deposits for utilities serving less than thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission, shall be assessed as follows:

(e) (A) If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a reasonable cash deposit. ~~Such~~ The deposit shall not exceed one-third ($\frac{1}{3}$) of the estimated annual cost of service to be rendered to the applicant unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments. If a deposit is greater than seventy dollars (\$70), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay ~~such~~ the deposit in equal installment payments over a period of no less than eight (8) weeks. Service shall be connected upon receipt by the utility of the first such payment.

(B) A present customer may be required to make a reasonable cash deposit when:

(i) the customer has been mailed disconnect notices for two (2) consecutive months;

(ii) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period; or

(iii) the service to the customer has been disconnected within the past four (4) years under section 16 of this rule.

The amount of the deposit may not exceed an amount equal to one-third (1/3) of the expected annual billings for the customer at the address at which service is rendered unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments.

(d) If the a utility serving at least thirty-five thousand (35,000) residential customers, as listed in the utility's most recent annual report on file with the commission, requires a cash deposit as a condition of providing service, then it the utility must:

- (1) immediately notify the applicant in writing stating the precise facts upon which the utility based its decision; and
- (2) provide the applicant with an opportunity to rebut such the facts and show other facts demonstrating his or her creditworthiness.

(e) A utility may require a present customer to make a reasonable cash deposit when:

- (1) the customer has been mailed disconnect notices for two (2) consecutive months;
- (2) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period; or
- (3) the service to the customer has been disconnected within the past four (4) years pursuant to section 16 of this rule.

The amount of such deposit may not exceed an amount equal to one-third (1/3) of the expected annual billings for the customer at the address at which service is rendered unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments. In the event the required deposit is in excess of seventy one hundred fifty dollars (\$70); (\$150), the utility shall advise the customer that he or she may pay such the deposit in equal installments, the initial installment being one hundred fifty dollars (\$150), with subsequent payments of the deposit balance paid over a period of up to eight (8) twelve (12) weeks, except where such the deposit is required as a result of a disconnection for nonpayment, in which case full payment of the deposit may be required prior to reconnection. The utility shall record the terms of any payment arrangement by selecting one (1) of the following methods:

- (1) Sending the customer a letter describing the terms of the payment arrangement, including the following:
 - (A) The amount of each installment.
 - (B) The due date or dates.
 - (C) The total amount due.
 - (D) An explanation that failure to comply with the terms of the arrangement may lead to disconnection of service.
- (2) Describing the terms of the payment arrangement on the customer's bill, including the following:
 - (A) The amount of each installment.

- (B) The due date or dates.
- (C) The total amount due.
- (D) An explanation that failure to comply with the terms of the arrangement may lead to disconnection of service.

(3) Making a voice recording of a telephone conversation in which the customer agrees to the payment arrangement, including the following:

- (A) The amount of each installment.
- (B) The due date or dates.
- (C) The total amount due.
- (D) An explanation that failure to comply with the terms of the arrangement may lead to disconnection of service.

Recordings of telephonic payment arrangements shall be maintained for at least six (6) months after the arrangement is completed or broken by the customer.

(f) Requirements for interest upon deposits shall be as follows:

(1) Deposits held more than twelve (12) months shall earn interest from the date of deposit at a rate of six percent (6%) per annum or at such other rate of interest as the commission may prescribe following a public hearing.

(1) A deposit held more than thirty (30) days shall earn interest from the date the deposit is paid in full. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then existing rate for one (1) year United States Treasury Constant Maturity securities. The interest rate shall be rounded to the nearest one-half (1/2) of one percent (1%). In December of each year, the commission shall issue a general administrative order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed.

(g) Requirements for refunds shall be as follows:

(1) Any deposit or accrued interest shall be promptly refunded **directly to the customer or credited** to the customer customer's account without the customer's request when the customer:

- (A) submits satisfactory payment for a period of either:
 - (i) twelve (12) successive months; or
 - (ii) twelve (12) out of any fifteen (15) consecutive months without late payment in two (2) consecutive months; or
- (B) demonstrates his or her creditworthiness as provided by subsection (b).

(2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.

(3) Following customer-requested termination of service, the utility shall:

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(A) apply the deposit, plus accrued interest, to the final bill; or

(B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) days after payment of the final bill.

(4) Each utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current address of the customer so long as he or she maintains an active account with the utility in his or her name.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting ~~such the~~ deposit.

(5) Each customer shall be provided a written receipt from the utility:

(A) at the time his or her deposit is paid in full; or

(B) when he or she makes a ~~cash~~ partial payment.

The public utility shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant, customer, or any other person to the utility (less any lawful deductions), or any sum the utility is ordered to refund for utility service, that has remained unclaimed for one (1) year after the utility has made diligent efforts to locate the person who made ~~such the~~ deposit or the heirs of ~~such the~~ person, shall be presumed abandoned and treated in accordance with ~~IC 32-9-1.5-20(e)(10); IC 32-34-1 et seq.~~

(7) A deposit may be used by the utility to cover any unpaid balance following disconnection of service under section 16 of this rule, provided, however, that any surplus be returned to the customer as provided in subsection (f) and this subsection.

(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 15; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 401; filed Oct 28, 1998, 3:22 p.m.: 22 IR 730; errata filed Nov 22, 1999, 3:31 p.m.: 23 IR 812; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

SECTION 2. 170 IAC 5-1-16 IS AMENDED TO READ AS FOLLOWS:

170 IAC 5-1-16 Disconnection of service; prohibited disconnections; reconnection

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87; IC 8-1-2-122; IC 8-1-2.5

Sec. 16. (a) The customer shall notify the utility at least three (3) days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billings therefor until service is disconnected pursuant to such notice. Upon request by a customer of a utility to disconnect service, the utility shall disconnect the service within three (3)

working days of the requested disconnection date. The customer shall not be liable for any service rendered to ~~such the~~ address or location after the expiration of three (3) such days.

(b) A utility may disconnect service without request by the customer of the service and without prior notice only:

(1) if a condition dangerous or hazardous to life, physical safety, or property exists; ~~or~~

(2) upon order by any court, the commission, or other duly authorized public authority; ~~or~~

(3) if fraudulent or unauthorized use of gas is detected and the utility has reasonable grounds to believe the affected customer is responsible for ~~such the~~ use; ~~or~~

(4) if the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for ~~such the~~ tampering; ~~or~~

(5) if the utility's equipment is used in a manner disruptive to the service of other customers.

In all other instances a utility, upon providing the customer with proper notice (as defined in subsection ~~(e) of this section~~); **(f)**, may disconnect service subject to the other provisions of ~~170 IAC 5-1-16~~ **this rule**.

(c) Except as otherwise provided in subsections (a) and (b), ~~of this section~~; a utility shall postpone the disconnection of service for ten (10) days if, ~~prior to~~ **before** the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official ~~which that~~ states that disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one **(1)** additional ten (10) day period upon the provision of an additional such medical statement. **The utility shall be required to provide the customer a total of twenty (20) days postponement of disconnection for medical reasons under this subsection only once in any twelve (12) month period. Further postponement of disconnection for medical reasons shall be at the utility's discretion.**

(d) A utility may not disconnect service to the customer as follows:

(1) Upon ~~his the customer's~~ failure to pay for:

(A) merchandise or appliances purchased from the utility furnishing the gas ~~or other nonutility or unregulated services~~;

~~(2) upon his failure to pay for (B) the service rendered at a different metering point, residence, or location if such the bill has remained unpaid for less than forty-five (45) days;~~
~~(3) upon his failure to pay for (C) services to a previous occupant of premises to be served, unless the utility has good reason to believe the customer is attempting to defraud the utility; by using another name; or~~

~~(4) upon his failure to pay for (D) a different form or class~~

of utility service. ~~or~~

~~(5)~~ **(2)** If the customer shows cause for ~~his~~ **the customer's** inability to pay the full amount due (financial hardship shall constitute cause), and ~~said~~ **the** customer:

(A) pays a reasonable portion, not to exceed: ~~\$10~~

(i) twenty-five dollars (\$25); or

(ii) one-tenth ($1/10$) of the bill;

whichever is less, unless the customer agrees to a greater portion, of the bill; ~~and~~

(B) agrees to pay:

(i) the remainder of the outstanding bill within three (3) months; and

~~(C) agrees to pay~~ **(ii) all undisputed future bills for service as they become due; and**

~~(D)~~ **(C)** has not breached any similar agreement with the utility made ~~pursuant to under~~ **this section** within the past twelve **(12)** months.

Provided, however, that the utility may add to the outstanding bill a late payment charge not to exceed the amount set ~~pursuant to 170 IAC 5-1-13(b); under section 13(B) of this rule.~~ Provided further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and by a representative of the utility. Only one **(1)** late payment charge may be charged to the customer under this section. **"Unregulated services", as used in subsection (d)(1)(A), does not include utility services provided under an alternative regulatory plan approved by the commission under IC 8-1-2.5 et seq.**

~~(6)~~ **(3)** If a customer is unable to pay a bill, which is unusually large due to prior incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two **(2)** months, stopped or slow meters, or any human or mechanical error of the utility, and the customer:

(A) pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the twelve (12) bills immediately preceding the bill in question; and

(B) agrees to pay:

(i) the remainder at a reasonable rate; and

~~(C) agrees to pay~~ **(ii) all undisputed future bills for service as they become due.**

Provided, however, that the utility may not add to the outstanding bill any late fee. Provided, further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and a representative of the utility. If a customer proceeds with a review ~~pursuant to 170 IAC 5-1-17(b); under section 17(B) of this rule,~~ the utility may disconnect only as provided in ~~170 IAC 5-1-17(c); section 17(C) of this rule.~~

~~(4)~~ **(e)** No utility may disconnect service unless it is done between the hours of 8:00 a.m. and 3:00 p.m., prevailing local time. Disconnection ~~pursuant to under~~ subsections (a) and (b)

~~of this section~~ are not subject to this limitation. A utility may not disconnect service for nonpayment on any day on which the utility office is closed to the public, or after ~~twelve noon (12:00 noon)~~ of the day immediately preceding any day on which the utility office is not open to the public.

~~(f)~~ **(f)** Except as otherwise provided herein, gas service to any residential customer shall not be disconnected for a violation of any rule or regulation of a utility or for the nonpayment of a bill, except after fourteen (14) days prior written notice to ~~such the~~ **the** customer by either:

(1) mailing the notice to ~~such the~~ residential customer at the address shown on the records of the public utility; or

(2) personal delivery of the notice to the residential customer or a responsible member of ~~his the customer's~~ household at the address shown on the records of the utility.

~~(3)~~ No disconnect notice for nonpayment may be rendered prior to the date on which the account becomes delinquent.

(g) The notice **in subsection (f)** must be in language ~~which that~~ is clear, concise, and easily understandable to a ~~layman layperson~~ and shall state in separately numbered large types or printed paragraphs **the following:**

(1) The date of ~~the~~ proposed disconnection.

(2) The specific actual basis and reason for the proposed disconnection.

(3) The telephone number of the utility office at which the customer may call during regular business hours in order to question the proposed disconnection or seek information concerning ~~his the customer's~~ rights.

(4) A reference to the pamphlet furnished to the customer ~~pursuant to 170 IAC 5-1-18 under section 18 of this rule~~ for information as to the customer's rights.

~~(4)~~ **(h)** Immediately preceding the actual disconnection of service, the employee of the utility designated to perform ~~such that~~ function shall:

(1) make a reasonable attempt to identify himself or herself to the customer or any other responsible person then upon the premises; and shall

(2) announce the purpose of his or her presence; and shall

(3) make a record thereof to be maintained for at least thirty (30) days; The employee shall

(4) have in his or her possession information sufficient to enable him or her to inform the customer or other responsible person of the reason for disconnection, including the amount of any delinquent bill of the customer; and shall

(5) request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to under review under 170 IAC 5-1-17(b); section 17(B) of this rule.

Upon the presentation of such credible evidence, service shall not be disconnected. The employee shall not be required to accept payment from the customer or other responsible person in order to prevent the service from being disconnected. The

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utility shall notify its customers pursuant to ~~170 IAC 5-1-18~~ **under section 18 of this rule** of its policy with regard to the acceptance or nonacceptance of payment by ~~such the~~ employee and shall uniformly follow ~~such the~~ policy without discrimination. When the employee has disconnected the service, the employee shall give to a responsible person at the user's premises, or, if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

(g) (i) A utility may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of ~~such the~~ **the** reconnection fee pursuant to ~~170 IAC 5-1-18~~ **under section 18 of this rule**. If the utility disconnects service in violation of ~~170 IAC 5-1~~ **this rule**, the service shall immediately be restored at no charge to the customer. The utility must reconnect the service to the customer as soon as reasonably possible but at least within one (1) working day after it is requested to do so if the customer has satisfied the requirements of ~~170 IAC 5-1~~ **this rule**. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 16; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 403; filed Oct 13, 1983, 4:02 p.m.: 7 IR 40; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

SECTION 3. SECTIONS 1 and 2 of this document take effect 30 days after filing with the secretary of state.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 4, 2005 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 32, formerly known as Training Center Room 10, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on proposed amendments to the customer deposit, disconnection, and reconnection rules for gas utilities.

No requirements or costs are imposed on a regulated entity that are not expressly required by Indiana statute or federal law. Indiana Code Section 8-1-2-34.5 requires that the Indiana Utility Regulatory Commission establish reasonable rules and regulations to govern the relations between public utilities and any or all classes of their customers. Those rules and regulations shall cover the following subjects: (1) extension of service; (2) extension of credit; (3) deposits, including interest thereon; (4) billing procedures; (5) termination of service; (6) complaints; and (7) information and notice to customers of their rights under the rules.

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

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #05-99

DIGEST

Repeals 312 IAC 17-3 that governs the regulation of geophysical surveying operations because the statutory authority for the rule was repealed by P.L.80-2005 (SEA 442), which became effective on July 1, 2005, as it pertains to this rule. Effective 30 days after filing with the Secretary of State.

312 IAC 17-3

SECTION 1. 312 IAC 17-3 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 29, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on the proposed repeal of 312 IAC 17-3, which has governed the regulation of geophysical surveying, because, with the repeal of the underlying statutory authority, 312 IAC 17-3 lacks legal force and effect.

The repeal would not result in an additional requirement or cost under IC 4-22-2-24(d)(3).

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

Proposed Rule
LSA Document #05-41

DIGEST

Adds 345 IAC 5-2 through 345 IAC 5-7 concerning the movement of sheep and goats into and within Indiana, identification of sheep and goats, record keeping, testing for scrapie, and other requirements for the purpose of detecting and

controlling scrapie in sheep and goats. Repeals 345 IAC 1-3-20, 345 IAC 5-1-1, and 345 IAC 5-1-2. Effective 30 days after filing with the Secretary of State.

345 IAC 1-3-20	345 IAC 5-4
345 IAC 5-1-1	345 IAC 5-5
345 IAC 5-1-2	345 IAC 5-6
345 IAC 5-2	345 IAC 5-7
345 IAC 5-3	

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

ARTICLE 5. SCRAPIE

Rule 2. Definitions

345 IAC 5-2-1 Applicability

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

Sec. 1. The definitions in IC 15-2.1-2 and this rule apply throughout this article. (*Indiana State Board of Animal Health; 345 IAC 5-2-1*)

345 IAC 5-2-2 “Accredited veterinarian” defined

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

Sec. 2. “Accredited veterinarian” means a veterinarian that is approved by the United States Department of Agriculture under 9 CFR Part 161 to perform official work associated with disease control and eradication programs. (*Indiana State Board of Animal Health; 345 IAC 5-2-2*)

345 IAC 5-2-3 “Animal” defined

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

Sec. 3. “Animal” means a sheep or goat. (*Indiana State Board of Animal Health; 345 IAC 5-2-3*)

345 IAC 5-2-4 “Approved laboratory” defined

Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-5

Sec. 4. “Approved laboratory” means any of the following:
(1) The National Veterinary Services Laboratories (NVSL) at Ames, Iowa.
(2) The Animal Disease Diagnostic Laboratory created under IC 15-2.1-5.
(3) Any other diagnostic laboratory approved by the state veterinarian to conduct tests for scrapie or genetic susceptibility to scrapie under this article.
(Indiana State Board of Animal Health; 345 IAC 5-2-4)

345 IAC 5-2-5 “Approved test” defined

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

Sec. 5. “Approved test” means a test for the diagnosis of scrapie that has been approved by the United States Department of Agriculture and the state veterinarian for use in the scrapie eradication or certification programs in this article. (*Indiana State Board of Animal Health; 345 IAC 5-2-5*)

345 IAC 5-2-6 “Board” defined

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

Sec. 6. “Board” means the Indiana state board of animal health appointed under IC 15-2.1-3 or its authorized representative. (*Indiana State Board of Animal Health; 345 IAC 5-2-6*)

345 IAC 5-2-7 “Blackface sheep” defined

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

Sec. 7. “Blackface sheep” means any of the following:
(1) Purebred Suffolk, Hampshire, Shropshire, or cross thereof.

(2) Nonpurebred sheep known to have Suffolk, Hampshire, or Shropshire ancestors.

(3) Nonpurebred sheep of unknown ancestry with a black face except for hair sheep.

(Indiana State Board of Animal Health; 345 IAC 5-2-7)

345 IAC 5-2-8 “Breed association and registries” defined

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

Sec. 8. “Breed association and registries” means organizations listed in 9 CFR 151.9 that maintain the permanent records of the following:

(1) The ancestry or pedigrees of animals.

(2) Individual animal identification.

(3) The ownership of animals.

(Indiana State Board of Animal Health; 345 IAC 5-2-8)

345 IAC 5-2-9 “Breeding sheep and goats” defined

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

Sec. 9. “Breeding sheep and goats” means any sexually intact sheep or goat, but does not include an animal moving:

(1) directly to slaughter;

(2) in slaughter channels; or

(3) to a feedlot to improve its condition for movement for slaughter.

(Indiana State Board of Animal Health; 345 IAC 5-2-9)

345 IAC 5-2-10 “Certification program” defined

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

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Sec. 10. “Certification program” means the voluntary scrapie flock certification program established under 345 IAC 5-7. (*Indiana State Board of Animal Health; 345 IAC 5-2-10*)

345 IAC 5-2-11 “Certification program standards” defined

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

Sec. 11. “Certification program standards” means the Voluntary Scrapie Flock Certification Program Standards adopted under 345 IAC 5-7. (*Indiana State Board of Animal Health; 345 IAC 5-2-11*)

345 IAC 5-2-12 “Commercial sheep or goat” defined

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

Sec. 12. “Commercial sheep or goat” means any animal:
(1) from a flock from which animals are moved only either directly to slaughter or through slaughter channels to slaughter; or
(2) raised only for meat or fiber production and not registered with a sheep or goat registry or used for exhibition.

(*Indiana State Board of Animal Health; 345 IAC 5-2-12*)

345 IAC 5-2-13 “Commingle”, “commingled”, or “commingling” defined

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

Sec. 13. “Commingle”, “commingled”, or “commingling” mean animals grouped together and having physical contact with each other, including contact through a fence and sharing the same section in a transportation unit where there is physical contact, but not including limited contacts. (*Indiana State Board of Animal Health; 345 IAC 5-2-13*)

345 IAC 5-2-14 “Consistent state” defined

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

Sec. 14. “Consistent state” means a state designated consistent by the United States Department of Agriculture under 9 CFR Part 79. (*Indiana State Board of Animal Health; 345 IAC 5-2-14*)

345 IAC 5-2-15 “Direct movement” defined

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

Sec. 15. “Direct movement” means animals that are:
(1) transported to a facility without unloading en route, other than briefly for food and water; and
(2) not commingled with any other animals during transport or at such food and water stops.

(*Indiana State Board of Animal Health; 345 IAC 5-2-15*)

345 IAC 5-2-16 “Exposed animal”, “exposed embryo”, and “exposed flock” defined

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

Sec. 16. (a) “Exposed animal” means a sheep or goat that meets one (1) of the following criteria:

(1) The animal has been in the same flock at the same time as a scrapie-positive female animal.

(2) The animal resided in a flock that was designated an infected or source flock and before the requirements of a flock plan were completed for the flock, but not including animals that meet all of the following conditions:

(A) The scrapie-positive animal was not born on the premises.

(B) The owner knows the date the animal was first introduced on the premises.

(C) The animal resided in the flock only before the scrapie-positive animal was introduced to the premises.

Exposed animals will be designated as either genetically resistant exposed sheep, genetically less susceptible exposed sheep, genetically susceptible exposed animals, or low-risk animals.

(b) “Exposed embryo” means an embryo that was collected from an exposed, suspect, or scrapie-positive animal.

(c) “Exposed flock” means a flock that meets one (1) of the following criteria:

(1) An infected or source flock that:

(A) has completed a flock plan; and

(B) retained a high-risk animal.

(2) A flock under investigation that retains a genetically susceptible exposed animal or a suspect animal.

(3) A flock under investigation whose owner declines to complete the required genotyping and live animal or necropsy scrapie testing.

(4) A flock that is not in compliance with the PEMMP.

A flock is an exposed flock until it has completed a PEMMP. (*Indiana State Board of Animal Health; 345 IAC 5-2-16*)

345 IAC 5-2-17 “Flock” or “herd” defined

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

Sec. 17. “Flock” or “herd” means animals that are maintained:

(1) on a single premises for any purpose; or

(2) in two (2) or more groups under common ownership or supervision, geographically separated, but that have an interchange or movement of animals, equipment, or personnel between the groups.

Changes in ownership of part or all of a flock do not change the identity of a flock or the regulatory requirements applicable to the flock. Animals maintained temporarily on

a premises for an exhibition or sale or while in marketing channels are not a flock. The state veterinarian shall determine the flock status of any group of animal and shall make such determination in a manner that advances the board's disease control objectives. (*Indiana State Board of Animal Health; 345 IAC 5-2-17*)

345 IAC 5-2-18 "Flock of origin" defined

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

Sec. 18. "Flock of origin" means the following:

- (1) For male animals, the flock of birth.
- (2) For female animals, the flock in which the animal:
 - (A) most recently resided; and
 - (B) was born, gave birth, or resided during lambing.

The state veterinarian shall determine an animal's flock of origin based on the physical presence of the animal in a herd, the presence of official identification on the animal, other identification on the animal, and other evidence suggesting the animal's origin.

(*Indiana State Board of Animal Health; 345 IAC 5-2-18*)

345 IAC 5-2-19 "Flock plan" defined

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

Sec. 19. "Flock plan" means a written flock management agreement between the owner of a flock, the state veterinarian, and other essential parties in which each participant agrees to undertake specified actions in the flock plan to:

- (1) control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock; or
- (2) reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal.

Flock plans must meet the requirements for flock plans in this article and 9 CFR 54.8. (*Indiana State Board of Animal Health; 345 IAC 5-2-19*)

345 IAC 5-2-20 "Flock under investigation" defined

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

Sec. 20. "Flock under investigation" means either of the following:

- (1) A flock in which a scrapie-suspect animal was born or lambed.
- (2) A flock containing a female high-risk or suspect animal or that once contained such an animal that may have lambed in the flock and from which obex and lymphoid tissues were:
 - (A) not submitted for official testing; or
 - (B) submitted and found negative for scrapie.

A flock is no longer a flock under investigation if it has completed the required genotyping and live-animal or necropsy testing for scrapie, is in compliance with a PEMMP if required, or it has been designated an infected,

source, or exposed flock. (*Indiana State Board of Animal Health; 345 IAC 5-2-20*)

345 IAC 5-2-21 "Genetically less susceptible exposed sheep", "genetically resistant exposed sheep", "genetically susceptible animal", and "genetically susceptible exposed animal" defined

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

Sec. 21. (a) "Genetically less susceptible exposed sheep" means the following:

- (1) Any exposed AA QR sheep or embryo unless it is epidemiologically linked to a scrapie-positive RR or AA QR sheep.
- (2) Any exposed AV QR sheep unless it is epidemiologically linked to a scrapie-positive RR, QR, AV QQ, or VV QQ sheep.

(b) "Genetically resistant exposed sheep" means any exposed RR sheep or embryo that was not designated exposed because of exposure to, or the presence in a flock of, a scrapie-positive RR sheep.

(c) "Genetically susceptible animal" means any of the following:

- (1) A goat or goat embryo.
- (2) A QQ sheep or sheep embryo.
- (3) A sheep or embryo of undeterminable genotype.
- (4) A genetically susceptible exposed animal.

(d) "Genetically susceptible exposed animal" means any exposed animal or embryo other than a low-risk exposed animal that is one (1) of the following:

- (1) A goat or goat embryo.
- (2) A QQ sheep or sheep embryo.
- (3) A sheep or embryo of undeterminable genotype.
- (4) An AV QR sheep or sheep embryo that is epidemiologically linked to a scrapie-positive RR, QR, AV QQ, or VV QQ sheep, including a AV QR sheep or sheep embryo epidemiologically linked to a positive animal for which the 136 codon type either cannot be determined or is unavailable at the time of depopulation.
- (5) An AA QR sheep or sheep embryo that is epidemiologically linked to a scrapie-positive RR or AA QR sheep.
- (6) An RR sheep or sheep embryo that is epidemiologically linked to a scrapie-positive RR sheep.

(*Indiana State Board of Animal Health; 345 IAC 5-2-21*)

345 IAC 5-2-22 Genotypes of sheep

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

Sec. 22. (a) Two (2) locations on DNA that code for prion

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protein are particularly important for scrapie susceptibility and for the purposes of this article will be referred to as follows:

- (1) Codon 136 that may code for the amino acids alanine (A) or valine (V).
- (2) Codon 171 that may code for the amino acids arginine (R), glutamine (Q), histidine (H), or lysine (K).

For the purposes of this article, amino acids H, K, or any amino acid other than R at codon 171 will be treated as equivalent to Q at codon 171.

(b) The abbreviations for amino acids alanine (A), valine (V), arginine (R), glutamine (Q), histidine (H), and lysine (K) apply throughout this article.

(c) The following definitions of genetic types of sheep apply throughout this article:

- (1) "RR sheep" means any sheep that has tested RR at codon 171 on an official genotype test.
- (2) "QR sheep" means any sheep that has tested QR, KR, or HR at codon 171 on an official genotype test.
- (3) "QQ sheep" means any sheep that has tested QQ, QK, QH, HK, KK, or HH at codon 171 on an official genotype test.
- (4) "AV sheep" means any sheep that has tested AV at codon 136 on an official genotype test.
- (5) "VV sheep" means any sheep that has tested VV at codon 136 on an official genotype test.
- (6) "AA sheep" means any sheep that has tested AA at codon 136 on an official genotype test.
- (7) "AA QR sheep" means any sheep that has tested QR, KR, or HR at codon 171 and AA at codon 136 on an official genotype test.
- (8) "AV QR sheep" means any sheep that has tested QR, KR, or HR at codon 171 and AV at codon 136 on an official genotype test.
- (9) "AA QQ sheep" means any sheep that has tested QQ, QK, QH, HK, KK, or HH at codon 171 and AA at codon 136 on an official genotype test.
- (10) "AV QQ sheep" means any sheep that has tested QQ, QK, QH, HK, KK, or HH at codon 171 and AV at codon 136 on an official genotype test.
- (11) "VV QQ sheep" means any sheep that has tested QQ, QK, QH, HK, KK, or HH at codon 171 and VV at codon 136 on an official genotype test.

(d) The state veterinarian may require confirmatory testing before designating any animal a particular genetic class under subsection (c). (*Indiana State Board of Animal Health; 345 IAC 5-2-22*)

345 IAC 5-2-23 "High-risk animal" defined

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

Sec. 23. "High-risk animal" means a sexually intact

animal that meets one (1) of the following criteria:

- (1) A female genetically susceptible exposed animal.
- (2) The female offspring of a scrapie-positive female animal and any female genetically less susceptible exposed animal that the state veterinarian determines to be a potential disease risk based on the epidemiology of the flock, including the following:
 - (A) The genetics of positive animals.
 - (B) The prevalence of scrapie in the flock.
 - (C) The history of recurrent infection, if any.
 - (D) Other relevant characteristics.

(*Indiana State Board of Animal Health; 345 IAC 5-2-23*)

345 IAC 5-2-24 "Inconsistent state" defined

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

Sec. 24. "Inconsistent state" means a state designated inconsistent by the United States Department of Agriculture under 9 CFR Part 79. (*Indiana State Board of Animal Health; 345 IAC 5-2-24*)

345 IAC 5-2-25 "Infected flock" defined

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

Sec. 25. "Infected flock" means a flock in which a scrapie-positive female animal resided unless an epidemiological investigation conducted by the state veterinarian determines that the animal did not lamb or abort in the flock. A flock remains an infected flock until such time as a flock plan is completed. (*Indiana State Board of Animal Health; 345 IAC 5-2-25*)

345 IAC 5-2-26 "Limited contacts" defined

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

Sec. 26. "Limited contacts" means the following:

- (1) Any contact with a male animal or brief contact with a female animal from a different flock off of the flock's premises at events such as the following:
 - (A) Fairs.
 - (B) Shows.
 - (C) Exhibitions.
 - (D) Sales.
- (2) Incidental contacts between:
 - (A) ewes being inseminated, flushed, or implanted; or
 - (B) rams at a ram test or collection station.

Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts.

Limited contacts do not include any contact, incidental or otherwise, with an animal during or up to thirty (30) days after the animal has given birth or aborted, with an animal that has any visible vaginal discharge other than that associated with estrus. Limited contacts do not include any

activity where uninhibited contact occurs with a female animal, including sharing an enclosure, sharing a section in a transport vehicle, and residing in another flock for breeding or other purposes. (*Indiana State Board of Animal Health; 345 IAC 5-2-26*)

345 IAC 5-2-27 “Live animal screening test” defined

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

Sec. 27. “Live animal screening test” means a test for the diagnosis of scrapie in live animals that is approved by the state veterinarian as usually reliable but not definitive for diagnosing scrapie. (*Indiana State Board of Animal Health; 345 IAC 5-2-27*)

345 IAC 5-2-28 “Low-risk commercial flock”, “low-risk commercial goat”, “low-risk exposed animal”, and “low-risk goat” defined

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

Sec. 28. (a) “Low-risk commercial flock” means a flock composed of commercial whitefaced, whitefaced cross, or commercial hair sheep or commercial goats that meet the following requirements:

- (1) The sheep and goats were born in and have resided throughout their lives in flocks with no known risk factors for scrapie, including exposure to female blackfaced sheep.
- (2) The flock never has:
 - (A) contained a scrapie-positive female, suspect female, or high-risk animal; or
 - (B) been an infected, exposed, or source flock or a flock under investigation.
- (3) The animals are identified using identification recognized for breeding animals in 345 IAC 5-4-2(c).
- (4) The flock is located in a state where in the preceding ten (10) years low-risk commercial flock has been designated a source or infected flock.

(b) “Low-risk commercial goat” means a low-risk goat that is from a herd in which animals are moved to slaughter, directly or through slaughter channels, or any animal raised only for meat or fiber production and not registered with a sheep and goat registry or used for exhibition.

(c) “Low-risk exposed animal” means an exposed animal that meets one (1) or more of the following sets of circumstances:

- (1) The animal’s exposure was to a positive animal that:
 - (A) was not born in the flock; and
 - (B) did not lamb in the flock or enclosure where the exposed animal resided.
- (2) The exposed animal most likely resided in the infected or source flock only before scrapie was introduced to the

premises based on the flock history or five (5) years of known nonexposure.

(3) The state veterinarian determines that the animal was:

- (A) maintained at a location or during a time when infection was highly unlikely to have occurred; and
 - (B) not exposed to the lambing or kidding of an infected animal, in an infected or source flock, or lambing or kidding area before it had been cleaned and disinfected.
- (4) The animal is male and was not born in an infected or source flock.
- (5) The animal is a wether.

(d) “Low-risk goat” means a goat that is not scrapie-positive, suspect, high-risk, or exposed, that has not been commingled with sheep other than sheep from low-risk commercial flocks, and is from one (1) of the following states:

- (1) A state in which scrapie has not been identified in a goat during the preceding ten (10) years.
- (2) A state in which scrapie has been identified in a goat during the preceding ten (10) years, but one (1) of the following set of requirements applies:

- (A) The scrapie-positive goat was not born in the state or it:
 - (i) resided in the state for less than seventy-two (72) months; and
 - (ii) did not kid while in the state.
- (B) The scrapie-positive goat was commingled with sheep, but the flock records allowed a complete epidemiologic investigation to be completed with all resulting infected, source, and exposed goat herds completing flock plans and compliant with postexposure monitoring and management plan.

(*Indiana State Board of Animal Health; 345 IAC 5-2-28*)

345 IAC 5-2-29 “Moved” defined

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

Sec. 29. “Moved” means shipped, transported, or otherwise moved, delivered, or received for movement. (*Indiana State Board of Animal Health; 345 IAC 5-2-29*)

345 IAC 5-2-30 “Moved directly” defined

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

Sec. 30. “Moved directly” means moved without stopping or unloading at livestock assembly points of any type. Animals moved directly may be unloaded from the means of conveyance while en route only:

- (1) with permission of the state veterinarian; and
- (2) if the animals are isolated from all other animals other than those in the same shipment.

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(Indiana State Board of Animal Health; 345 IAC 5-2-30)

345 IAC 5-2-31 “Noncompliant flock” defined

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

Sec. 31. “Noncompliant flock” means a flock that meets one (1) of the following sets of criteria:

- (1) A source or infected flock whose owner:
 - (A) does not participate in a flock plan or a PEMMP agreement within sixty (60) days of the flock being so designated; or
 - (B) is not in compliance with the terms of either agreement.
- (2) An exposed flock or flock under investigation whose owner fails to:
 - (A) make animals available for testing within sixty (60) days of notification; or
 - (B) submit required postmortem samples as directed in the PEMMP.
- (3) A flock whose owner, including the owner’s agents, has misrepresented the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the last five (5) years.
- (4) A flock whose owner, including the owner’s agents, has moved an animal in violation of 9 CFR Part 79 or this article within the last five (5) years.

(Indiana State Board of Animal Health; 345 IAC 5-2-31)

345 IAC 5-2-32 “Official back tag or poll tag” defined

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

Sec. 32. “Official back tag or poll tag” means a tag approved by the state veterinarian that:

- (1) is applied to the back or poll of the animal; and
- (2) provides unique identification for that animal.

(Indiana State Board of Animal Health; 345 IAC 5-2-32)

345 IAC 5-2-33 “Official eartag” defined

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

Sec. 33. “Official eartag” means a tag approved by the state veterinarian that when applied to an animal provides unique identification for that animal. Official ear tags must contain unique identification for each animal or a premises identification number, or both, as determined by the state veterinarian. *(Indiana State Board of Animal Health; 345 IAC 5-2-33)*

345 IAC 5-2-34 “Official genotype test” defined

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

Sec. 34. “Official genotype test” means a test to determine

the genotype of a live or dead animal that meets the following requirements:

- (1) The test has been approved by the state veterinarian.
- (2) The test is run on samples that have been collected by a licensed and accredited veterinarian or state or federal official.
- (3) The test is run in an approved laboratory.

(Indiana State Board of Animal Health; 345 IAC 5-2-34)

345 IAC 5-2-35 “Official identification” defined

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

Sec. 35. “Official identification” means an identification method approved by the state veterinarian under this article. *(Indiana State Board of Animal Health; 345 IAC 5-2-35)*

345 IAC 5-2-36 “Official test” defined

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

Sec. 36. “Official test” means a test for the diagnosis of scrapie in a live or dead animal that is:

- (1) approved by the state veterinarian; and
- (2) conducted in an approved laboratory.

(Indiana State Board of Animal Health; 345 IAC 5-2-36)

345 IAC 5-2-37 “Owner” defined

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

Sec. 37. “Owner” means a person who has legal or rightful title to animals, whether or not they are subject to a security interest. *(Indiana State Board of Animal Health; 345 IAC 5-2-37)*

345 IAC 5-2-38 “Owner statement” defined

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

Sec. 38. “Owner statement” means a written statement by the owner of sheep or goats that includes the following information:

- (1) The owner’s name, signature, address, and phone number.
- (2) The date the animals left the flock of origin.
- (3) The premises identification number assigned to the premises.
- (4) The number of animals.
- (5) The identification of each animal if required.
- (6) A statement that the animals were either born on or were used for breeding purposes on the premises to which the premises identification is assigned.
- (7) The number for the permit for movement issued by the state veterinarian if a permit is required under this article.

(Indiana State Board of Animal Health; 345 IAC 5-2-38)

345 IAC 5-2-39 “Permit” defined

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

Sec. 39. “Permit” means an official document issued by the USDA, the state veterinarian, or an accredited veterinarian for the movement of animals. A permit must be issued at the point of origin, must be reissued for each change in destination, and must contain the following information:

- (1) The name and address of the animal’s owner.
- (2) The origin and destination of the animal.
- (3) The number of animals covered.
- (4) The purpose of the movement.
- (5) Whether the animal is from an exposed, noncompliant, infected, or source flock or a flock under investigation.
- (6) Whether the animal is a high-risk, exposed, scrapie-positive, or scrapie-suspect animal.
- (7) The official identification of each animal including the following:
 - (A) Eartag numbers.
 - (B) Animal registered breed association tattoos and brands.
 - (C) United States Department of Agriculture backtag.
 - (D) Registered breed association registration number.
 - (E) Any other form of official identification on each animal.
- (8) The transportation vehicle license number or other identification number.
- (9) If the shipment is sealed, the seal number.

(Indiana State Board of Animal Health; 345 IAC 5-2-39)

345 IAC 5-2-40 “Postexposure management and monitoring plan” or “PEMMP” defined

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

Sec. 40. “Postexposure management and monitoring plan” or “PEMMP” mean a written agreement between a flock owner, the state veterinarian, and other essential parties in which each participant agrees to undertake specified actions in the agreement to reduce the risk of scrapie and monitor for scrapie in a flock for:

- (1) at least five (5) years after the last high-risk or scrapie-positive animal is removed from the flock;
- (2) at least five (5) years after the last exposure of the flock to a scrapie-positive animal; or
- (3) a time period agreed to by the parties.

PEMMP plans must meet the requirements for PEMMPs in this article and 9 CFR 54.8. *(Indiana State Board of Animal Health; 345 IAC 5-2-40)*

345 IAC 5-2-41 “Premises” defined

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

Sec. 41. “Premises” has the meaning set forth in 345 IAC 1-2.5-2. *(Indiana State Board of Animal Health; 345 IAC 5-2-41)*

345 IAC 5-2-42 “Premises identification number” defined

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

Sec. 42. “Premises identification number” has the meaning set forth in 345 IAC 1-2.5-2. *(Indiana State Board of Animal Health; 345 IAC 5-2-42)*

345 IAC 5-2-43 “Scrapie” defined

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

Sec. 43. “Scrapie” means a nonfebrile, transmissible, insidious degenerative disease affecting the central nervous system (CNS) of sheep and goats. *(Indiana State Board of Animal Health; 345 IAC 5-2-43)*

345 IAC 5-2-44 “Scrapie-positive animal” defined

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

Sec. 44. “Scrapie-positive animal” means an animal for which a diagnosis of scrapie has been made using one (1) of the following official tests:

- (1) Histopathological examination of central nervous system tissues from the animal for characteristic microscopic lesions of scrapie.
- (2) Proteinase resistant protein analysis methods including, but not limited to, immunohistochemistry, western blotting on central nervous system, or peripheral tissue samples from a live or dead animal for which a given method has been approved by the state veterinarian.
- (3) Bioassay.
- (4) Scrapie associated fibrils detected by electron microscopy.
- (5) Any other official test.

(Indiana State Board of Animal Health; 345 IAC 5-2-44)

345 IAC 5-2-45 “Separate contemporary lambing groups” defined

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

Sec. 45. “Separate contemporary lambing groups” means a group of animals that meet all of the following criteria:

- (1) The group of animals is kept separate from:
 - (A) other animals; and
 - (B) the birth fluids and placenta from other animals.
- (2) The group of animals does not have fence-line contact with animals that have given birth for not less than sixty (60) days following the date the last lamb or kid was born in the lambing season.
- (3) The group of animals has not used the same lambing facility as other animals prior to the facility being clean-

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ing and disinfected under the supervision of the state veterinarian or federal officials.

(4) The owner maintains records sufficient to accurately document:

(A) which animals were maintained in each lambing group; and

(B) any cleaning and disinfecting.

(Indiana State Board of Animal Health; 345 IAC 5-2-45)

345 IAC 5-2-46 “Slaughter channels” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 46. “Slaughter channels” means animals that are sold, transferred, or moved:

(1) directly to a slaughter establishment;

(2) to an individual for custom slaughter;

(3) for feeding for the express purpose of improving the animals condition before moving the animal directly to slaughter; or

(4) through a sale or market expressly for one (1) of these purposes.

But, an animal that is sexually intact and commingled with breeding animals from another flock is not in slaughter channels, and animals sold for unrestricted sale are not in slaughter channels. (Indiana State Board of Animal Health; 345 IAC 5-2-46)

345 IAC 5-2-47 “Slaughter establishment” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 47. “Slaughter establishment” means a slaughtering establishment that is operating under the:

(1) Federal Meat Inspection Act (21 U.S.C. 601 et seq.); or

(2) Indiana Meat and Poultry Inspection Act (IC 15-2.1-24).

(Indiana State Board of Animal Health; 345 IAC 5-2-47)

345 IAC 5-2-48 “Source flock” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3

Sec. 48. “Source flock” means a flock in which the state veterinarian has determined that at least one (1) animal was born that was diagnosed as a scrapie-positive animal at an age of seventy-two (72) months or less or in which a scrapie-positive animal has resided throughout its life based on the following:

(1) Presence of official identification on an animal traceable to the flock.

(2) Other identification on an animal that is listed on a bill of sale, certificate, or other records.

(3) Registry records.

(4) The absence of records showing that the positive animal was born outside the flock and added to the flock.

(5) A comparison of DNA from the animal with a sample

of DNA previously collected by an accredited veterinarian and stored at a genotyping laboratory approved by the United States Department of Agriculture or the state veterinarian. The animal owner must pay all costs associated with such a comparison. The comparison must be supported by adequate records and animal identification to show that the archived DNA is that of the animal that has been traced to the flock.

A flock is no longer a source flock after its flock plan has been completed. (Indiana State Board of Animal Health; 345 IAC 5-2-48)

345 IAC 5-2-49 “State official” or “state representative” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3

Sec. 49. “State official” or “state representative” means the board or its authorized representative. (Indiana State Board of Animal Health; 345 IAC 5-2-49)

345 IAC 5-2-50 “State veterinarian” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-4

Sec. 50. “State veterinarian” means the state veterinarian appointed under IC 15-2.1-4 or his or her agent. (Indiana State Board of Animal Health; 345 IAC 5-2-50)

345 IAC 5-2-51 “Suspect animal” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3

Sec. 51. “Suspect animal” means a sheep or goat that is designated a suspect animal under 345 IAC 5-6 and meets one (1) of the following sets of criteria:

(1) The sheep or goat exhibits any of the following signs of scrapie and is determined to be suspicious for scrapie by an accredited veterinarian, the state veterinarian, or a federal animal health official:

(A) Weight loss despite retention of appetite.

(B) Behavior abnormalities.

(C) Puritus (itching).

(D) Wool pulling.

(E) Biting at legs or side.

(F) Lip smacking.

(G) Motor abnormalities, such as the following:

(i) Incoordination.

(ii) High stepping gait of forelimbs.

(iii) Bunny hop movement of rear legs.

(iv) Swaying of back end.

(H) Increased sensitivity to noise and sudden movement.

(I) Tremor.

(J) Star gazing.

(K) Head pressing.

(L) Recumbency.

(M) Other signs of neurological disease or chronic wasting.

(2) A sheep or goat that has:

(A) tested positive for:

(i) scrapie; or

(ii) the proteinase resistant protein associated with scrapie;

on a live animal screening test or any other test; and

(B) not been designated a scrapie-positive animal.

(3) A sheep or goat that has tested inconclusive or suggestive of scrapie on an official test for scrapie.

(Indiana State Board of Animal Health; 345 IAC 5-2-51)

345 IAC 5-2-52 “Terminal feedlot” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3

Sec. 52. “Terminal feedlot” means a premises that meets the following requirements:

(1) The following premises if they are approved by the state veterinarian:

(A) A dry lot where animals are separated:

(i) from all other animals by at least thirty (30) feet at all times; or

(ii) by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and from which animals are moved only to another terminal feedlot or directly to slaughter.

(B) A pasture in which only nonpregnant animals are permitted, there is no fence-to-fence contact with another flock, and from which animals are moved only to another terminal feedlot or directly to slaughter.

(2) Records for all animals entering and leaving the terminal feedlot are maintained as required under 345 IAC 5-4-3.

(Indiana State Board of Animal Health; 345 IAC 5-2-52)

SECTION 2. 345 IAC 5-3 IS ADDED TO READ AS FOLLOWS:

Rule 3. General Provisions

345 IAC 5-3-1 Purpose

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-4

Sec. 1. The purpose of this article is to detect, control, and eradicate the disease scrapie in sheep and goats in the state.

(Indiana State Board of Animal Health; 345 IAC 5-3-1)

345 IAC 5-3-2 Designated scrapie epidemiologist and state status

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-4

Sec. 2. (a) The state veterinarian or the state veterinarian’s designee shall serve as the scrapie epidemiologist for

the state under 9 CFR Part 54 and 9 CFR Part 79.

(b) The state veterinarian shall cooperate with the United States Department Agriculture in implementing the National Scrapie Eradication Program including the National Scrapie Database under 9 CFR Part 54 and 9 CFR Part 79.

(c) The state veterinarian may take any action necessary to qualify the state as a consistent state under 9 CFR Part 79.

(d) The state veterinarian may apply to the United States Department of Agriculture for a scrapie classification for all of the state or an area within the state as is necessary or helpful to eradicate scrapie and facilitate trade in animals and animal products. *(Indiana State Board of Animal Health; 345 IAC 5-3-2)*

345 IAC 5-3-3 Incorporation by reference

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 3. (a) The board adopts and incorporates by reference the following:

(1) The following provisions of the United States Department of Agriculture Animal and Plant Health Inspection Service, Scrapie Eradication Uniform Methods and Rules, June 1, 2005:

(A) Part II (M) Movement Restrictions.

(B) Part VII – Epidemiology.

(2) 9 CFR 54.8 and 9 CFR 54.9.

Where provisions of the Uniform Methods and Rules conflict with this article, the express provisions of this article shall control.

(b) Copies of the Scrapie Uniform Methods and Rules may be obtained from the office of the state veterinarian by calling (317) 227-0315. *(Indiana State Board of Animal Health; 345 IAC 5-3-3)*

345 IAC 5-3-4 Certificates of veterinary inspection

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 4. Certificates of veterinary inspection required under this article shall contain the following information:

(1) The identification of each animal to be moved, including the following:

(A) The official eartag number of each animal.

(B) Individual animal registered breed association registration number, tattoo, and brand, if any.

(C) Any other official identification.

(2) The number of animals covered by the certificate.

(3) The purpose for which the animals are being moved.

(4) The points of origin and destination.

(5) The consignor and consignee.

(6) An indication whether the animal is or is not a:

(A) scrapie-positive;

- (B) suspect;
- (C) high-risk; or
- (D) exposed;

animal.

(7) An indication of whether the animal originated in:

- (A) an infected;
- (B) a source;
- (C) an exposed; or
- (D) a noncompliant;

flock.

(Indiana State Board of Animal Health; 345 IAC 5-3-4)

345 IAC 5-3-5 Cleaning and disinfecting

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 5. The state veterinarian may order a premises, including:

- (1) all structures thereon;
- (2) holding facilities;
- (3) conveyances;
- (4) equipment; and
- (5) materials;

that have been or may have been exposed to scrapie so as to constitute a health hazard to animals, cleaned and disinfected according to procedures set forth by the state veterinarian. The procedures for cleaning and disinfecting ordered by the state veterinarian must be reasonably likely to reduce the hazard of scrapie exposure to animals.

(Indiana State Board of Animal Health; 345 IAC 5-3-5)

345 IAC 5-3-6 Violations

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-14-21; IC 15-2.1-18-9

Sec. 6. (a) The following are violations of this article:

- (1) Removing or tampering with any official animal identification unless specifically authorized by this article or the state veterinarian.
- (2) Knowingly or intentionally:
 - (A) creating;
 - (B) recording;
 - (C) submitting; or
 - (D) distributing;

a record required to be kept under this article that is false or misleading.

(3) Applying official identification containing a premises identification number to an animal that did not originate from the premises corresponding to that premises identification number. But, an owner may apply a premises identification number to the owner's animal that resides in the flock but came from outside the flock as long as the records required under this article are kept.

(b) It is a violation of this article and IC 15-2.1-18-9 to refuse to allow a state or federal official to inspect an

animal's identification or a record required to be kept under this article.

(c) The state veterinarian may:

- (1) impose a fine under IC 15-2.1-14-21;
- (2) refuse to issue official identification;
- (3) withdraw official identification already issued under this article; and
- (4) take any other lawful action;

for violations of this article. (Indiana State Board of Animal Health; 345 IAC 5-3-6)

SECTION 3. 345 IAC 5-4 IS ADDED TO READ AS FOLLOWS:

Rule 4. Identification and Record Keeping

345 IAC 5-4-1 Official identification

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 1. (a) The state veterinarian will issue official premises identification numbers to sheep and goat owners. The state veterinarian may use the following:

- (1) The premises identification number issued under the National Animal Identification Program implemented under 345 IAC 1-2.5.
- (2) A number that consists of the state postal zip code abbreviation followed by a unique alphanumeric number or name.
- (3) Any other alphanumeric numbering system that is:
 - (A) unique across the country; and
 - (B) compatible with federal animal health programs.

(b) Only tags approved by the state veterinarian shall be used as official identification under this article. Tags approved by the United States Department of Agriculture may be used to move animals into the state. (Indiana State Board of Animal Health; 345 IAC 5-4-1)

345 IAC 5-4-2 Official identification of animals required

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 2. (a) The owner of sheep or goats shall identify the sheep and goats to the animal's flock of birth using official identification. If the flock of birth cannot be determined, animals shall be identified to their flock of origin. But, animals that meet one (1) of the following criteria need not be identified under this rule:

- (1) Sheep in slaughter channels if they are under eighteen (18) months of age.
- (2) Goats in slaughter channels.
- (3) Low-risk commercial goats.
- (4) Wethers for exhibition and wethers under eighteen (18) months of age.
- (5) Animals shipped directly to an approved slaughter

establishment or approved market when:

- (A) all of the animals transported in a section of the truck originate from the same premises; and
- (B) the animals are accompanied by an owner's statement containing information sufficient for the establishment or market to identify the animals.

(6) Animals moved by an owner for management reasons from one (1) premises owned or leased by the owner of the animals to another premises owned or leased by the owner of the animals.

(b) The owner of sheep or goats that are required to be identified under subsection (a) must identify the animals at the earliest of the following events:

- (1) Upon change of ownership.
- (2) Before being commingled with sheep or goats from any other flock of origin.
- (3) Before arriving at an exhibition.
- (4) When moved to a market, one (1) of the following apply:

- (A) Upon unloading the animals at the market.
- (B) If the market agrees to act as an agent for the owner to apply official identification to animals, the animals may enter the market without official identification but must be identified before leaving the market. But, animals must be kept separate from all other animals from different flocks of origin or flocks of birth until such time as they are identified. The owner shall provide to the market agent an owner's statement providing information needed to identify the animals to their flock of birth as required under this article.

(5) When moved directly to a slaughter plant that has agreed to act as an agent for the owner to apply official identification to animals, upon arrival at the slaughter plant. But, animals must be kept separate from all other animals from different flocks of origin or flocks of birth until such time as they are identified. The owner shall provide to the slaughter plant an owner's statement providing information needed to identify the animals to their flock of birth as required under this article.

(c) The owner of an animal that must be identified under this section shall identify the animal using one (1) of the following means:

- (1) An official eartag.
- (2) A registration tattoo approved by the state veterinarian. The state veterinarian may approve legible registration tattoos that are recorded in the book of record of a sheep or goat registry association. Animals identified with registration tattoos must be accompanied by a registration certificate or certificate of veterinary inspection.
- (3) For animals that are moved directly to slaughter or that are moved for grazing or other management purposes without a change of ownership, one (1) of the following:

- (A) An official eartag.
- (B) A registration tattoo approved by the state veterinarian.
- (C) An official back tag or poll tag.
- (D) Clearly visible and legible paint brands.

(4) Goats that are registered with a national goat registry association that allows the use of electronic implants for official registry identification may use such electronic identification if the following conditions are met:

- (A) The electronic implant number is recorded on the registration certificate accompanying the animal, and the animal is accompanied by an implant reader that will read the implant in the animal or a certificate of veterinary inspection that contains a list of the implant numbers and a certification by an accredited veterinarian that the veterinarian read and checked the identification against the registration certificates.
- (B) An implant reader that will read the implant in the animal is available at the exhibition for use by state or federal officials.
- (C) The animals are being moved for exhibition or sale with transfer of the registration papers to a new owner who has a reader that can read the implant in the animal.

(d) No person may:

- (1) sell;
- (2) transport;
- (3) receive for transportation or sale; or
- (4) offer for sale or transportation;

any sheep or goats that have not been identified as required under this section.

(e) Animals that have been identified under this section shall remain so identified. The owner or custodian of an animal that loses its official identification shall reidentify the animal according to the requirements of this section prior to commingling the animal with any other animals.

(f) A person may not apply official identification containing a premises identification number to an animal that did not originate from the premises corresponding to that premises identification number. But, an owner may apply a premises identification number to the owner's animal that resides in the flock but came from outside the flock as long as the records required under this article are kept.

(g) No person may remove or tamper with any official identification required to be on a sheep or a goat. (*Indiana State Board of Animal Health; 345 IAC 5-4-2*)

345 IAC 5-4-3 Records required

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

Sec. 3. (a) An owner of sheep or goats shall keep records

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of the animals they identify, including the following information:

- (1) The premises identification number associated with each animal.
- (2) For each animal identified, the identification used and the date identified.
- (3) For animals that are not born in the flock, the name, address, and telephone number of the owner of the flock of origin.
- (4) The species and breed or class of the animal.
- (5) The sex of the animal.
- (6) The disposition of each animal, including the name, address, and telephone number of a person that purchases the animal.

(b) Persons other than animal owners that are assigned official identification by the state veterinarian shall keep records of the animals they identify, including the following information:

- (1) The serial numbers applied to animals.
- (2) The name, address, and telephone number of the following:
 - (A) The person presenting the animal for identification and the animal's owner, if different.
 - (B) The owner of the animal's flock of birth, if known.
- (3) The date identification was applied.
- (4) The species and breed or class of each animal identified.
- (5) The sex of each animal identified.
- (6) The invoice for any tags received.

The person applying official identification should make a reasonable effort to record any identification appearing on the animal before application of the official identification.

(c) Each person who buys or sells, including as an agent for others, must keep the following records:

- (1) The number of sheep and goats.
- (2) The date of purchase or sale.
- (3) The species and breed or class of the animals.
- (4) A copy of the owner's statement, certificate of veterinary inspection, or other documentation that is required to move animals under this article.
- (5) The name, address, and telephone number of the owner of the flock of origin.

(d) Records required under this article shall be kept for not less than five (5) years after the animal is transferred to another person or dies.

(e) A person holding records required to be kept under this article shall make the records available for inspection and copying by state or federal officials during normal business hours. (*Indiana State Board of Animal Health; 345 IAC 5-4-3*)

SECTION 4. 345 IAC 5-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Moving Animals

345 IAC 5-5-1 Interstate movement into the state

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 1. (a) A person moving sheep or goats into the state must meet the animal identification requirements in 345 IAC 5-4.

(b) A person moving sheep or goats into the state must obtain a permit from the state veterinarian before moving the animals into the state as required under 345 IAC 1-3-4. Permits may be obtained by calling (317) 227-0316.

(c) A person moving sheep or goats into the state shall procure the services of a licensed and accredited veterinarian to prepare a certificate of veterinary inspection for all of the animals that are to be moved. The completed certificate must accompany the animals while being moved. A copy of the completed certificate shall be mailed or otherwise delivered to the board office within seven (7) days of the movement.

(d) A person may move sheep or goats that are not scrapie-positive, scrapie-suspect, or high-risk animals into the state without a certificate of veterinary inspection or a permit otherwise required under this section under the following circumstances:

- (1) The animals are moved directly through the state en route to another state.
- (2) The animals are moved directly to slaughter in the state.
- (3) The animals are moved in slaughter channels to slaughter. A person moving animals in slaughter channels must do the following:
 - (A) Deliver to the recipient of the animals at the first point of concentration an owner statement.
 - (B) Consign the animals for slaughter only or otherwise designate to the recipient that the animals are slaughter only animals.
- (4) The state veterinarian may allow a person to move into the state an animal without a certificate of veterinary inspection in order to facilitate the diagnosis, prevention, or control of disease.

(e) The following animals must be moved directly to a slaughter establishment or directly to a market where they are sold as slaughter only animals:

- (1) An animal sold as a slaughter animal.
- (2) An animal that is identified as a slaughter animal by the following:
 - (A) Tag or other identification.

(B) Slaughter only official paperwork.

(3) An animal that is marked a slaughter animal on its:

- (A) bill of sale;
- (B) certificate of veterinary inspection; or
- (C) shipping manifest.

(f) Moving scrapie-positive or scrapie-suspect sheep and goats into the state is prohibited.

(g) Sexually intact high-risk animals and sexually intact animals from an infected or source flock that are not scrapie-positive or suspect animals must be moved directly to:

- (1) slaughter; or
- (2) a terminal feedlot.

(h) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock that are pregnant or have a visible vaginal discharge may only be moved directly to slaughter or a terminal feedlot. (*Indiana State Board of Animal Health; 345 IAC 5-5-1*)

345 IAC 5-5-2 Intrastate movement

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

Sec. 2. (a) A person moving sheep and goats within the state must meet the animal identification requirements in 345 IAC 5-4.

(b) The following animals must be moved directly to a slaughter establishment or directly to a market where they are sold as slaughter only animals:

- (1) An animal sold as a slaughter animal.
- (2) An animal that is identified as a slaughter animal by the following:

- (A) Tag or other identification.
- (B) Slaughter only official paperwork.

(3) An animal that is marked a slaughter animal on its:

- (A) bill of sale;
- (B) certificate of veterinary inspection; or
- (C) shipping manifest.

(c) Moving the following sheep or goats within the state is prohibited unless the state veterinarian issues a permit for the movement and the conditions of the permit and the requirements in 345 IAC 5-6 are met:

- (1) Scrapie-positive animals.
- (2) Suspect animals.
- (3) High-risk animals.

(*Indiana State Board of Animal Health; 345 IAC 5-5-2*)

SECTION 5. 345 IAC 5-6 IS ADDED TO READ AS FOLLOWS:

Rule 6. Scrapie Affected Animals and Herds

345 IAC 5-6-1 Investigating scrapie incidents

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

Sec. 1. (a) The state veterinarian shall do the following:

- (1) Conduct an epidemiologic investigation of infected and source flocks.
- (2) As a part of the investigation:
 - (A) designate high-risk and exposed animals; and
 - (B) identify animals that are to be traced.

(b) The state veterinarian shall make a reasonable effort to do the following:

- (1) Trace scrapie-positive animals back to their flock of birth.
- (2) Find high-risk and exposed animals.

(*Indiana State Board of Animal Health; 345 IAC 5-6-1*)

345 IAC 5-6-2 Animal and flock designations

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

Sec. 2. (a) The state veterinarian shall determine the following:

- (1) If an animal is scrapie-positive, high-risk, exposed, or suspect.
- (2) If a flock is a source, infected, exposed, or noncompliant flock.

The state veterinarian may redesignate the scrapie status of an animal or a flock.

(b) The state veterinarian shall make the determinations in subsection (a) based on the following:

- (1) The definitions in 345 IAC 5-2.
- (2) The standards in Part VII – Epidemiology in the uniform methods and rules incorporated by reference in 345 IAC 5-3-3.
- (3) The standards in this rule.

(c) When determining the scrapie status of an animal or flock the following apply:

- (1) The state veterinarian may utilize sale, movement, breeding, and flock records and any other information that is relevant.
- (2) The state veterinarian may test animals, including the following:

- (A) A live animal official test.
- (B) An official genotype test.
- (C) Culling and postmortem examination and testing.
- (D) Postmortem examination and testing of animals found dead or cull animals at slaughter.

(3) A flock will be designated a source, infected, or exposed flock as the case may be if an owner:

- (A) does not make his or her animals available for testing within sixty (60) days of official notification or

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as mutually agreed; or

(B) fails to submit required postmortem samples.

(4) While a flock status determination is pending, the flock owner shall comply with movement restrictions for infected flocks.

(d) The state veterinarian shall make an effort to notify each flock owner of the designation assigned to the owner's animals and flock under this section. (*Indiana State Board of Animal Health; 345 IAC 5-6-2*)

345 IAC 5-6-3 Managing flocks

Authority: IC 15-2.1-3-19

Authority: IC 15-2.1-3-13

Sec. 3. (a) The state veterinarian shall restrict the movement of the following animals in a manner that will prevent the spread of scrapie and further the purposes of this article:

- (1) Scrapie-positive animals.
- (2) Suspect animals.
- (3) High-risk animals.
- (4) Any animal from a scrapie-positive or source flock.

The state veterinarian may issue, modify, and rescind quarantines or other orders that accomplish the movement restrictions. The movement restrictions must be consistent with the standards in Part II (M) of the Uniform Methods and Rules incorporated by reference in 345 IAC 5-3-3.

(b) The following persons shall enter into a flock plan and a post PEMMP:

- (1) The owner of an infected flock.
- (2) The owner of a source flock.
- (3) The owner of an exposed flock.

The owner of a flock that enters into a flock plan or a PEMMP shall complete all provisions in the plan. The owner of flock must provide the facilities and personnel needed to carry out the provisions of a flock plan or a PEMMP.

(c) The state veterinarian may enter into flock plans and PEMMPs that advance the purposes of this article. Flock plans and PEMMP shall meet the minimum requirements for such plans in 9 CFR 54.8 and 9 CFR 54.9. The state veterinarian may modify flock plans and PEMMPs as provided in 9 CFR 54.8.

(d) The state veterinarian may do the following:

- (1) Quarantine or continue to quarantine the flock of an owner that fails to follow their flock plan or PEMMP.
- (2) Extend the duration of the flock plan or PEMMP.

(*Indiana State Board of Animal Health; 345 IAC 5-6-3*)

345 IAC 5-6-4 Condemnation and indemnity

Authority: IC 15-2.1-3-19

Authority: IC 15-2.1-3-13

Sec. 4. (a) The state veterinarian:

(1) may condemn any scrapie-positive, suspect, exposed, or high-risk sheep or goat and any sheep or goat in an infected or source flock if such action furthers the goals of this article; and

(2) shall utilize the federal indemnity program under 9 CFR 54 or other federal indemnity money whenever possible to indemnify for condemned sheep and goats.

(b) The state veterinarian shall cooperate with the United States Department of Agriculture in implementing the scrapie indemnification program in 9 CFR 54, Subpart A in the state.

(c) Scrapie-positive and suspect animals condemned under this article or destroyed under 9 CFR 54 shall be disposed of as follows:

(1) Under 345 IAC 7-7 (dead animal disposal).

(2) The animals may not be processed for human or animal food. But, exposed or high-risk animals not known to be infected may be disposed of by slaughter.

(3) Moved to an official research facility.

The state veterinarian may order animals disposed of in a particular manner to minimize the risk of disease spread. (*Indiana State Board of Animal Health; 345 IAC 5-6-4*)

SECTION 6. 345 IAC 5-7 IS ADDED TO READ AS FOLLOWS:

Rule 7. Scrapie Flock Certification Program

345 IAC 5-7-1 Scrapie flock certification program established

Authority: IC 15-2.1-3-19

Authority: IC 15-2.1-3-13

Sec. 1. (a) The state veterinarian shall establish a voluntary scrapie flock certification program in the state. The purpose of the certification program is to provide a program by which owners may certify their flocks as being free from scrapie by maintaining compliance with certification program standards.

(b) The state veterinarian may do the following:

(1) Cooperate with the United States Department of Agriculture in establishing and operating the scrapie flock certification program in the state.

(2) Establish a scrapie flock certification program advisory committee to advise the state veterinarian on implementing the scrapie flock certification program.

(3) Designate official animal identification for the purpose of participating in the scrapie flock certification program. Official scrapie flock certification program identification may be different than official identification for flocks not enrolled in the certification program.

(Indiana State Board of Animal Health; 345 IAC 5-7-1)

345 IAC 5-7-2 Incorporation by reference

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

Sec. 2. (a) The board adopts and incorporates by reference the United States Department of Agriculture Animal and Plant Health Inspection Service, Voluntary Scrapie Flock Certification Program Standards, July 1, 1999. This document will be referred to in this rule as the certification program standards.

(b) Copies of the Scrapie Flock Certification Program Standards may be obtained from the office of the state veterinarian by calling (317) 227-0315.

(c) Where provisions of the certification program standards conflict with this article, the express provisions of this article shall control. *(Indiana State Board of Animal Health; 345 IAC 5-7-2)*

345 IAC 5-7-3 Scrapie flock certification program participation

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

Sec. 3. (a) An owner of a sheep flock or goat herd may apply to enter the scrapie flock certification program. The state veterinarian may do the following:

- (1) Prescribe a form for the application for entry into the certification program.
- (2) Designate information the applicant must submit with the application.

(b) Upon receiving an application for participation in the certification program, the state veterinarian may inspect the flock that is the subject of the application.

(c) The state veterinarian may designate a flock as a certification program participant flock if the following requirements are met:

- (1) The owner of the flock has submitted the following:
 - (A) A complete application.
 - (B) All requested supporting documentation.
- (2) The owner of the flock agrees to do the following:
 - (A) Establish and maintain records as specified in the certification program standards.
 - (B) Provide access to animals and records for inspection by state or federal officials upon reasonable prior notice.
 - (C) Authorize the state veterinarian and United States Department of Agriculture to have access to records maintained by:
 - (i) breed associations;
 - (ii) registries;
 - (iii) livestock markets; and

- (iv) packers; that relate to the subject flock.
 - (D) Identify animals in the flock with official identification as specified in the certification program standards.
 - (E) Allow state and federal personnel to enter the premises to carry out duties under this article.
 - (F) Provide necessary personnel, facilities, and equipment to assist in the inspection of animals and animal health records.
 - (G) Report scrapie-suspect animals to the state veterinarian.
 - (H) Ensure that tissue samples are collected and submitted for diagnostic purposes as specified by the certification program standards.
 - (I) Report to the state veterinarian additions to the flock that are of lower certification program status, including animals from flocks that are not participating in a scrapie flock certification program.
 - (J) Clean and disinfect pens, premises, and equipment as designated by the state veterinarian.
- (4) The owner of the flock has complied with the requirements:
- (A) of this rule; and
 - (B) for certification program participation in the certification program standards.

(d) The state veterinarian shall issue an enrollment date and a status date to flocks that are approved for participation in the certification program. Enrollment dates and status dates shall be issued and changed by the state veterinarian according to the certification program standards. *(Indiana State Board of Animal Health; 345 IAC 5-7-3)*

345 IAC 5-7-4 Changes in scrapie flock certification program status

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

Sec. 4. (a) The state veterinarian may assign the following certification program statuses to flocks:

- (1) Certified status if the owner has complied with the requirements:
 - (A) of this rule; and
 - (B) for achieving certified flock status in the certification program standards.
- (2) Complete monitored category status if the owner has complied with the requirements:
 - (A) of this rule; and
 - (B) for participation in the complete monitored category in the certification program standards.
- (3) Selective monitored category status if the owner has complied with the requirements:
 - (A) of this rule; and
 - (B) for participation in the selective monitored category in the certification program standards.
- (4) Nonparticipating flock status for all flocks not partici-

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pating in the certification program.

(b) The state veterinarian may change, including downgrading, the certification program status of a flock as follows:

- (1) According to the certification program standards.
- (2) Under the provisions of this rule.
- (3) Upon the owner's failure to comply with any of the terms outlined in section 3(c)(2) of this rule.
- (4) Upon a violation of this article.

(Indiana State Board of Animal Health; 345 IAC 5-7-4)

SECTION 7. THE FOLLOWING ARE REPEALED: 345 IAC 1-3-20; 345 IAC 5-1-1; 345 IAC 5-1-2.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 13, 2005 at 9:35 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 new rules concerning the movement of sheep and goats into and within Indiana, identification of sheep and goats, record keeping, testing for scrapie, and other requirements for the purpose of detecting and controlling scrapie in sheep and goats.

Federal regulations impose restrictions on moving sheep and goats from states that the United States Department of Agriculture designates "inconsistent" with the federal scrapie control program. 9 CFR 79.3. The proposed rules are designed to satisfy the federal requirements for consistent state status. 9 CFR 79.6.

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 #05-70

DIGEST

Amends 345 IAC 9-2.1-1 to update matters incorporated by reference governing the slaughter and processing of livestock and poultry. Amends 345 IAC 9-12-2 concerning inspected and passed products. Amends 345 IAC 9-20-2 and adds 345 IAC 9-21.5 to authorize a voluntary inspection program for the slaughter of domesticated rabbits and the processing of rabbit

products for human consumption. Amends 345 IAC 10-2.1-1 to update matters incorporated by reference governing the slaughter and processing of livestock and poultry. Effective 30 days after filing with the Secretary of State.

345 IAC 9-2.1-1	345 IAC 9-21.5
345 IAC 9-12-2	345 IAC 10-2.1-1
345 IAC 9-20-2	

SECTION 1. 345 IAC 9-2.1-1 IS AMENDED TO READ AS FOLLOWS:

345 IAC 9-2.1-1 Incorporation by reference

Authority: IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7

Affected: IC 4-21.5-3; IC 15-2.1-2; IC 15-2.1-19

Sec. 1. (a) The board adopts as its rule and incorporates by reference the following federal regulations in effect on January 1, 2004 and as amended in 69 FR 1862 through 69 FR 1891, ~~January 12, 2004;~~ **2005:**

- (1) 9 CFR 301, except the definitions in IC 15-2.1 and 345 IAC 9-1-3 shall control over conflicting definitions in 9 CFR.
- (2) 9 CFR 303 through 9 CFR 311, except the following are not incorporated:
 - (A) 9 CFR 303.1(c), 9 CFR 303.1(g), and 9 CFR 303.2.
 - (B) 9 CFR 306.1.
 - (C) 9 CFR 307.4, 9 CFR 307.5, and 9 CFR 307.6.
 - (D) 9 CFR 308.
- (3) 9 CFR 313 through 9 CFR 320, except 9 CFR 317.4 and 9 CFR 317.5.
- (4) 9 CFR 325.
- (5) 9 CFR 416 through 9 CFR 441.
- (6) 9 CFR 500, except the following:
 - (A) References to the Uniform Rules of Practice, 7 CFR Subtitle A, Part 1, Subpart H, shall mean IC 15-2.1-19 and IC 4-21.5-3.
 - (B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in IC 15-2.1-2.

(b) When interpreting this article, including all matters incorporated by reference, the following shall apply:

- (1) A reference to any subpart of 9 CFR 302 refers to the corresponding section of 345 IAC 9-2.
- (2) A reference to:
 - (A) 9 CFR 307.4 shall refer to 345 IAC 9-7-4;
 - (B) 9 CFR 307.5 shall refer to 345 IAC 9-7-6; and
 - (C) 9 CFR 307.6 shall refer to 345 IAC 9-7-6.
- (3) A reference to any subpart of 9 CFR 312 refers to the corresponding section of 345 IAC 9-12.
- (4) A reference to:
 - (A) 9 CFR 316.16 shall refer to 345 IAC 9-16-16;
 - (B) 9 CFR 317.4 shall refer to 345 IAC 9-17-4;
 - (C) 9 CFR 317.5 shall refer to 345 IAC 9-17-5; and
 - (D) 9 CFR 317.16 shall refer to 345 IAC 9-17-16.
- (5) A reference to:

- (A) 9 CFR 321.1 shall refer to 345 IAC 9-20; and
- (B) 9 CFR 321.2 shall refer to 345 IAC 9-20.

(6) A reference to any subpart of 9 CFR 329 shall refer to the corresponding section in 345 IAC 9-22.

(c) Where the provisions of this article conflict with matters incorporated by reference, the express provisions of this article shall control. (*Indiana State Board of Animal Health; 345 IAC 9-2.1-1; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1301; filed Sep 10, 1999, 9:14 a.m.: 23 IR 14; filed Oct 30, 2000, 2:06 p.m.: 24 IR 678; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Dec 19, 2002, 12:43 p.m.: 26 IR 1540; filed Jul 14, 2004, 9:25 a.m.: 27 IR 3982*)

SECTION 2. 345 IAC 9-12-2 IS AMENDED TO READ AS FOLLOWS:

345 IAC 9-12-2 Inspected and passed products; official marks

Authority: IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 15-2.1-24

Sec. 2. (a) The official inspection legend required by 9 CFR 316 to be applied to inspected and passed carcasses and parts of carcasses of cattle, sheep, swine, ~~and~~ goats, ~~and~~ rabbits, meat food products in animal casings, and other products as approved by the board, shall be in the form of an outline of the state of Indiana with the words "IND. INSP. & PASSED BOAH EST. 000" inside the outline, as specified and depicted in this subsection, substituting the assigned establishment number where the number "000" is used. But, legend markers that were in use ~~prior to before~~ July 1, 1996, may contain "St. B. of H" followed by "Est. 000", and the establishment number may be placed elsewhere on a label as allowed under 9 CFR 317.2. **The official inspection legend described in this subsection is depicted in subdivision (2).** Each mark must be ~~the~~ a size specified in ~~this subsection~~, **the following subdivisions** but may vary by one-sixteenth ($1/16$) of an inch, plus or minus, in either direction: ~~The following marks must be used:~~

- (1) For applications to:
 - (A) sheep, calf, ~~and~~ goat, ~~and~~ rabbit carcasses;
 - (B) the loins and ribs of pork;
 - (C) beef tails; and
 - (D) all varieties of sausage and meat food products in animal casings;

a mark that is **either** one and one-eighth ($1\frac{1}{8}$) inches tall by five-eighths ($\frac{5}{8}$) inches wide **or** the following is a picture of ~~the mark~~: **size indicated in subdivision (2).**



- (2) For applications to:

- (A) cattle, swine, equine, cervid, and carcasses, primal parts, and cuts therefrom;
- (B) beef livers;
- (C) beef tongues;
- (D) beef hearts;
- (E) smoked meats not in casings; and ~~for applications to~~
- (F) burlap, muslin, cheesecloth, heavy paper, or other acceptable material that encloses carcasses or parts of carcasses;

a mark that is one and fifteen-sixteenths ($1\frac{15}{16}$) inches tall by one and one-eighth ($1\frac{1}{8}$) inches wide. The following is a picture of the mark:



(b) The official inspection legend required by 9 CFR to be shown on all labels for inspected and passed products of livestock shall be in the form described and illustrated in subsection (a), except that it need not be of the size specified or illustrated, provided that it is proportionate to the size of the label, and a sufficient size and of such color as to be conspicuously displayed and readily legible and the same proportions of letter size and boldness are maintained as illustrated. This official mark shall be applied by mechanical means and shall not be applied by a hand stamp.

(c) The official inspection legend described in subsection (a) may also be used for purposes of 9 CFR 316 on shipping containers, band labels, artificial casings, and other articles with the approval of the secretary.

(d) Any brand, stamp, label, or other device approved by the board and bearing any official mark prescribed in this section shall be an official device for purposes of the act. (*Indiana State Board of Animal Health; Reg HMP-1R, CH A, PT 12, Sec 12.2; filed Feb 11, 1972, 2:00 p.m.: Rules and Regs. 1973, p. 276; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1305; errata filed Mar 9, 1998, 9:30 a.m.: 21 IR 2392; filed Oct 30, 2000, 2:06 p.m.: 24 IR 682; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895*)
 NOTE: Transferred from the Indiana State Department of Health (410 IAC 9-12-2) to the Indiana State Board of Animal Health (345 IAC 9-12-2) by P.L.138-1996, SECTION 76, effective July 1, 1996.

SECTION 3. 345 IAC 9-20-2 IS AMENDED TO READ AS FOLLOWS:

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345 IAC 9-20-2 Federal-state program

Authority: IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 15-2.1-24

Sec. 2. (a) At the discretion of the state veterinarian, state employees may be assigned to plants granted federal inspection under the "Talmadge-Aiken Act" (7 U.S.C. 450) and receive any funds available from the United States government for the carrying out such required functions at plants granted federal meat inspection. The cooperative program under this section is called a federal-state program.

(b) The state veterinarian may authorize board employees to become licensed or otherwise approved by the United States Department of Agriculture to conduct inspection activities under federal meat inspection regulations and federal programs, including the voluntary rabbit inspection program under 9 CFR Part 354. (*Indiana State Board of Animal Health; Reg HMP-1R, CH A, PT 21, Sec 21.2; filed Feb 11, 1972, 2:00 p.m.: Rules and Regs. 1973, p. 364; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1313; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895*) NOTE: Parts 22, 23 and 24 reserved by agency. NOTE: Transferred from the Indiana State Department of Health (410 IAC 9-20-2) to the Indiana State Board of Animal Health (345 IAC 9-20-2) by P.L.138-1996, SECTION 76, effective July 1, 1996.

SECTION 4. 345 IAC 9-21.5 IS ADDED TO READ AS FOLLOWS:

Rule 21.5. Inspection of Rabbits and Rabbit Products

345 IAC 9-21.5-1 Voluntary rabbit inspection

Authority: IC 15-2.1-3-19; IC 15-2.1-3-18; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 15-2.1-3-13; IC 15-2.1-24

Sec. 1. (a) The state veterinarian may do the following:
(1) Establish a voluntary inspection program for the slaughter of domesticated rabbits and the processing of rabbit products under 9 CFR Part 354.
(2) Refuse to provide inspection under this rule if doing so would likely result in personnel or other resource limitations that would inhibit providing mandatory inspection services or carrying out other provisions of the Act governing livestock or poultry.

(*Indiana State Board of Animal Health; 345 IAC 9-21.5-1*)

345 IAC 9-21.5-2 General provisions and incorporation by reference

Authority: IC 15-2.1-3-19; IC 15-2.1-3-18; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 15-2.1-3-13; IC 15-2.1-24

Sec. 2. (a) The board adopts as its rule and incorporates by reference the regulations in 9 CFR Part 354 in effect on January 1, 2005.

(b) The following revisions, exclusions, and limitations apply to the regulations adopted by reference in subsection (a):

(1) The term "department" shall mean and refer to the board.

(2) 9 CFR 354.45(b) is not incorporated by reference. The state veterinarian shall follow the notice provisions in IC 15-2.1-19 when suspending or denying services under this rule.

(3) 9 CFR 354.100 through 9 CFR 354.110 are not incorporated. The state veterinarian shall follow the procedures in IC 15-2.1-24 and other state laws when assessing and collecting fees and charges.

(4) The marks, devices, and certificates in 345 IAC 9-12 shall be the official marks, devices, and certificates for the purposes of the inspection program authorized in section 1 of this rule. The state veterinarian may authorize, after consultation with the United States Department of Agriculture, use of the marks described in 9 CFR 354.63 and 9 CFR 354.65.

(5) 9 CFR Part 416 and 9 CFR Part 417 apply to establishments participating in the inspection program established under section 1 of this rule.

(*Indiana State Board of Animal Health; 345 IAC 9-21.5-2*)

345 IAC 9-21.5-3 Fees

Authority: IC 15-2.1-3-18; IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 15-2.1-3-13; IC 15-2.1-24-14; IC 15-2.1-24-17

Sec. 3. The state veterinarian shall charge an hourly fee for inspection service provided under this rule. The fee may not be more than the hourly fee charged for comparable voluntary inspection services by the United States Department of Agriculture. The state veterinarian shall establish overtime fees for services that qualify as overtime under IC 15-2.1-24-14. (*Indiana State Board of Animal Health; 345 IAC 9-21.5-3*)

SECTION 5. 345 IAC 10-2.1-1, AS AMENDED AT 28 IR 1474, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

345 IAC 10-2.1-1 Incorporation by reference; poultry products inspection

Authority: IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 4-21.5-3; IC 15-2.1-2; IC 15-2.1-19; IC 15-2.1-24-14

Sec. 1. (a) The board adopts as its rule and incorporates by reference the following federal regulations in effect on January 1, 2004; 2005, relating to poultry products inspection:

(1) 9 CFR Part 362 with the following amendments and additions:

(A) 9 CFR 362.4(a)(2), 9 CFR 362.4(b)(2), 9 CFR 362.4(c), 9 CFR 362.4(d), and 9 CFR 362.5 are not incorporated.

(B) Fees for voluntary inspection service shall be charged in accordance with IC 15-2.1-24-14(c).

(C) The state veterinarian may refuse to provide or withdraw voluntary inspection service for administrative reasons, including nonavailability of personnel and failure to pay for service.

(2) 9 CFR 381.1, except the definitions in IC 15-2.1 and 345 IAC 10-1-1 shall control over conflicting definitions in 9 CFR.

(3) 9 CFR 381.10 with the following amendments and additions:

(A) 9 CFR 381.10(d)(2)(i) shall be amended by deleting the word “unless” and the remaining part of the sentence that follows that word.

(B) A person operating a facility engaged in exempt operations described in 9 CFR 381.10(a)(4) through 9 CFR 381.10(a)(7) and 9 CFR 381.10(b) through 9 CFR 381.10(c) shall comply with the registration and record keeping requirements in 9 CFR 381.175 through 9 CFR 381.182.

(4) 9 CFR 381.11 through 9 CFR 381.95, except the following are not incorporated:

(A) 9 CFR 381.36.

(B) 9 CFR 381.37.

(C) 9 CFR 381.38.

(D) 9 CFR 381.39.

~~(E) 9 CFR 381.45 through 9 CFR 381.61.~~

(5) 9 CFR 381.115 through 9 CFR 381.182, except the following are not incorporated:

(A) 9 CFR 381.132.

(B) 9 CFR 381.133.

(6) 9 CFR 381.189 through 9 CFR 381.194.

(7) 9 CFR 381.300 through 9 CFR 381.500.

(8) 9 CFR 416 through 9 CFR 441.

(9) 9 CFR 500, except the following:

(A) References to Uniform Rules of Practice, 7 CFR Subtitle A, Part 1, Subpart H shall mean IC 15-2.1-19 and IC 4-21.5-3.

(B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in IC 15-2.1-2.

(b) When interpreting this article, including all matters incorporated by reference, the following shall apply:

(1) References to 9 CFR 381.3 through 9 CFR 381.7 refer to the corresponding section in 345 IAC 10-2.

(2) References to:

(A) 9 CFR 381.36 refer to 345 IAC 10-7-1;

(B) 9 CFR 381.37 refer to 345 IAC 10-7-2 and 345 IAC 10-7-3; and

(C) 9 CFR 381.38 and 9 CFR 381.39 refer to 345 IAC 10-7-4.

(3) References to:

(A) 9 CFR 381.96 refer to 345 IAC 10-13-1;

(B) 9 CFR 381.98 refer to 345 IAC 10-13-2;

(C) 9 CFR 381.99 refer to 345 IAC 10-13-3;

(D) 9 CFR 381.100 refer to 345 IAC 10-13-4;

(E) 9 CFR 381.101 refer to 345 IAC 10-13-5;

(F) 9 CFR 381.103 refer to 345 IAC 10-13-6;

(G) 9 CFR 381.110 refer to 345 IAC 10-13-7; and

(H) 9 CFR 381.111 refer to 345 IAC 10-13-8.

(4) References to 9 CFR 381.131, 9 CFR 381.132, and 9 CFR 381.133 refer to 345 IAC 10-14-18 and 345 IAC 10-14-20.

(5) References to:

(A) 9 CFR 381.185 refer to 345 IAC 10-18-1; and

(B) 9 CFR 381.186 refer to 345 IAC 10-18-2.

(6) References to 9 CFR 381.210 through 9 CFR 381.218 refer to the corresponding section of 345 IAC 10-20.

(c) Where the provisions of this article conflict with matters incorporated by reference, the express provisions of this article shall control. (*Indiana State Board of Animal Health; 345 IAC 10-2.1-1; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1319; errata filed Mar 9, 1998, 9:30 a.m.: 21 IR 2393; filed Sep 10, 1999, 9:14 a.m.: 23 IR 16; filed Oct 30, 2000, 2:06 p.m.: 24 IR 685; errata filed Apr 9, 2001, 12:52 p.m.: 24 IR 2470; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Dec 19, 2002, 12:43 p.m.: 26 IR 1541; filed Dec 16, 2004, 1:30 p.m.: 28 IR 1474*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 13, 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 amendments to rules that update matters incorporated by reference governing the slaughter and processing of livestock and poultry and to authorize a voluntary inspection program for the slaughter of domesticated rabbits and the processing of rabbit products for human consumption.

The Board of Animal Health is required by state and federal law to maintain meat and poultry inspection rules that are at least equal to the standards in the federal Meat Inspection Act (21 U.S.C. 601 et. seq.) and the federal Poultry Products Inspection Act (21 U.S.C. 451 et. seq.). IC 15-2.1-24 and 21 U.S.C. 661(a)(1). The proposed rule changes are required to maintain equal to status. The rabbit inspection program is a voluntary program that will use federal standards and is being implemented at the request of small businesses.

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

Proposed Rules

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

Proposed Rule LSA Document #05-90

DIGEST

Amends 345 IAC 1-5-3 to incorporate sections of the 2005 compendium on animal rabies control. Makes other changes in the law of rabies control. Effective 30 days after filing with the Secretary of State.

345 IAC 1-5-3

SECTION 1. 345 IAC 1-5-3 IS AMENDED TO READ AS FOLLOWS:

345 IAC 1-5-3 Animal rabies control program

Authority: IC 15-2.1-3-19

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

Sec. 3. (a) ~~The state veterinarian shall establish~~ a statewide animal rabies control program. ~~is established. The state veterinarian shall implement the rabies control program shall include~~ the following:

- (1) **The rabies vaccination requirements in this rule.**
 - (2) **The rabies vaccine distribution requirements in 345 IAC 1-1.1.**
 - (3) **The rabies control requirements for the following:**
 - (A) **Moving animals into the state in 345 IAC 1-3.**
 - (B) **Exhibition of animals in 345 IAC 7-5.**
 - (4) **Other requirements in IC 15-2.1-6 and this rule.**
 - (5) **Other programs initiated by the state veterinarian for the purposes of:**
 - (A) **preventing;**
 - (B) **detecting;**
 - (C) **controlling; and**
 - (D) **eradicating;**
- rabies.**

(b) The following components of the Compendium of Animal Rabies Control, ~~2001~~, 2005, National Association of State Public Health Veterinarians, Inc., ~~is hereby~~ are incorporated by reference as ~~a rule~~ rules of the Indiana state board of animal health and shall be used in the implementation of the program established under subsection (a): ~~provided, however,~~ the following shall apply:

- (1) References to ~~preexposure or postexposure treatment of humans are~~ Part I(B)(1) “**Prevention and control methods in domestic and confined animals**” and Part II “**Recommendations from for Parenteral Rabies Vaccination Procedures**” when interpreting and implementing the National Association of State Public Health Veterinarians animal vaccination requirements in this rule.
- (2) Part I(B)(5) and are not requirements of the Indiana state board of animal health.

~~(2) Part II(B)(2) concerning stray dogs, cats, Part I(B)(6) “Postexposure management” when interpreting and ferrets is a recommendation but not a requirement of the Indiana state board of implementing IC 15-2.1-6 governing animal health: bites.~~

~~(3) Part II(B)(4) is not incorporated.~~

~~(4) Part II(C) is not a requirement of the Indiana state board of animal health:~~

(c) Where the matters incorporated by reference in this section conflict with the provisions of IC 15-2.1-6 and this rule, the express provisions of the statute and this rule shall control. (*Indiana State Board of Animal Health; 345 IAC 1-5-3; filed Jun 14, 1995, 3:30 p.m.: 18 IR 2760; filed Dec 10, 1997, 11:00 a.m.: 21 IR 1327; filed Jun 17, 1998, 9:03 a.m.: 21 IR 4205; filed Mar 23, 2000, 4:24 p.m.: 23 IR 1913; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Oct 1, 2001, 11:10 a.m.: 25 IR 375*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 13, 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 amendments to rules that incorporate sections of the 2005 compendium on animal rabies control and that make other changes in the law of rabies control.

The proposed rule changes do not impose requirements or costs on small businesses.

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 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule LSA Document #05-76

DIGEST

Amends 405 IAC 5-24-4 to revise the Medicaid reimbursement methodology for payment of legend drugs. Amends 405 IAC 5-24-5 to amend the Medicaid reimbursement methodology for insulin. Makes other nonsubstantive changes. Effective 30 days after filing with the Secretary of State.

405 IAC 5-24-4

405 IAC 5-24-5

SECTION 1. 405 IAC 5-24-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-4 Reimbursement for legend drugs

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 4. (a) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

- (1) The estimated acquisition cost (EAC) of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (3) The state maximum allowable cost (MAC) of the drug as determined by the office as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (4) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(b) For purposes of this section **and section 5(c) of this rule**, the Indiana Medicaid EAC is:

- (1) for brand name drugs, ~~eighty-six and one-half eighty-one percent (86.5%); (81%);~~ or
- (2) for generic drugs, eighty percent (80%);

of the average wholesale price for each National Drug Code according to the Medicaid contractor's drug database file.

(c) The state MAC is equal to the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost will be determined using pharmacy invoices and other information that the office determines is necessary. The purpose of the multiplier is to ensure that the applicable state MAC rate is sufficient to allow reasonable access by providers to the drug at or below the established state MAC rate.

(d) OMPP will review state MAC rates on an ongoing basis and adjust the rates as necessary to reflect prevailing market conditions and ensure reasonable access by providers to drugs at or below the applicable state MAC rate.

(e) Pharmacies and providers that are enrolled in ~~the Indiana Health Coverage Programs (HCP) Medicaid~~ are required, as a condition of participation, to make available and submit to the ~~OMPP office~~ or its designee acquisition cost information, product availability information, or other information deemed necessary by the ~~OMPP office~~ for the efficient operation of the pharmacy benefit ~~within the HCP~~ in the format requested by the ~~OMPP office~~ or its designee. Providers will not be reimbursed for this information and will submit information to the ~~OMPP office~~ or its designee within thirty (30) days following a request for such information unless the ~~OMPP office~~ or its

designee grants an extension upon written request of the pharmacy or provider. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-4; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.]; filed Apr 30, 2002, 10:59 a.m.: 25 IR 2727; errata filed Aug 22, 2002, 3:11 p.m.: 26 IR 35)*

SECTION 2. 405 IAC 5-24-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-5 Reimbursement for nonlegend drugs

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 5. (a) The office shall reimburse pharmacy providers for the cost and dispensation of nonlegend (over-the-counter) drugs included on the Medicaid nonlegend drug formulary as provided for in this section.

(b) The office shall reimburse for nonlegend drugs, **except insulin**, at the lowest of the following rates:

- (1) One hundred fifty percent (150%) of the state maximum allowable cost, as set out in the Medicaid Pharmacy Provider Manual and amendments thereto, for the drug in the quantity dispensed, as of the date dispensed.
- (2) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(c) The office shall reimburse for insulin at the estimated acquisition cost (EAC) of the drug, plus any applicable Medicaid dispensing fee. For purposes of this subsection, EAC is defined in section 4(b) of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-5; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; filed Sep 27, 1999, 8:55 a.m.: 23 IR 319; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 22, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed rule amendments concerning Medicaid reimbursement for pharmacy services.

In accordance with public notice requirements established at 42 CFR 447.205 and Ind. Code 4-22-2-24(d), the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP) gives notice of proposed changes

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to methods and standards governing reimbursement policy for pharmacy services rendered in the Indiana Medicaid program.

In response to rapidly escalating expenditures for Medicaid-covered drugs, and in order to stay within available appropriations while maintaining beneficiary access to services, the OMPP proposes changes to the following reimbursement elements:

- For brand name legend drugs, increase from 13½% to 19%, the percentage subtracted from published average wholesale price (AWP).
- For over-the-counter (OTC) insulin products AWP minus 19% for brand name insulin and AWP minus 20% for generic insulin.

OMPP considered information from the federal government, other state Medicaid agencies, and other payors in general in arriving at a determination to proceed with the higher percentage off of AWP. It should be noted that Indiana's Medicaid dispensing fee is high compared with those of surrounding states, but is not being changed by this rule.

Regarding the change to insulin pricing methodology, since both legend and OTC insulin products require the same dispensing function, it makes sense to bring consistency to reimbursement of the products by treating the OTC products in the same manner as the legend products. Information that was considered by OMPP is available for review at the Office of Medicaid Policy and Planning at the address set forth below.

The policies implemented by these proposals are expected to result in Medicaid program savings (both state and federal dollars) of approximately \$15.1 million in SFY 2006 and approximately \$20.2 million in SFY 2007. OMPP anticipates that these changes will be implemented on October 1, 2005, through adoption of an emergency rule.

All parties interested in the rule are invited to attend the hearing and offer public comments. In lieu of attendance at the hearing, written comments may be sent to: Marc Shirley, 405 W. Washington Street, Room W382, P.O. Box 7083, Indianapolis, IN 46207-7083. Correspondence should be identified by reference to LSA Document #05-76. All written comments concerning the rule received by OMPP will be available for public inspection by contacting: Office of Medicaid Policy and Planning, 402 W. Washington Street Room W382, Indianapolis, IN 46204

Copies of the proposed rule and this notice are now available and may be inspected by contacting the Director of the local county Division of Family Resources office, except in Marion County, where public inspection may be made at 402 West Washington Street, Room W382, Indianapolis, Indiana. Copies of these rules are now on file at the Indiana Government Center South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

E. Mitchell Roob Jr.
Secretary
Office of the Secretary of Family and Social Services

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #05-113

DIGEST

Adds 405 IAC 1-12-27 to limit annual increases in base Medicaid rates for nonstate-owned intermediate care facilities for the mentally retarded and community residential facilities for the developmentally disabled. Effective 30 days after filing with the Secretary of State.

405 IAC 1-12-27

SECTION 1. 405 IAC 1-12-27 IS ADDED TO READ AS FOLLOWS:

405 IAC 1-12-27 Limitation to Medicaid rate increases for nonstate-owned intermediate care facilities for the mentally retarded and community residential facilities for the developmentally disabled

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 27. In addition to all other provisions of this rule, for the period October 1, 2005, through June 30, 2007, all annual and base Medicaid rates established under section 6 of this rule shall be limited to an annual increase of one hundred three percent (103%) of the provider's Medicaid rate previously in effect. (Office of the Secretary of Family and Social Services; 405 IAC 1-12-27)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 29, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 20, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed rule amendments concerning Medicaid reimbursement methodology for nonstate-owned intermediate care facilities for the mentally retarded and community residential facilities for the developmentally disabled.

In accordance with public notice requirements established at 42 CFR 447.205, Section 1902(a)(13)(A) of the Social Security Act, and IC 4-22-2-24(d), the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP) publishes this notice of proposed changes to methods and standards governing reimbursement policy for nonstate-owned intermediate care facilities for the mentally retarded and community residential facilities for the developmentally disabled.

OMPP proposes to modify the reimbursement methodology

by limiting annual and Medicaid base rates to an annual increase of 103% of the provider's Medicaid rate previously in effect for the period beginning October 1, 2005, and ending June 30, 2007. These changes are necessary to curb the state's high growth rate of Medicaid spending and to stay within available appropriations. An emergency rule enacting this proposed rule will be adopted and take effect October 1, 2005.

Rates were calculated by projecting future annual increases based on historical spending. Because historical annual increases have been greater than 3%, Medicaid selected the 103% increase limit on spending to implement a savings to the program. It is expected that the total state and federal savings for this rule are \$1.6 million in state fiscal year 2006 and \$3.8 million in state fiscal year 2007. The expected state only savings are \$0.6 million in state fiscal year 2006 and \$1.4 million for state fiscal year 2007.

All parties interested in the rule are invited to attend the hearing and offer public comments. In lieu of attendance at the hearing, written comments may be sent to: IFSSA, Attention: Karen Filler, 402 W. Washington Street, Room W382, P.O. Box 7083, Indianapolis, IN 46207-7083. Correspondence should be identified in the following manner: "COMMENT RE: LSA Document #05-113 PROPOSED CHANGES TO ICF/MR REIMBURSEMENT SYSTEM. All written comments concerning the rule received by OMPP will be available for public inspection at the Office of Medicaid Policy and Planning, 402 West Washington Street Room W382, Indianapolis, IN 46204.

Copies of the proposed rule and this notice are now available and may be inspected by contacting the Director of the local county Division of Family Resources office, except in Marion County, where public inspection may be made at 402 West Washington Street, Room W382, Indianapolis, Indiana. Copies of the proposed rates are available on the internet at www.mslcindy. Interested parties without internet access should contact Myers and Stauffer, LLC at (800) 877-6927 to obtain copies of proposed rates.

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 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

Proposed Rule
LSA Document #05-114

DIGEST

Adds 405 IAC 1-14.5-27 to restrict Medicaid rate increases

for HIV nursing facilities. Adds 405 IAC 1-14.6-23 to restrict Medicaid rate increases for nursing facilities except for changes in case mix. Effective 30 days after filing with the Secretary of State.

405 IAC 1-14.5-27

405 IAC 1-14.6-23

SECTION 1. 405 IAC 1-14.5-27 IS ADDED TO READ AS FOLLOWS:

405 IAC 1-14.5-27 Limitation to Medicaid rate increases for HIV nursing facilities

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 27. Notwithstanding all other provisions of this rule, for the period October 1, 2005, through June 30, 2007, HIV nursing facility rates in effect on September 30, 2005, shall not be increased for any reason. (Office of the Secretary of Family and Social Services; 405 IAC 1-14.5-27)

SECTION 2. 405 IAC 1-14.6-23 IS ADDED TO READ AS FOLLOWS:

405 IAC 1-14.6-23 Limitation to Medicaid rate increases for nursing facilities

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 23. Notwithstanding all other provisions of this rule, for the period October 1, 2005, through June 30, 2007, nursing facility rates in effect on September 30, 2005, shall not be increased for any reason other than changes in the provider's case mix index for Medicaid residents as provided for at section 6(d) of this rule. (Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-23)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 29, 2005 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 20, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed rule amendments concerning Medicaid reimbursement methodology for nursing facilities.

In accordance with public notice requirements established at 42 CFR 447.205, Section 1902(a)(13)(A) of the Social Security Act, and IC 4-22-2-24(d), the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP) publishes this notice of proposed changes to methods and standards governing reimbursement policy for nursing facilities.

OMPP proposes to modify the reimbursement methodology to freeze rates for nursing facilities, including HIV nursing

Proposed Rules

facilities. The rate freeze will be in effect between October 1, 2005, and June 30, 2007. These changes are necessary to curb the state's high growth rate of Medicaid spending and to stay within available appropriations. An emergency rule enacting this proposed rule will be adopted and take effect on October 1, 2005.

Nursing facilities currently receive an annual review of daily rates paid for by the Medicaid program. Historically, this review has increased daily rates, on average, by about five percent. The estimated total reduction in state and federal expenditures for this rule is \$18 million in state fiscal year 2006 and \$50.5 million in state fiscal year 2007. The expected reduction in state expenditures is \$6.7 million for state fiscal year 2006 and \$18.8 million for state fiscal year 2007.

All parties interested in the rule are invited to attend the hearing and offer public comments. In lieu of attendance at the hearing, written comments may be sent to: IFSSA, Attention: Karen Filler, 402 W. Washington Street, Room W382, P.O. Box 7083, Indianapolis, IN 46207-7083. Correspondence should be identified in the following manner: "COMMENT RE: LSA Document #05-114 PROPOSED CHANGES TO NURSING FACILITY REIMBURSEMENT SYSTEM. All written comments concerning the rule received by OMPP will be available for public inspection at the Office of Medicaid Policy and Planning, 402 West Washington Street Room W382, Indianapolis, IN 46204

Copies of the proposed rule and this notice are now available and may be inspected by contacting the Director of the local county Division of Family Resources office, except in Marion County, where public inspection may be made at 402 West Washington Street, Room W382, Indianapolis, Indiana. Copies of the proposed rates are available on the internet at www.mslcindy. Interested parties without internet access should contact Myers and Stauffer, LLC at (800) 877-6927 to obtain copies of proposed rates.

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 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 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

Proposed Rule
LSA Document #05-155

DIGEST

Amends 407 IAC 2-2-3 to eliminate the two-year time limit

on the collection of past due premiums. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Indiana Code 4-22-2.1-5 requires an agency to submit to the Legislative Services Agency and the Indiana Economic Development Corporation a statement of economic impact of any proposed rule with an economic impact on small businesses. The IEDC is required to review the rule and submit written comments to the agency no later than seven days before the public hearing.

The Children's Health Insurance Program has reviewed the proposed rule to determine the economic impact of the rule on small businesses. The Children's Health Insurance Program has determined, based on the information available at the time of rule promulgation, that the proposed rule does not have an economic impact on small businesses. Therefore, the agency did not submit a statement of economic impact to the Legislative Services Agency and the Indiana Economic Development Corporation.

407 IAC 2-2-3

SECTION 1. 407 IAC 2-2-3 IS AMENDED TO READ AS FOLLOWS:

407 IAC 2-2-3 Agreement to pay cost sharing

Authority: IC 12-17.6-2-11
Affected: IC 12-17.6-3-2

Sec. 3. (a) As a condition of eligibility for CHIP, at least one (1) of the following individuals must agree to pay the cost-sharing required by the office under this title:

- (1) The parent, guardian, or caretaker of an applicant.
- (2) The applicant, if the applicant is either:
 - (A) eighteen (18) years of age and not living with a parent, guardian, or caretaker; or
 - (B) married and living with his or her spouse.

(b) If the individual who agrees to pay cost-sharing for an applicant under this section has failed to pay the required premiums due for any member at any time, ~~within the two (2) years preceding the date of application;~~ the individual must pay all premiums due ~~within the past two (2) years~~ before an applicant for whom that individual has cost-sharing responsibility may enroll in the program. An applicant living with an individual who has not failed to pay any past due premiums may be enrolled even though his or her prior parent, guardian, or caretaker failed to pay. (*Office of the Children's Health Insurance Program; 407 IAC 2-2-3; filed May 3, 2000, 2:02 p.m.: 23 IR 2232; errata filed Aug 2, 2000, 3:21 p.m.: 23 IR 3091*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on Septem-

ber 27, 2005 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Office of the Children's Health Insurance Program will hold a public hearing on proposed amendments concerning the elimination of time limitations of collections of past due premiums.

Disenrollment from Hoosier Healthwise Package C occurs if an individual responsible for paying a premium incurs a delinquent premium amount greater than two month's worth of premium payments. During this two month time frame, for which no premium payment is received, enrollees continue to be covered by the program and expenses are incurred by the State. Currently, payment of delinquent premiums less than two years old is required in order for an individual to reenroll their children in Hoosier Healthwise Package C. Due to the value of the coverage provided, the state seeks to require payment of overdue premiums, regardless of the date the debt was incurred, in the exercise of prudent fiscal oversight.

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.

Ann Alley
Director
Office of the Children's Health Insurance Program

TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

Proposed Rule
LSA Document #05-156

DIGEST

Amends 407 IAC 2-3-1 to increase the monthly premium amount an individual's family must pay to receive benefits under the program. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Indiana Code 4-22-2.1-5 requires an agency to submit to the Legislative Services Agency and the Indiana Economic Development Corporation a statement of economic impact of any proposed rule with an economic impact on Small Businesses. The IEDC is required to review the rule and submit written comments to the agency no later than seven days before the public hearing.

The Children's Health Insurance Program has reviewed the proposed rule to determine the economic impact of the rule on small businesses. The Children's Health Insurance Program has determined, based on the information available at the time of rule promulgation, that the proposed rule does not have an

economic impact on small businesses. Therefore, the agency did not submit a statement of economic impact to the Legislative Services Agency and the Indiana Economic Development Corporation.

407 IAC 2-3-1

SECTION 1 407 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

407 IAC 2-3-1 Responsibility for premium payment

Authority: IC 12-17.6-2-11
Affected: IC 12-17.6-3-2; IC 12-17.6-4-3

Sec. 1. (a) In order for an individual to receive benefits under CHIP, the individual's family must pay monthly premiums as described below:

Income (as a percentage of federal poverty level)	One child enrolled	Two or more children enrolled
over 150% to 175%	\$11.00 \$22	\$16.50 \$33
over 175% to 200%	\$16.50 \$33	\$24.75 \$50

For purposes of this section, the family's income includes the income considered in 407 IAC 2-2-2.

(b) Premiums must be paid monthly. Partial month payments will not be accepted. (Office of the Children's Health Insurance Program; 407 IAC 2-3-1; filed May 3, 2000, 2:02 p.m.: 23 IR 2233; filed Aug 7, 2002, 9:41 a.m.: 25 IR 4103; errata filed Sep 26, 2002, 11:42 a.m.: 26 IR 383)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 27, 2005 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Office of the Children's Health Insurance Program will hold a public hearing on proposed amendments concerning premium increases.

In the interest of fiscal responsibility, the office has taken steps through this rule to offset growing medical costs associated with the state Children's Health Insurance Program. While the federal poverty level has been adjusted upward annually, this is the first occasion where the State has sought to make changes to premiums since the inception of premiums for the program in 2000.

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.

Ann Alley
Director
Office of the Children's Health Insurance Program

Proposed Rules

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 1-4-2

Proposed Rule
LSA Document #05-101

SECTION 1. 876 IAC 1-4-2 IS AMENDED TO READ AS FOLLOWS:

DIGEST

Amends 876 IAC 1-4-2 to add septic/holding tank and septic mound and geothermal and heat pump to the Residential Real Estate Sales Disclosure form and to require signatures and property address information on both pages of the form. Effective January 1, 2006.

876 IAC 1-4-2 Residential sales disclosure; form

Authority: IC 32-21-5-7

Affected: IC 32-21-5

Sec. 2. The following is the seller's residential real estate sales disclosure form:

SELLER'S RESIDENTIAL REAL ESTATE SALES DISCLOSURE
State Form 46234 (R/1293)

Date (month, day, year)



Seller states that the information contained in this Disclosure is correct to the best of Seller's CURRENT ACTUAL KNOWLEDGE as of the above date. The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property. The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the owner. Indiana law (IC 32-21-5) generally requires sellers of 1-4 unit residential property to complete this form regarding the known physical condition of the property. An owner must complete and sign the disclosure form and submit the form to a prospective buyer before an offer is accepted for the sale of the real estate.

Property address (number and street, city, state, ZIP code)

1. The following are in the conditions indicated:

A. APPLIANCES	None/Not Included	Defective	Not Defective	Do Not Know	C. WATER & SEWER SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know	
Built-in Vacuum System					Cistern					
Clothes Dryer					Septic Field/Bed					
Clothes Washer					Hot Tub					
Dishwasher					Plumbing					
Disposal					Aerator System					
Freezer					Sump Pump					
Gas Grill					Irrigation Systems					
Hood					Water Heater/Electric					
Microwave Oven					Water Heater/Gas					
Oven					Water Heater/Solar					
Range					Water Purifier					
Refrigerator					Water Softener					
Room Air Conditioner(s)					Well					
					Septic and Holding Tank/Septic Mound					
Trash Compactor					Geothermal and Heat Pump					
TV Antenna/Dish					Other Sewer System (Explain)					
Other:								Yes	No	Do Not Know
					Are the improvements connected to a public water system?					
					Are the improvements connected to a public sewer system?					
					Are there any additions that may require improvements to the sewage disposal system?					
					If yes, have the improvements been completed on the sewage disposal system?					
					Are the improvements connected to a private/community water system?					
					Are the improvements connected to a private/community sewer system?					

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B. ELECTRICAL SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know	D. HEATING & COOLING SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Air Purifier					Attic Fan				
Burglar Alarm					Central Air Conditioning				
Ceiling Fan(s)					Hot Water Heat				
Garage Door Opener Controls					Furnace Heat/Gas				
Inside Telephone Wiring and Blocks/Jacks					Furnace Heat/Electric				
Intercom					Solar House-Heating				
Light Fixtures					Woodburning Stove				
Sauna					Fireplace				
Smoke/Fire Alarm(s)					Fireplace Insert				
Switches and Outlets					Air Cleaner				
Vent Fan(s)					Humidifier				
60/100/200 Amp Service (Circle one)					Propane Tank				
					Other Heating Source				

NOTE: "Defect" means a condition that would have a significant adverse effect on the value of the property that would significantly impair the health or safety of future occupants of the property or that, if not repaired, removed, or replaced, would significantly shorten or adversely affect the expected normal life of the premises.

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below:

Signature of Seller:	Date:	Signature of Buyer:	Date:
Signature of Seller:	Date:	Signature of Buyer:	Date:

The Seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.

Signature of Seller:	Date:	Signature of Buyer:	Date:
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Property Address (number and street, city, state, ZIP code)

2. ROOF	YES	NO	DO NOT KNOW	4. OTHER DISCLOSURES	YES	NO	DO NOT KNOW
Age, if known: _____ Years				Do improvements have aluminum wiring?			
Does the roof leak?				Are there any foundation problems with the improvements?			
Is there present damage to the roof?				Are there any encroachments?			
Is there more than one roof on the house?				Are there any violations of zoning, building codes, or restrictive covenants?			
If so, how many layers? _____				Is the present use a nonconforming use? Explain:			
				Is the access to your property via a private road?			
3. HAZARDOUS CONDITIONS	YES	NO	DO NOT KNOW	Is the access to your property via a public road?			
Have there been or are there any hazardous conditions on the property, such as methane gas, lead paint, radon gas in house or well, radioactive material, landfill, mineshaft, expansive soil, toxic materials, mold, other biological contaminants, asbestos insulation, or PCB's?				Is access to your property via an easement?			
Explain:				Have you received any notices by any governmental or quasi-governmental agencies affecting this property?			
				Are there any structural problems with the building?			
				Have any substantial additions or alterations been made without a required building permit?			
				Are there moisture and/or water problems in the basement, crawl space area, or any other area?			
				Is there any damage due to wind, flood, termites, or rodents?			

Proposed Rules

						Have any improvements been treated for wood destroying insects?			
						Are the furnace/woodstove/chimney/flue all in working order?			
						Is the property in a flood plain?			
						Do you currently pay flood insurance?			
						Does the property contain underground storage tank(s)?			
						Is the homeowner a licensed real estate salesperson or broker?			
						Is there any threatened or existing litigation regarding the property?			
						Is the property subject to covenants, conditions, and/or restrictions of a homeowner's association?			
						Is the property located within one (1) mile of an airport?			

E. ADDITIONAL COMMENTS AND/OR EXPLANATIONS: (Use additional pages if necessary).

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below:

Signature of Seller:	Date:	Signature of Buyer:	Date:
Signature of Seller:	Date:	Signature of Buyer:	Date:

The seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.

Signature of Seller:	Date:	Signature of Seller:	Date:
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(Indiana Real Estate Commission; 876 IAC 1-4-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2787; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789; filed Aug 6, 2003, 12:00 p.m.: 27 IR 186, eff Jan 1, 2004)

SECTION 2. SECTION 1 of this document takes effect January 1, 2006.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 22, 2005 at 10:20 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to add septic/holding tank and septic mound and geothermal and heat pump to the Residential Real Estate Seller's Disclosure form and to require signatures and property address information on both pages of the form.

The Indiana Real Estate Commission has the authority to adopt rules regarding the Residential Real Estate Seller's Disclosure form. This proposed rule amendment adds septic/holding tanks, septic mounds, and geothermal and heat pumps to the items that must be disclosed by sellers of real estate property. Additionally, the amendment requires the seller to list the property address on both pages of the disclosure form and to provide original signatures on both pages of the disclosure form. This rule will have no additional costs on the regulated entities.

Copies of these rules are now on file at the Indiana Govern-

ment Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Notices of Intent to Readopt

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Notice of Intent
LSA Document #05-217

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:

675 IAC 16-1.3 Indiana Plumbing Code, 1999 Edition
675 IAC 16-2 American Society of Sanitary Engineers Standard 1051-1998

Questions or comments are invited and may be directed by mail to the Department of Homeland Security, Attention: Legal and Code Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204 or by electronic mail to: msnyder@dhs.IN.gov.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

Department of Homeland Security
Attention: Legal and Code Services
Indiana Government Center-South
402 West Washington Street, Room W246
Indianapolis, IN 46204

Statutory authority: IC 22-13-2-2; IC 22-13-2-13.

Final Readopted Rules

TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule
LSA Document #05-1(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

312 IAC 11 **312 IAC 13**
312 IAC 12 **312 IAC 23**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING

ARE READOPTED:

312 IAC 11 LAKE CONSTRUCTION ACTIVITIES
312 IAC 12 WATER WELL DRILLING AND GROUND WATER
312 IAC 13 WATER WELL DRILLERS
312 IAC 23 STATE HISTORIC REHABILITATION TAX CREDIT

LSA Document #05-1(F)

Intent to Readopt Rules Published: February 1, 2005; 28 IR 1559

Proposed Readopted Rules Published: April 1, 2005; 28 IR 2203

Hearing Held: May 16, 2005

Filed with Secretary of State: August 4, 2005, 6:00 p.m.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Final Rule
LSA Document #05-20(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the Secretary of State.

410 IAC 1-6 **410 IAC 15-2.4**
410 IAC 15-2.1 **410 IAC 15-2.5**
410 IAC 15-2.2 **410 IAC 15-2.6**
410 IAC 15-2.3 **410 IAC 15-2.7**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

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

LSA Document #05-20(F)

Intent to Readopt Rules Published: March 1, 2005; 28 IR 1861

Proposed Readopted Rules Published: May 1, 2005; 28 IR 2458

Hearing Held: June 14, 2005

Filed with Secretary of State: July 15, 2005, 8:00 a.m.

Readopted Rules

TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD

Final Rule
LSA Document #05-11(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the Secretary of State.

830 IAC 1-2-6

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING
ARE READOPTED:

830 IAC 1-2-6 Continuing education requirements for
recertification

LSA Document #05-11(F)

*Intent to Readopt Rules Published: March 1, 2005; 28 IR 1862
Proposed Readopted Rules Published: June 1, 2005; 28 IR
2813*

Hearing Held: June 28, 2005

Filed with Secretary of State: July 1, 2005, 3:00 p.m.

TITLE 326 AIR POLLUTION CONTROL BOARD

**FIRST NOTICE OF COMMENT PERIOD
#05-229(APCB)**

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING VOLATILE ORGANIC COMPOUND SURFACE COATING EMISSION LIMITATIONS AND ORGANIC SOLVENT DEGREASING OPERATIONS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 326 IAC 8-2 and 326 IAC 8-3 concerning volatile organic compound (VOC) emission limitations. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 8-2; 326 IAC 8-3.

AUTHORITY: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

IDEM has begun an effort to clarify and reorganize 326 IAC 8 to remove redundancies, simplify the language, and improve the structure of the rule. Removing these interpretive barriers will aid both IDEM and businesses to ensure compliance. However, before a reorganization of 326 IAC 8 is undertaken, IDEM will be conducting several smaller rulemakings. The purpose of these smaller rulemakings is to cleanup and clarify the intent of IDEM's original language in specific rules and sections.

This rulemaking is a cleanup of 326 IAC 8-2 and 326 IAC 8-3 and will not alter any VOC standards or compliance requirements. As a cleanup, this rulemaking will focus on removing references to outdated information, correct any general mistakes in the rule language, and remove redundant language. Within 326 IAC 8-2, there are six significant changes:

- 326 IAC 8-2-9(b)(10) exempts casket manufacturers from 326 IAC 8-2-9 if they are in or 'adjacent to' a county designated as nonattainment for ozone. There are ambiguities in the rule's meaning of 'adjacent to'. IDEM has interpreted 'adjacent to' as a reference only to a full county.
- The application of adhesives or preparation of adhesives, lubricants used to prevent sticking of internally moving parts, maintenance coatings of production equipment, and chromium plated plastics was exempted from 326 IAC 8-2-9 at 326 IAC 8-2-9(b)(6)-(9). However, this exemption expired on July 1, 1991, so 326 IAC 8-2-9(b)(6)-(9) will be removed from the rule.
- The 3.5 lb/gal limit in 326 IAC 8-2-4 expired on December 31, 1985 and will be removed from the rule.
- References to 326 IAC 8-2-13, which was repealed on April 1, 1996, will be removed.
- In 326 IAC 8-2-12, high volume low pressure application systems will be added to the list of approved application systems.
- References to the Office of Air Management will be revised to 'Office of Air Quality'.

The largest proposed changes in 326 IAC 8-3 are consolidations of sections in which redundant information exists. 326 IAC 8-3-2 will be consolidated with 326 IAC 8-3-5. 326 IAC 8-3-3 will be consolidated

with 326 IAC 8-3-6, and 326 IAC 8-3-4 will be consolidated with 326 IAC 8-3-7.

Alternatives To Be Considered Within the Rulemaking

Complete this rulemaking.

Alternative 1.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? N/A
- If it is different, describe the difference. N/A

Alternative 2.

Do not complete this rulemaking.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? N/A
- If it is different, describe the difference. N/A

Applicable Federal Law

This rule is approved by the U.S. Environmental Protection Agency (U.S. EPA) as part of Indiana's State Implementation Plan (SIP) for VOC. Indiana will send these rules to U.S. EPA to be approved as part of Indiana's SIP so federal law coincides with state law. This rule should be approved by U.S. EPA because the proposed changes will not allow any increase in emissions.

Potential Fiscal Impact

There is no fiscal impact associated with this rulemaking.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041

Indianapolis, IN 46204-2251
317-232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
317-234-3386
elevenha@idem.in.gov

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 Patricia Troth, Rules Section, Office of Air Quality at (317) 234-3533 or (800) 451-6021 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#05-229(APCB) 8-2/8-3 Cleanup
 Patricia Troth, Mail Code 61-50
 c/o Rules Section Administrative Assistant
 Rules Section
 Office of Air Quality
 Indiana Department of Environmental Management
 Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Patricia Troth, Rules Section, Office of Air Quality, (317) 233-5681 or (800) 451-6027 (in Indiana).

Kathryn Watson
 Branch Chief
 Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#05-231(APCB)

READOPTION OF 326 IAC 17.1 UNDER IC 13-14-9.5

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is

soliciting public comment on readoption of rules to 326 IAC 17.1 concerning public records; confidential information; confidentiality agreements. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

RULES TO BE READOPTED: 326 IAC 17.1-1; 326 IAC 17.1-2; 326 IAC 17.1-3; 326 IAC 17.1-4; 326 IAC 17.1-5; 326 IAC 17.1-6; 326 IAC 17.1-7; 326 IAC 17.1-8; 326 IAC 17.1-9.

AUTHORITY: IC 4-22-2-35; IC 13-14-9; IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. All rules adopted after December 31, 1985, under IC 13-14-9, expire on January 1 of the seventh year after the year in which the rule takes effect. Those rules that are being readopted are specifically listed in the "Rules to be Readopted" section of this notice.

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 the notice in the Indiana Register that the agency has readopted the rule.

Statutory and Regulatory Requirements

IC 13-14-9.5-4 requires the following procedures to be followed to readopt rules:

- (1) A notice listing all rule to be readopted by their titles and subtitles shall be submitted to the 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 (1) rulemaking, the agency must:
 - (A) readopt the rule separately from the readoption rule; and
 - (B) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the 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.

Alternatives To Be Considered Within the Rulemaking

The following alternatives are being considered in this rulemaking. **Alternative 1.** Readopt rules 1 through 9 in 326 IAC 17.1 under IC 13-14-9.5. This would ensure that the existing article effective until January 1, 2014, or until a particular rule is amended in another rulemaking.

Alternative 2 Do not readopt 326 IAC 17.1, rules 2 through 9, under IC 13-14.9.5, allowing these rules to expire on January 1, 2007. This alternative would result in a rule, 326 IAC 17.1-1, (Purpose and Applicability) being operative, but an absence of implementation measures.

Applicable Federal Law

There is no applicable federal law that requires 326 IAC 17.1.

Potential Fiscal Impact

Readoption of existing rules would not establish any new requirements and would not result in any increased costs or savings to regulated entities. Not readopting 326 IAC 17.1 could result in an extra

burden and costs for those entities making confidential claims if the article does not exist.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

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 Gayl Killough, Rules Section, Office of Air Quality at (317) 233-8628 or (800) 451-6027 (in Indiana).

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:

#05-231(APCB) Confidentiality
Gayl Killough Mail Code 61-50
c/o Administrative Assistant
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth Floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October

3, 2005. 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 (in Indiana).

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

TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#05-232(APCB)

DEVELOPMENT OF NEW RULES CONCERNING INDIANA PERFORMANCE TRACK INITIATIVES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules to 326 IAC concerning instituting a state voluntary performance-based program similar to the United States Environmental Protection Agency's National Environmental Performance Track Program to provide opportunities and incentives for eligible companies to allocate resources towards continuous improvement of their environmental management system and pollution prevention programs. IDEM seeks comment on inclusion of a voluntary performance program into Title 326.

CITATIONS AFFECTED: 326 IAC.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-12.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

IDEM is considering implementing a performance-based incentive program for companies that not only meet environmental regulatory requirements, but that voluntarily go beyond those requirements to provide even greater protection to the environment and public health. To reward and encourage these companies, U.S. EPA and several states have implemented innovative programs that provide flexibility to eligible companies in meeting certain existing requirements. IDEM is considering basing a state incentive program on U.S. EPA's National Environmental Performance Track Program (Performance Track). The goal of the program is to achieve better environmental results, focusing more on outcomes than traditional measures. By providing regulatory flexibility, opportunities are provided to go beyond the compliance measures established by regulations. Opportunities are also created for state and federal government, as well as the regulated community, to focus resources more strategically to produce better overall environmental results.

Performance Track is a voluntary, performance-based program that provides incentives to companies that have gone above and beyond standard regulatory requirements. Incentives may include: recognition, networking opportunities, low priority for routine inspections, permitting flexibility, and decreased record keeping, reporting, and monitoring frequencies. These incentives include policy, guidance, and regulatory approaches. In some cases, other actions also must be completed before a company may take advantage of an incentive. For example, states are responsible for implementing parts of many federal environmental programs. In such cases, states may need to revise

regulations, seek U.S. EPA approval of a revised program, re-issue permits, or take other actions.

IDEM is reviewing details of the Performance Track program and implementation challenges U.S. EPA has experienced. U.S. EPA's Performance Track program specifies that any facility, large or small, public or private, in the United States and its territories may apply for program membership. The program accepts applications twice per year, from February 1 to April 30, and from August 1 to October 31. To be accepted into the federal program, a company must satisfy four entry criteria:

- Facilities must be in compliance with applicable Federal, State, Local, and Tribal environmental regulations.
- Facilities must operate a well-designed environmental management system (EMS) as part of their overall management system.
- Facilities must demonstrate a record of environmental improvements for the previous two years beyond the minimums required of them. Facilities also must take additional future actions and commit to further improvements in the succeeding three years.
- Facilities must engage the public, and each year must report publicly on their progress toward meeting the goals that they have chosen, as well as summarize their compliance and the performance of their EMS. U.S. EPA makes the applications and annual performance reports of each company member available to the public.

Performance Track is designed so that U.S. EPA and other stakeholders can monitor and track the implementation of the benefits currently being offered to Program members, as well as those being considered. Member facilities commit to providing annual reports on the status of their efforts to achieve their commitments to improvements in specific environmental categories. This reporting commitment and other activities to engage the public result in a high level of scrutiny that will aid in monitoring the activities of the Performance Track Program. U.S. EPA analyzes these data and publishes a program report annually.

Companies are accepted into Performance Track for a period of three years. To continue receiving the benefits associated with the Program, facilities must renew their membership, which requires developing additional, continuing commitments to environmental performance improvements.

If a member company encounters significant performance problems that warrant its removal from Performance Track, U.S. EPA may remove the company from the program. Reasons for removal could include falsifying information in the application or Annual Performance Report, failing to file an Annual Performance Report, misrepresenting environmental performance in advertising or marketing claims, or for compliance problems that would be seen as inconsistent with Performance Track entry criteria.

If U.S. EPA decides that it may be necessary to remove a member company from Performance Track, U.S. EPA will provide the facility with notice of its intention. The company will be allowed 30 days to respond by taking corrective measures. If corrective measures resolve the issues, U.S. EPA will withdraw its notice of intention. A member company may also withdraw from the program at any time by notifying U.S. EPA of its intent in writing.

On April 22, 2004, U.S. EPA issued a regulation applicable to members of U.S. EPA's Performance Track Program for simplified reporting requirements for facilities subject to Maximum Available Control Technology (MACT) provisions of the Clean Air Act (69 FR 21737). Specifically, the rule includes reducing the frequency of required MACT reporting for eligible Performance Track members, except major air sources. The rule also includes options to submit an annual certification that all required monitoring and record keeping requirements have been met in lieu of the periodic report. Sources

subject to Title V still must submit reports at least semi-annually to meet statutory requirements. IDEM is considering adopting a similar incentive into state rules.

Other states that have developed performance-based incentive programs include Colorado, Michigan, New Jersey, Oregon, Texas, Virginia, and Wisconsin. IDEM plans to review these state programs for information and ideas that may be appropriate for Indiana.

Significant improvements in environmental quality are being achieved at the state and federal level as a result of performance-based programs. These programs provide opportunities and incentives for companies to allocate resources towards continuous improvement of their environmental management system and pollution prevention program. Through these focused efforts, U.S. EPA and state agencies are reporting increased compliance levels and reductions in material usage, energy consumption and emission levels by program members. With this notice, IDEM will begin discussions regarding the development of a voluntary performance-based program designed to recognize and provide greater flexibility to Indiana companies for exemplary environmental performance and stewardship.

A program developed for Indiana must be in accordance with U.S. EPA guidelines and be approvable by U.S. EPA. IDEM seeks comment on possible incentive topics that could be included in this or future rulemakings, elements of U.S. EPA's program and programs in other states that may be appropriate for Indiana, adoption into a state program of elements similar to the federal program in the April 22, 2004 Federal Register, and any other issues related to development and implementation of a performance-based incentive program for Indiana companies.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Implement the program through new rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law, but it provides a regulatory framework to implement a voluntary state program based on the National Environmental Performance Track Program.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Implement the program through guidance.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. Do not implement the program in Indiana.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

This rule is based on the U.S. EPA's National Environmental Performance Track Program, a voluntary program that recognizes excellent environmental performance with opportunities and incentives. Specific environmental laws may become applicable if future federal rules for the National Environmental Performance Track

Program are adopted at the state level. 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) contains the MACT provisions affected by the federal incentives in the April 22, 2004 Federal Register (69 FR 21737).

Potential Fiscal Impact

There would be no fiscal impact imposed under any of the identified alternatives because the program is voluntary. However, companies taking advantage of the program could see reduced costs from some of the potential incentives such as reduced record keeping, reporting, and monitoring frequency.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

Public Participation and Meeting Information

A public meeting will be held on September 27, 2005, at 1:00 p.m. in Indiana Government Center South, Conference Center Room 4, 402 West Washington Street, Indianapolis, Indiana. The purpose of this meeting is to present information to interested parties about this rulemaking and to receive comment and answer questions from attendees. Additional meetings will be held as needed throughout the rulemaking process. If you are interested in attending the meeting or being informed of future meetings, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana), or at cpederse@idem.in.gov. Please provide your name, address, phone number and email address, if applicable, where you can be contacted.

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:

#05-232(APCB) Performance Track for Air Programs
Christine Pedersen Mail Code 61-50
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth Floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

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

TITLE 326 AIR POLLUTION CONTROL BOARD

SECOND NOTICE OF COMMENT PERIOD

#05-78(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING EMISSION REPORTING AT 326 IAC 2-6

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rule 326 IAC 2-6 to add particulate matter less than or equal to 2.5 micrometers (PM_{2.5}) and ammonia (NH₃) to the list of pollutants to be reported on the emission statement, add LaPorte County to the list of counties at 326 IAC 2-6-1(a)(2) subject to the emission statement requirements in Section 182(a)(3)(B) of the Clean Air Act, and any clarification that might be needed in 326 IAC 2-6. By this notice, IDEM is soliciting public

comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: May 1, 2005, Indiana Register (28 IR 2463).

CITATIONS AFFECTED: 326 IAC 2-6.

AUTHORITY: IC 13-14-8; IC 13-17-3-4.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The emission reporting rule, 326 IAC 2-6, was originally adopted by the Air Pollution Control Board (APCB) and became effective in 1993. The emission reporting rule is part of Indiana's state implementation plan (SIP) and addresses emission statement requirements found in Section 182(a)(3)(B) of the Clean Air Act. 326 IAC 2-6 requires air emission sources over specified emission thresholds to report their actual emissions of certain pollutants to IDEM in an emission statement. Emissions information reported through this program is used for air quality planning, tracking progress, and for billing purposes.

On December 3, 2003, the APCB adopted amendments to this rule consistent with many of the provisions in the federal consolidated emission reporting rule (CERR) (68 FR 39602) published by U.S. EPA on June 10, 2002, while maintaining consistency with the emission statement requirements in Section 182(a)(3)(B) of the Clean Air Act (CAA). These amendments included changing applicability, adding reporting parameters, and reducing the reporting schedule from annual to triennial reporting for many sources to be consistent with the CERR. The emission reporting rule, 326 IAC 2-6, was also amended to provide the department with the authority to request hazardous air pollutant (HAP) emissions data from permitted sources as needed to investigate areas of concern or support air quality planning.

This rulemaking will propose changes based on federal requirements that were not included in the 2003 amendments. First, IDEM proposes to add particulate matter less than or equal to 2.5 micrometers (PM_{2.5}) and ammonia (NH₃) to the list of pollutants to be reported on the emission statement since states are required by the CERR to report this information to U.S. EPA. Adjacent states in Region V already require reporting of PM_{2.5} and NH₃. Second, IDEM is proposing to amend the rule to apply lower reporting thresholds to the new 8-hour ozone nonattainment areas. New nonattainment areas for the 8-hour standard that are classified under subpart 2 are required to have an emission statement program as specified under Section 182(a)(3)(B) of the CAA. U.S. EPA designated Lake, Porter, and LaPorte Counties as nonattainment for the 8-hour ozone standard under subpart 2 of the CAA. All other counties were designated nonattainment under subpart 1. This means a change only for LaPorte County, the twenty-five (25) tons per year (tpy) reporting threshold for volatile organic compounds (VOC) and nitrogen oxides (NO_x) already applies in Lake and Porter Counties. All other counties will retain the one hundred (100) tpy reporting threshold consistent with the CERR. The department also requests comments on other clarifications that may be needed for the emission reporting rule.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

The following 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" (NIFL element).

The following information is provided for the NIFL element:

- (1) The environmental circumstance or hazard dictating the imposition of the NIFL element in order to protect human health and the environment in Indiana; and examples in which federal law is inadequate to provide this protection for Indiana.
- (2) The estimated fiscal impact and expected benefits of the NIFL element, based on the extent to which the NIFL element exceeds the requirements of federal law.
- (3) The availability for public inspection of all materials relied on by IDEM in the development of the NIFL element including, if applicable: health criteria, analytical methods, treatment technology, economic impact data, environmental assessment data, analyses of methods to effectively implement the proposed rule, and other background data.

NIFL Element: Reporting of emissions estimates for PM_{2.5} and ammonia (326 IAC 2-6-4(a))

- (1) The federal consolidated emission reporting rule (CERR) requires the state to submit emissions information to U.S. EPA for PM_{2.5} and ammonia. This rulemaking adds these two pollutants to the list of reportable pollutants for sources subject to the state emission reporting rule. Sources subject to this rule would be able to provide more accurate emission estimates for developing emission inventories to be submitted to U.S. EPA than the state continuing to estimate emissions for these two pollutants.
- (2) Based on information supplied by commenters the added administrative burden associated with the addition of these two pollutants to the list of reportable pollutants is approximately one hour per month, per regulated pollutant, per process. The benefit will be more accurate emissions inventories for air quality planning purposes.
- (3) IDEM relied on the federal consolidated emission reporting rule (CERR) in the development of the NIFL element.

Potential Fiscal Impact

Based on information supplied by an affected source the added administrative burden associated with the addition of these two pollutants to the list of reportable pollutants is estimated at approximately one hour per month, per regulated pollutant, per process. IDEM does not expect the potential fiscal impact of the draft amendments to exceed \$500,000.

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 appropriate, please contact Susan Bem, Rules Development Section, Office of Air Quality at (317) 233-5697 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from May 1, 2005, through June 1, 2005, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Citizens Gas and Coke Utility (CG&CU)
Eli Lilly and Company (ELC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The requirement to report emissions inventory data for planning purposes is imposed on IDEM by the U.S. EPA through the Consolidated Emissions Reporting Rule (CERR). In principle, the commenter does not object to assisting the agency in meeting the requirements of the CERR. (CG&CU)

Comment: The commenter agrees with the basic concept of requiring sources to provide estimates of NH₃ and PM_{2.5} to improve the quality

and accuracy of the emissions estimates instead of IDEM estimating emissions. (ELC)

Response: IDEM appreciates the assistance of stationary sources in developing emissions inventories and believes that the quality of the emissions inventories will improve if sources provide the information. IDEM will provide guidance for sources to estimate emissions for NH₃ and PM_{2.5}.

Comment: The commenter is concerned about the availability and quality of emission factors for ammonia (NH₃) and particulate matter less than 2.5 micrometers in aerodynamic diameter (PM_{2.5}) when required to estimate "actual" emissions as required by the rule. This results in a potential liability issue for the source's responsible official charged with certifying emissions estimates for this rule. The commenter requests that IDEM continue to estimate emissions of NH₃ and PM_{2.5} until higher quality emission factors are developed. As an alternative to the first request, the commenter requests that IDEM add two new definitions to the rule: "estimated actual emissions of NH₃" and "estimated actual emissions of PM_{2.5}." The proposed terms would be defined as:

"Estimated actual emissions of (NH₃/PM_{2.5})" means the estimated emissions in tons per year of (NH₃/PM_{2.5}) emitted by an emissions unit for the calendar year, calculated using information reasonably available to the owner or operator." (CG&CU) (ELC)

Comment: Due to the difficulty in estimating emissions, and the potential compliance issues it may raise for a source, the commenter suggests that a more appropriate way for IDEM to obtain emissions data would be through a collaborative, non-regulatory effort. (ELC)

Response: In response to the comments received regarding the availability and the quality of emissions factors for the pollutants of concern IDEM reviewed the factors for all criteria pollutants. In the latest compilation of emission factors (FIRE v6.24), the overall average quality rating was less than D, below average. The pollutant with the lowest average rating was VOC with a rating of less than E, poor. IDEM understands that there is a concern about the availability and quality of emission factors for ammonia and PM_{2.5}, yet this is a changing field with better factors being developed over time. This concern was also raised during the previous emissions reporting rulemaking and IDEM responded by amending the certification language to reflect that "the information in the emission statement is accurate based on reasonable estimates using data available to the preparers." Also, it is stated in 326 IAC 2-6-4(a) and 2-6-4(b)(5)(A) that sources are reporting estimated actual emissions. Therefore, it is not necessary to create a separate definition of "estimated actual emissions of (NH₃/PM_{2.5})."

Comment: In response to IDEM's request for information on implementation costs of this amendment, the commenter estimates that the added administrative cost associated with managing the emissions data is approximately one hour per month, per regulated pollutant, per process. This includes the costs in researching available emission factors in order to determine what factors are available, and which are applicable to the processes at the facility. (CG&CU)

Response: IDEM appreciates receiving the information on implementation costs.

Comment: The commenter recommends relocating the emission reporting rules to Article 1 of the Indiana Air Pollution Control rules. Currently the emission reporting rules are buried in the middle of the state permitting rules, which makes it harder for sources to know the requirements exist and harder to find if they know they exist. This rulemaking provides an appropriate time to relocate the entire set of emission reporting provisions to Article 1. (ELC)

Response: While Article 1 is also an appropriate place for an emission reporting rule, IDEM proposes to keep the emission reporting

rule in Article 2 since the rule applicability is currently limited primarily to Title V sources. Also, while there is some benefit to having the emissions reporting requirement separate from the permitting rule, it would require amendments to Title V permits to reflect the new rule location and updates to the emission reporting rule references in other parts of the permitting rules.

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:

#05-78(APCB) Emission Reporting/CERR
 Susan Bem Mail Code 61-50
 c/o Administrative Assistant
 Rules Development Section
 Office of Air Quality
 Indiana Department of Environmental Management
 100 North Senate Avenue
 Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 2-6-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-1 Applicability

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

Sec. 1. (a) This rule applies to all of the following:

- (1) Sources required to have an operating permit under 326 IAC 2-7, Part 70 Permit Program.
- (2) Sources located in the following counties that emit volatile organic compounds (VOC) or oxides of nitrogen (NO_x) into the ambient air at levels equal to or greater than twenty-five (25) tons per year:
 - (A) Lake.
 - (B) Porter.
 - (C) LaPorte.
- (3) Sources that emit lead into the ambient air at levels equal to or greater than five (5) tons per year.

(b) All sources permitted by the department are subject to section 5 of this rule, additional information requests.

(c) Sources covered by subsection (a) must comply with the compliance schedule in section 3 of this rule. (*Air Pollution Control Board; 326 IAC 2-6-1; filed Nov 12, 1993, 4:00 p.m.: 17 IR 732; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2210*)

IC 13-14-9 Notices

SECTION 2. 326 IAC 2-6-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-3 Compliance schedule

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

Affected: IC 13-15; IC 13-17

Sec. 3. (a) The owner or operator of a source subject to section 1(a) of this rule must submit an emission statement covering the previous calendar year to the department according to the following schedule:

(1) Annually, by July 1, for sources subject to section 1(a)(2) of this rule or with the potential to emit annual emissions greater than or equal to any of the following emission thresholds:

(A) Two thousand five hundred (2,500) tons per year of carbon monoxide.

(B) Two thousand five hundred (2,500) tons per year of oxides of nitrogen.

(C) Two thousand five hundred (2,500) tons per year of sulfur dioxide.

(D) Two hundred fifty (250) tons per year of particulate matter less than or equal to ten (10) micrometers (PM₁₀).

(E) Two hundred fifty (250) tons per year of volatile organic compounds.

(2) Triennially, by July 1, according to the schedule in subsection (b) for all sources not subject to annual reporting in ~~subdivision~~ **subdivision** (1).

(b) The county schedule for reporting under subsection (a)(2) is as follows:

(1) Starting in 2004, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Adams County.

(B) Allen County.

(C) Benton County.

(D) Carroll County.

(E) Cass County.

(F) DeKalb County.

(G) Elkhart County.

(H) Fulton County.

(I) Huntington County.

(J) Jasper County.

(K) Kosciusko County.

(L) LaGrange County.

(M) Lake County.

(N) LaPorte County.

(O) Marshall County.

(P) Miami County.

(Q) Newton County.

(R) Noble County.

(S) Porter County.

(T) Pulaski County.

(U) St. Joseph County.

(V) Starke County.

(W) Steuben County.

(X) Wabash County.

(Y) Wells County.

(Z) White County.

(AA) Whitley County.

(2) Starting in 2005, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Blackford County.

(B) Boone County.

(C) Clinton County.

(D) Delaware County.

(E) Fayette County.

(F) Fountain County.

(G) Grant County.

(H) Hamilton County.

(I) Hancock County.

(J) Hendricks County.

(K) Henry County.

(L) Howard County.

(M) Jay County.

(N) Johnson County.

(O) Madison County.

(P) Marion County.

(Q) Montgomery County.

(R) Morgan County.

(S) Parke County.

(T) Putnam County.

(U) Randolph County.

(V) Rush County.

(W) Shelby County.

(X) Tippecanoe County.

(Y) Tipton County.

(Z) Union County.

(AA) Warren County.

(BB) Wayne County.

(3) Starting in 2006, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Bartholomew County.

(B) Brown County.

(C) Clark County.

(D) Clay County.

(E) Crawford County.

(F) Daviess County.

(G) Dearborn County.

(H) Decatur County.

(I) Dubois County.

(J) Floyd County.

(K) Franklin County.

(L) Gibson County.

(M) Greene County.

(N) Harrison County.

(O) Jackson County.

(P) Jefferson County.

(Q) Jennings County.

(R) Knox County.

(S) Lawrence County.

(T) Martin County.

(U) Monroe County.

(V) Ohio County.

(W) Orange County.

(X) Owen County.

(Y) Perry County.

(Z) Pike County.

(AA) Posey County.

(BB) Ripley County.

(CC) Scott County.

(DD) Spencer County.

(EE) Sullivan County.

(FF) Switzerland County.

(GG) Vanderburgh County.

(HH) Vermillion County.

- (II) Vigo County.
- (JJ) Warrick County.
- (KK) Washington County.

(c) The department will make available emission statement reporting forms to sources subject to this rule.

(d) Sources subject to this rule may submit their emission statement as follows:

- (1) Electronically: sources that submit their emission statement electronically must submit to the department a certification that complies with section 4(c)(1) of this rule by the submission deadline.
- (2) By mail: the United States Postal Service postmark is the submittal date.
- (3) By private carrier: records of dates of receipt and delivery by the service must be maintained.
- (4) By hand delivery to the Office of Air Quality, Indianapolis, Indiana.

(Air Pollution Control Board; 326 IAC 2-6-3; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2212)

SECTION 3. 326 IAC 2-6-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-4 Requirements

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

Sec. 4. (a) A source subject to section 1(a) of this rule shall report estimated actual emissions in the emission statement of the following pollutants:

- (1) Carbon monoxide (CO).
- (2) Volatile organic compounds (VOC).
- (3) Oxides of nitrogen (NO_x).
- (4) Particulate matter less than or equal to ten (10) micrometers (PM₁₀).
- (5) Sulfur dioxide (SO₂).
- (6) Lead and lead compounds, including any unique chemical substance that contains lead.
- (7) Particulate matter less than or equal to two and five-tenths (2.5) micrometers (PM_{2.5}).**
- (8) Ammonia (NH₃).**

(b) Emissions from processes that are insignificant or trivial activities as defined in 326 IAC 2-7-1(21) and 326 IAC 2-7-1(40) are not required to be reported in an emission statement.

(c) The emission statement submitted by the source must contain, at a minimum, the following information:

- (1) Certification by a responsible official that the information in the emission statement is accurate based on reasonable estimates using data available to the preparers and on a reasonable inquiry into records and persons responsible for the operation of the source, and is true, accurate, and complete. The certification shall include the:
 - (A) full name;
 - (B) title;
 - (C) signature;
 - (D) date of signature; and
 - (E) telephone number;
 of the person signing the certification.
- (2) Source identification information, to include the following:
 - (A) Full name, physical location, and mailing address of the

- source.
- (B) Source universal transverse mercator (UTM) or latitude and longitude.
- (C) North American Industry Classification System (NAICS) code.

(3) Operating data, for each emission unit or emissions group, to include the following:

- (A) Percent annual throughput by quarter as defined in section 2 of this rule.
- (B) Days per week in operation.
- (C) Design capacity.
- (D) Hours per day in operation.
- (E) Hours per year in operation.
- (F) Maximum nameplate capacity.

(4) For reporting purposes, multiple stacks that vent to the atmosphere may be grouped together to reflect any grouping of process units. Stack parameters include the following:

- (A) Stack identification.
- (B) Stack height and diameter (in feet).
- (C) Universal transverse mercator (UTM) or latitude and longitude coordinates.
- (D) Exit gas temperature (degrees Fahrenheit).
- (E) Exit gas flow rates in cubic feet per minute.

(5) Emissions information for each process, to include the following:

- (A) The estimated actual emissions of all pollutants listed in subsection (a) at the process level in tons per year. Actual emission estimates must include upsets, downtime, and fugitive emissions and must follow an emission estimation method. Fugitive emissions may be reported as plantwide or grouped together in a logical manner. If control efficiencies are adjusted because of upsets, downtime, and malfunctions, information must be provided about how the control efficiencies are calculated.
- (B) Emissions of VOC, ~~and~~ PM₁₀, ~~and~~ PM_{2.5} shall be reported as total VOC, ~~and~~ PM₁₀, ~~and~~ PM_{2.5} emissions, respectively.
- (C) Calendar year for the emissions.
- (D) Estimated emissions method code provided by the department.
- (E) Emission factor, if part of emissions calculation. Acceptable sources of an emission factor include **the following**:
 - (i) AP-42, "Compilation of Air Pollutant Emission Factors AP-42" as defined at 326 IAC 1-2-20.5.
 - (ii) Site-specific values accepted by the department and the U.S. EPA.
 - (iii) Other documentable methodology accepted by the department and the U.S. EPA.

- (F) Source classification code (SCC).
- (G) Annual process rate (annual throughput) to the extent it is part of emissions calculation.
- (H) Ash content, if part of emissions calculation.
- (I) Sulfur content, if part of emissions calculation.
- (J) Heat content, if part of emissions calculation.

(6) Control equipment information, to include the following:

- (A) Capture efficiency.
- (B) Current control equipment efficiency percentage unless a controlled emission factor is applied. The actual efficiency should reflect the total control efficiency from all control equipment for each process pollutant. If the actual control efficiency is unavailable, the:
 - (i) efficiency designed by the manufacturer may be used; or ~~the~~
 - (ii) control efficiency limit imposed by a permit should be used.
- (C) Control equipment identification code.

(d) Nothing in this rule requires stack testing. (*Air Pollution Control Board*; 326 IAC 2-6-4; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; errata, 17 IR 1009; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1566; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2213)

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 December 7, 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 2-6.

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 Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 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 Department of Environmental Management, 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

SECOND NOTICE OF COMMENT PERIOD

#05-118(APCB)

DEVELOPMENT OF AMENDMENTS TO 326 IAC 7-4-2 CONCERNING SULFUR DIOXIDE EMISSION LIMITATIONS AT CITIZENS GAS & COKE UTILITY, INDIANAPOLIS, INDIANA

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 7-4-2 concerning sulfur dioxide (SO₂) emission limitations for two coke oven battery underfire combustion stacks serving three coke oven batteries E, H, and No. 1. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: June 1, 2005, Indiana Register (28 IR 2819).

CITATIONS AFFECTED: 326 IAC 7-4-2.

AUTHORITY: IC 13-14-8; IC 13-17-3-4.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

Citizens Gas & Coke Utility (CG & CU) in Indianapolis, Indiana, has requested that IDEM combine into one limit the sulfur dioxide (SO₂) emission limitations in 326 IAC 7-4-2 for each of the three coke batteries (E, H, and No. 1). CG & CU has requested a combined limit for the pounds per hour limit and the pounds per ton of coal charged limit. These limits govern the emissions from the coke oven battery underfire combustion stacks. Coke oven gas is the fuel used for underfire, which heats the batteries. All of the coke oven gas used for the underfire at the facility is desulfurized, i.e., hydrogen sulfide (H₂S) is removed, in the iron oxide boxes. The sulfur content of the coke oven gas combusted at E, H, and No. 1 battery underfire is the same, since all coke oven gas is desulfurized to the same concentration. The current pound per ton of coal charged emission limitations in 326 IAC 7-4-2 for batteries E, H, and No. 1 are seventy-nine hundredths pounds of sulfur dioxide per ton of coal charged (0.79 lb SO₂/ ton coal), seventy-nine hundredths pounds of sulfur dioxide per ton of coal charged (0.79 lb SO₂/ ton coal), and twenty-three hundredths pounds of sulfur dioxide per ton of coal charged (0.23 lb SO₂/ ton coal), respectively. The current pounds per hour emission limitations for batteries E, H, and No. 1 are thirty-one and sixteen hundredths pounds of sulfur dioxide per hour (31.16 lbs SO₂/hr), thirty-one and sixteen hundredths pounds of sulfur dioxide per hour (31.16 lbs SO₂/hr), and fifteen and six-tenths pounds of sulfur dioxide per hour (15.7 lbs SO₂/hr), respectively. CG & CU is proposing a combined pounds per hour limit as the sum of the three limits for each coke battery. The three limits for pounds of SO₂ per ton of coal are combined into one limit based on the coal charging capacity of each battery. CG & CU is also proposing that the combined limit be dependent upon the number of batteries in operation. The combined limit would tier down depending on which batteries were in operation. A combined limit would be calculated for each battery operating scenario.

CG & CU uses iron oxide boxes to desulfurize the coke oven gas from all three coke batteries. Iron oxide boxes remove H₂S from the coke oven gas stream, which is the predominant sulfur compound found in coke oven gas. The construction permit for battery No. 1 has a limit of twenty grains of hydrogen sulfide per hundred standard cubic feet (20 grains H₂S/100 scf). However, there are a number of organic sulfur compounds present in trace quantities in coke oven gas, such as carbon disulfide, carbonyl sulfide, and thiophenes. If H₂S was the only sulfur compound in the coke oven gas the H₂S limit of 20 grains H₂S/100 scf would be equivalent to the current SO₂ limit for battery No. 1 of fifteen and seven-tenths pounds per hour (15.7 lbs/hr). CG & CU is not able to consistently meet the SO₂ limit for battery No. 1 and the only way to address this would be to reduce the amount of sulfur compounds in the coke oven gas. Currently technology is not available to remove the organic sulfur compounds in the gas stream and it would be cost prohibitive to reduce the H₂S levels in the coke oven gas by installing additional iron oxide boxes. For these reasons CG & CU is requesting a combined SO₂ limit for the battery combustion stacks, while retaining the twenty grains of hydrogen sulfide limit of 20 grains H₂S/100 scf. Modeling, reviewed by IDEM, demonstrates that the

proposed limits will not cause an exceedance of the National Ambient Air Quality Standards (NAAQS) in the vicinity of the plant.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

Potential Fiscal Impact

There should be no negative fiscal impact associated with the proposed amendments.

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 appropriate, please contact Susan Bem, Rules Development Section, Office of Air Quality at (317) 233-5697 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from June 1, 2005, through July 5, 2005, 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:

#05-118(APCB)CG & CU SO₂ SIP
 Susan Bem Mail Code 61-50
 c/o Administrative Assistant
 Rules Development Section

Office of Air Quality
 Indiana Department of Environmental Management
 100 North Senate Avenue
 Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 7-4-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 7-4-2 Marion County sulfur dioxide emission limitations

Authority: IC 13-14-8; IC 13-17-3-4
 Affected: IC 13-12; IC 13-14-4-3; IC 13-16-1

Sec. 2. The following sources and facilities located in Marion County shall comply with the sulfur dioxide emission limitations in pounds per million Btu (lbs/MMBtu) and pounds per hour (lbs/hr), unless otherwise specified, and other requirements:

<u>Source</u>	<u>Facility Description</u>	<u>Emission Limitations</u>	
		<u>lbs./MMBtu</u>	<u>lbs./hr.</u>
(1) Acustar	Boiler 1	2.82	109.98
	Boiler 2	2.82	109.98
	Boiler 3	2.82	109.98
(2) Allison Gas Turbine—Plant 5	Boiler 1	3.99	299.4
	Boiler 2	3.99	299.4
	Boiler 3	3.99	299.4
	Boiler 4	3.99	299.4
(3) Amtrak	Boilers 61 and 62	3.30	208.15
(4) Bridgeport Brass	Boiler 1	3.55	135.8
	Boiler 2	3.55	135.8
	Boiler 3	3.55	135.8
(5) Central Soya	Boiler	4.32	272.0
(6) Central State	Boiler 3	3.39	111.8
	Boiler 7	3.39	169.5
	Boiler 8	3.39	169.5
(7) Citizens Gas	Batteries E & H (each)	0.79 pounds per ton	31.16
	Battery 1 ***	0.23 pounds per ton	15.70
	1,E,H ***	0.67 pounds per ton	78.02
	1,E ***	0.49 pounds per ton	46.86
	1,H ***	0.50 pounds per ton	46.86
	E,H ***	0.79 pounds per ton	62.32
	E ***	0.79 pounds per ton	31.16
H ***	0.79 pounds per ton	31.16	
(8) Detroit Diesel Allison-Plant 3	Boiler 1	1.88	67.6
	Boiler 2	1.88	67.6

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	Boiler 3	1.88	90.2
	Boiler 4	1.88	135.2
	Boiler 5	1.88	180.3
(9) Diamond Bathurst	#2 Furnace	1.40 pounds per ton	20.22
(10) Ford	Boiler 1	2.43	177.38
	Boiler 2	2.43	354.77
	Boiler 3	2.43	354.77
(11) Fort Harrison	Boiler 1	2.92	151.84
	Boiler 2	2.92	151.84
	Boiler 3	2.92	151.84
	Boiler 4	2.92	151.84
(12) G.M. Truck & Bus Group	Boiler 1	2.31	187.1
	Boiler 2	2.31	187.1
	Boiler 3	2.31	106.3
(13) Indiana Girls School	Boiler	6.00	46.9
(14) IPL-Perry W	Boiler 17	6.0	1,320.0
	Boiler 18	6.0	1,320.0
(15) Indianapolis Sludge Incinerator	Incinerator 1	2.0 pounds per ton	14.19
	Incinerator 2	2.0 pounds per ton	14.19
	Incinerator 3	2.0 pounds per ton	14.19
	Incinerator 4	2.0 pounds per ton	14.19
	Incinerator 5	2.0 pounds per ton	14.19
	Incinerator 6	2.0 pounds per ton	14.19
	Incinerator 7	2.0 pounds per ton	14.19
	Incinerator 8	2.0 pounds per ton	14.19
(16) Marathon Petroleum—Indiana Refining Division	H-H1	1.92	36.46
	H-H2	1.92	36.46
	H-H3	1.92	38.38
	P-H1	1.92	89.03
	P-H2	1.92	82.12
	P-H3	1.92	30.32
	P-H4	1.92	33.19
	P-H5	1.92	9.98
	Alky Reboiler	1.92	53.15
	Crude Heater	1.92	268.05
	Vacuum Heater	1.92	99.20
	Sulfur Recovery	189.0 pounds per ton sulfur	88.17
	FCC (Proc)	3.92 pounds per ton	506.37
	CO Boiler	1.92	228.72
	FCC Chg. Htr.	1.92	88.26
	GH-1	1.92	81.36
(17) Navistar	Boiler 1	2.98	193.72
	Boiler 2	2.98	193.72
	Boiler 3	2.98	193.72
(18) Quaker Oats	Boiler 1	2.79	195.3
	Boiler 2	2.79	195.3
	Murray Boiler	0.50	50.1
(19) Quemetco	Reverberatory Furnace	24.6 pounds per ton	617.0
(20) Refined Metals	Blast Furnace	10.8 pounds per ton	64.8
(21) Reilly Industries	2722 W	1.25	114.75
	2726 S	1.25	49.1
	186 N	1.25	46.0
	2707 V	1.25	20.0
	112 E	0.0**	0.0**
	2710 P	0.0**	0.0**
	Riley	1.25	64.75
	B & W	1.25	49.1

	2724 W	1.25	26.3
	2714 V	1.25	18.8
	2729 Q	1.25	3.8
	2740 Q	1.25	7.5
	732714	1.25	45.0
	2728 S	1.25	7.5
	Still	0.0**	0.0**
	Kettle	0.0**	0.0**
	2607 T	0.0**	0.0**
	702611	0.0**	0.0**
	722804	0.0**	0.0**
	2706 Q	0.0**	0.0**
	2713 W	0.0**	0.0**
	2714 W	0.0**	0.0**
	2720 W	0.0**	0.0**
(22) Rexnord-Link Belt Bearing	Boiler A	3.28	101.7
	Boiler B	3.28	101.7
	Boiler C	0.0*	0.0*
(23) Rexnord-Link Belt Chain	Boiler 1	3.68	117.8
	Boiler 2	3.68	117.8
	Boiler 3	3.68	117.8
(24) Thomson Consumer Electronics	Boiler 1	1.95	39.0
	Boiler 2	1.95	39.0
	Boiler 3	1.95	146.3
	Boiler 4	1.95	146.3
(25) Union Carbide	Boiler 1	3.85	92.4
	Boiler 2	3.85	106.6
	Boiler 3	3.85	148.2
(26) Western Select Properties	Boiler 2	2.52	189.06
	Boiler 3	2.52	189.06
	Boiler 4	2.52	189.06
	Boiler 5	2.52	252.07
(27) Wishard	Boiler 1	4.04	105.0
	Boiler 2	4.04	105.0
	Boiler 3	4.04	105.0

**Less than 0.05

*****Batteries in operation**

(28) Allison Gas Turbine Operations Plant 8 shall comply with the sulfur dioxide emission limitations provided in clause (A) or (B) and other requirements as follows:

- (A) Boilers 2 through 11 may burn natural gas at any time.
- (B) Babcock and Wilcox Boilers 2 through 6 and Combustion Engineering Boilers 7 through 11 may burn fuel oil with a sulfur dioxide emission limitation of two and one-tenth (2.1) lbs/MMBtu each during periods when one (1) of the following conditions is met:
 - (i) Fuel oil is burned in no more than three (3) Babcock and Wilcox boilers, and fuel oil is not burned in any combustion engineering boiler.
 - (ii) Fuel oil is burned in no more than two (2) Babcock and Wilcox boilers and no more than two (2) combustion engineering boilers.
 - (iii) Fuel oil is burned in no more than one (1) Babcock and Wilcox boiler and no more than three (3) combustion engineering boilers.

(C) A log of hourly operational status and fuel type for each boiler shall be maintained at the plant and made available to the department upon request. A daily summary of operating status and fuel type for each boiler for each day of a calendar quarter shall be

submitted to the department on a quarterly basis.

(D) Allison Gas Turbine Operations Plant 8 shall erect a twenty (20) foot stack extension with a diameter at the extension outlet of four (4) feet for each stack serving Boilers 2 through 6 in accordance with the following schedule:

- (i) Complete design, specifications, and construction drawings and award contracts by August 2, 1988.
- (ii) Complete installation of stack extensions by December 2, 1988.

(29) Indianapolis Power and Light Perry K shall comply with the sulfur dioxide emission limitations in lbs/MMBtu and other requirements as follows:

<u>Boiler Number</u>	<u>Emission Limitations</u>
(A) 17 and 18	0.3
(B) 11, 12, 13, 14, 15, and 16	2.1

(C) As an alternative to the emission limitations in clause (B), sulfur dioxide emissions from Boilers 11, 12, 13, 14, 15, and 16 may comply with any one (1) of the sets of emission limitations in lbs/MMBtu as follows:

<u>Boiler Number</u>	<u>Emission Limitations</u>
(i) 13, 14, 15, and 16	0.0
11 and 12	4.4

IC 13-14-9 Notices

(ii) 11, 12, 15, and 16	0.0
13 and 14	4.4
(iii) 11, 12, 13, and 14	0.0
15 and 16	4.4
(iv) 11, 12, 15, and 16	3.0
13 and 14	0.3
(v) 11 and 12	0.3
13, 14, 15, and 16	3.0

(D) The department or the Indianapolis Air Pollution Control Division shall be notified prior to the reliance by Indianapolis Power and Light on any one (1) of the sets of alternative emission limitations specified in clause (C).

(E) A log of hourly operating status for each boiler shall be maintained and made available to the department upon request. A daily summary indicating which boilers were in service during the day shall be submitted to the department quarterly. In addition, records of the daily average sulfur content, heat content, and sulfur dioxide emission rate for each day in which an alternative set of emission limitations specified in clause (C) is used shall be submitted to the department quarterly.

(F) For the purposes of 326 IAC 7-2-1(c)(1), during thirty (30) day periods in which Indianapolis Power and Light relies on more than one (1) set of emission limitations specified in clauses (B) through (C), a separate thirty (30) day rolling weighted average for each set of limitations shall be determined. Each thirty (30) day rolling weighted average shall be based on data from the previous thirty (30) operational days within the last ninety (90) days for that set of limitations. If Indianapolis Power and Light does not operate thirty (30) days under any one (1) set of limitations within the last ninety (90) days, the rolling weighted average shall be based on all operational days within the last ninety (90) days for that set of limitations.

(G) Boilers 11 through 16 shall be limited to six and zero-tenths (6.0) lbs/MMBtu each until Boilers 11 through 16 achieve compliance with the sulfur dioxide emission limitations specified in clauses (B) through (C). Compliance with the emission limitations specified in clauses (B) through (C) shall be achieved according to the following schedule:

- (i) Complete engineering analysis of modifications by April 2, 1988.
- (ii) Complete testing and design of modifications and place orders for necessary equipment by May 2, 1989.
- (iii) Complete installation of necessary equipment and achieve compliance with emission limitations specified in clauses (B) through (C) by June 2, 1990.

(30) Indianapolis Power and Light Stout shall comply with the sulfur dioxide emission limitations in lbs/MMBtu and other requirements as follows:

<u>Boiler/Turbine Number</u>	<u>Emission Limitations</u>
(A) Boiler 70	5.3
(B) Boilers 50 and 60	4.7
Boilers 1 through 8	0.0
Boilers 9 and 10 and Gas Turbines 1, 2, and 3	0.35

(C) As an alternative to the emission limitations in clause (B), sulfur dioxide emissions from Boilers 50, 60, and 1 through 10 and Gas Turbines 1, 2, and 3 may comply with any one (1) of the sets of emission limitations in lbs/MMBtu as follows:

<u>Boiler/Turbine Number</u>	<u>Emission Limitations</u>
(i) Boilers 50 and 60	5.2
Boilers 1 through 10 and Gas Turbines 1, 2, and 3	0.0

(ii) Boilers 50 and 60	5.0
Boilers 1 through 10	0.0
Gas Turbines 1, 2, and 3	0.4
(iii) Boilers 50 and 60	4.1
Boilers 1 through 8	0.26
Boilers 9 and 10	0.35
Gas Turbines 1, 2, and 3	0.3
(iv) Boilers 50 and 60	3.9
Boilers 1 through 8	0.34
Boilers 9 and 10 and Gas Turbines 1, 2, and 3	0.35

(D) The department or the Indianapolis Air Pollution Control Division shall be notified prior to the reliance by Indianapolis Power and Light on any one (1) of the sets of alternative emission limitations specified in clause (C).

(E) A log of hourly operating status for each boiler shall be maintained and made available to the department upon request. A daily summary indicating which boilers were in service during the day shall be submitted to the department quarterly. In addition, records of the daily average sulfur content, heat content, and sulfur dioxide emission rate for each day in which an alternative set of emission limitations specified in clause (C) is used shall be submitted to the department quarterly.

(F) For the purposes of 326 IAC 7-2-1(c)(1), during thirty (30) day periods in which Indianapolis Power and Light relies on more than one (1) set of emission limitations specified in clauses (B) through (C), a separate thirty (30) day rolling weighted average for each set of limitations shall be determined. Each thirty (30) day rolling weighted average shall be based on data from the previous thirty (30) operational days within the last ninety (90) days for that set of limitations. If Indianapolis Power and Light does not operate thirty (30) days under any one (1) set of limitations within the last ninety (90) days, the rolling weighted average shall be based on all operational days within the last ninety (90) days for that set of limitations.

(G) Indianapolis Power and Light shall install a stack diameter restriction for the stack serving Boilers 50 and 60. The stack diameter restriction shall reduce the diameter to six and one-half (6½) feet at the tip of the stack. The installation of the stack diameter restriction shall be in accordance with the following schedule:

- (i) Complete preliminary design of modifications by December 2, 1988.
- (ii) Place orders for necessary modification by July 2, 1989.
- (iii) Complete installation by February 2, 1990.

(Air Pollution Control Board; 326 IAC 7-4-2; filed Aug 28, 1990, 4:50 p.m.: 14 IR 65; filed Feb 9, 1999, 4:22 p.m.: 22 IR 1959; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

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 December 7, 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 7-4-2.

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 amendment. 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 (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 Department of Environmental Management, 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

**FINDINGS AND DETERMINATION OF THE
COMMISSIONER PURSUANT TO
IC 13-14-9-8 AND DRAFT RULE
#05-230(APCB)**

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REFERENCES TO THE CODE OF FEDERAL REGULATIONS (CFR)

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 1-1-3 concerning incorporation by reference of Code of Federal Regulations (CFR) and has scheduled a public hearing before the air pollution control board (board) for consideration of preliminary adoption of these rules.

CITATIONS AFFECTED: 326 IAC 1-1-3.

AUTHORITY: IC 13-14-8; IC 13-14-9; IC 13-15; IC 13-17-3; IC 13-17-8.

STATUTORY REQUIREMENTS

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forego these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register

prior to the board meeting at which the draft rule is to be considered for preliminary adoption, and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

- (1) the rule constitutes:
 - (A) an adoption or incorporation by reference of a federal law, regulation, or rule that:
 - (i) is or will be applicable to Indiana; and
 - (ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;
 - (B) a technical amendment with no substantive effect on an existing Indiana rule; or
 - (C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and
- (2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:
 - (A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;
 - (B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and
 - (C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

BACKGROUND

326 IAC 1-1-3, References to the Code of Federal Regulations (CFR), indicates the yearly edition of the CFR that is applicable to rules that have been incorporated by reference throughout Title 326 of the Indiana Administrative Code (IAC), unless a different edition is specified in a given rule. By annually updating the reference to the CFR, IDEM is able to incorporate by reference the latest version of the parts of the CFR already incorporated into the air rules, with the exception of those most recently published in the Federal Register (FR).

The 2005 edition of the CFR is a codification of the general and permanent rules published in the FR as of June 30, 2005. IDEM incorporates citations by reference from Titles 29 and 40 of the CFR.

Title 29 of the CFR, entitled "Intergovernmental Review of Environmental Protection Agency Programs and Activities" contains federal rules for the asbestos and lead programs. Title 29 of the CFR is referenced in 326 IAC 14 (Emission Standards for Hazardous Air Pollutants), 326 IAC 20 (Asbestos Management), and 326 IAC 23 (Lead-Based Paint Program). Many of these regulations are either directly incorporated by reference into Title 326 of the IAC as state-enforceable rule provisions or they are incorporated into Title 326 of the IAC as federal authority for the implementation and enforcement of state rule provisions.

Title 40 of the CFR entitled "Protection of Environment," includes all federal environmental regulations promulgated by the U.S. Environmental Protection Agency (U.S. EPA). It is referenced throughout Title 326 of the IAC.

The latest version of the CFR adopted by the Air Pollution Control Board is dated July 1, 2004. Since that date, a number of new federal rules were promulgated that later were incorporated and referenced in the state rules using their FR citation.

A non-exhaustive list of examples of rules and changes that occurred between July 1, 2004, and June 30, 2005, that will be updated with this rulemaking follow:

- Amendments to regulations that relate to hazardous waste combustors. Removes the requirement to use the method found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*. Amends 40 CFR 63.1208(b)(8) as follows: "Feedstream analytical methods. You may use any reliable analytical method to determine feedstream concentrations of metals, chlorine, and other constituents. It is the source's responsibility to ensure that the sampling and analysis procedures are unbiased, precise, and that the results are representative of the feedstream". This amendment affects 326 IAC 20-28-1. (FR 34537; June 14, 2005)
- U.S. EPA changed the listing of HCFC-141b from acceptable to unacceptable for use as a foam blowing agent. Information was received that indicated dangers to human health and the environment. Updates the reference to 40 CFR 82* at 326 IAC 22-1-1(a). (FR 58269; September 30, 2004)
- On April 22, 2004 U.S. EPA issued national emission standards to control for hazardous air pollutants from iron and steel foundries. These standards were adopted by the air pollution control board on May 4, 2005 and are in the process of being promulgated. By updating the reference to the CFR to 2005, recent amendments to work practice requirements for the material certification and scrap selection/inspection programs will be clarified and additional flexibility provided without materially changing the requirements of the rule. This amendment affects 326 IAC 20-92-1. (70 FR 29399; May 2, 2005)
- On May 13, 2005, U.S. EPA in a direct final rule amended the national emission standards for pharmaceuticals production. The direct final rule amendments include provisions for planned routine maintenance of wastewater tanks, alternative monitoring provisions for caustic scrubbers and condensers, and references general standards for containers. This amendment affects 326 IAC 20-57. (70 FR 25669; May 13, 2005)
- Amendments to national emission standards to control hazardous air pollutants from cellulose products manufacturing, 40 CFR Subpart UUUU. Corrects the date in the definition of a "process change" that was included in the final rule. This amendment affects 326 IAC 20-54-1. (70 FR 36523; June 24, 2005)
- Revision to the list of major source categories for hazardous air pollutants under section 112(c) of the Clean Air Act. The amino resins and phenolic resins source categories were combined as one category, Amino/Phenolic Resins. The Engine Test Facilities and Rocket Engine test firing source categories were combined as one category, Engine Test Cells/Stands. The Fume Silica Production source category was subsumed into the Hydrochloric Acid category. The Institutional/Commercial Boilers, the Process Heaters, and the Industrial Boiler source categories were combined into the Industrial/Commercial/Institutional Boilers and Process Heaters source category. Iron and Steel Foundries were combined into one category. The Asphalt/Coal Tar Application Metal Pipes source category were subsumed into the Surface Coating of Miscellaneous Metal Parts and Products source category. Many categories were subsumed into the Miscellaneous Organic Chemical Manufacturing source category. This amendment affects 326 IAC 20. (70 FR 37819; June 30, 2005)

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a direct adoption of federal requirements that are applicable to Indiana and contains no amendments that have a substantive effect on the scope or application of the federal rule.

Potential Fiscal Impact

Incorporation by reference of the latest edition of the Code of Federal Rules allows federal and state rules to be consistent with each other and would not establish any new requirements. There is no increased costs to the regulated entities.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on the incorporation by reference of the 2005 version of the Code of Federal Regulations (CFR) as required by federal rule. These findings are prepared under IC 13-14-9-8 and are as follows:

(1) This rule is the direct adoption of incorporation of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.

(2) Indiana, in many cases, is required by the CAA to adopt these requirements as state rules.

(3) The public will benefit from the prompt adoption of this rule because it alleviates unnecessary duplication of rulemaking efforts by the state by directly incorporating the Code of Federal Regulations (CFR).

(4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.

(5) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly

Commissioner

Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Gayl Killough Rules Section, Office of Air Quality (317) 233-8628 or (800) 451-6027 (in Indiana).

DRAFT RULE

TITLE 326 AIR POLLUTION CONTROL BOARD

SECTION 1. 326 IAC 1-1-3, PROPOSED TO BE AMENDED AT 28 IR 1815, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**FINDINGS AND DETERMINATION OF THE
COMMISSIONER PURSUANT TO
IC 13-14-9-8 AND DRAFT RULE
#05-235(APCB)**

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

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING PARTICULATE MATTER AMBIENT AIR QUALITY STANDARDS

Sec. 3. Unless otherwise indicated, any reference to a provision of the Code of Federal Regulations (CFR) shall mean the July 1, ~~2004~~, 2005, edition*.

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for 326 IAC 1-3-4 concerning particulate matter ambient air quality standards and has scheduled a public hearing before the air pollution control board (board) for consideration of preliminary adoption of these rules.

*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*)

CITATIONS AFFECTED: 326 IAC 1-3-4.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11.

Notice of First Meeting/Hearing

STATUTORY REQUIREMENTS

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on October 5, 2005 at 2:00 p.m. at the Pike County Court House, 801 Main Street, Auditorium, Petersburg, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 1-1-3.

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

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.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption, and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

Additional information regarding this action may be obtained from Gayl Killough, Rules Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

The statute provides for this shortened rulemaking process if the commissioner determines that:

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act Coordinator at:

- (1) the rule constitutes:
 - (A) an adoption or incorporation by reference of a federal law, regulation, or rule that:
 - (i) is or will be applicable to Indiana; and
 - (ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;
 - (B) a technical amendment with no substantive effect on an existing Indiana rule; or
 - (C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and
- (2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:
 - (A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;
 - (B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and
 - (C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

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 Department of Environmental Management, 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.

BACKGROUND

On July 18, 1997, U.S. EPA promulgated revisions to the primary and secondary national ambient air quality standards (NAAQS) for particulate matter (PM) (62 FR 38652), revising the PM NAAQS in several respects. New standards were added, using PM_{2.5} (defined as particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) as the indicator for standards adopted for the purpose of regulating fine particles, and continuing to use PM₁₀ (defined as particles with an aerodynamic diameter less than or equal to a nominal 10 µm) as the indicator for standards adopted for the purpose of regulating coarse-fraction particles (referring to those particles with an aerodynamic diameter less than or equal to a nominal 10 µm but greater than 2.5 µm). The 1997 annual PM₁₀ standard used the same form as the pre-existing annual PM₁₀ standard adopted in 1987, whereas the 1997 24-hour PM₁₀ standard incorporated a new statistical form, based on the 99th percentile of 24-hour PM₁₀ concentrations at each monitor in an area. U.S. EPA also adopted various requirements related to the 1997 PM₁₀ standards such as new measurement methods, a new attainment test, and air quality monitoring schedules.

Following promulgation of the 1997 PM NAAQS, numerous petitions for review of the PM standards were filed in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). In part, although the court found "ample support" for U.S. EPA's decision to regulate coarse-fraction particles, it vacated the 1997 PM₁₀ standards on the basis of PM₁₀ being a "poorly matched indicator for coarse particulate pollution" because PM₁₀ includes fine particles. (*American Trucking Associations, Inc. et al. v. Environmental Protection Agency*, 175 F.3d 1027, 1054-55 (D.C. Cir. 1999).)

In a final rule promulgated on July 30, 2004, (69 FR 45595) U.S. EPA made changes including amending 40 CFR 50.3 (which specifies reference measurement conditions) to remove language that extended the scope of its applicability to the 1997 PM₁₀ standards. There were additional changes in the July 20, 2004, rulemaking that will be addressed in the 2005 CFR annual update rulemaking.

The purpose of this rulemaking is to ensure that specified reference measurement conditions at 326 IAC 1-3-4 are consistent with 40 CFR 50.3.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a direct adoption of federal requirements that are applicable to Indiana and contains no amendments that have a substantive effect on the scope or application of the federal rule.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041

Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:
Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on amendment of a full text incorporation of the particulate matter ambient air quality standards. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) This rule is the direct adoption of a federal rule that is applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law to adopt ambient air quality standards as established by the United States Environmental Protection Agency.
- (3) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.
- (4) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly
Commissioner
Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Gayl Killough, Rules Section, Office of Air Quality (317) 233-8628 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 1-3-4, AS AMENDED AT 28 IR 1471, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-3-4 Ambient air quality standards

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) All measurements of air quality that are expressed as mass per unit volume, **micrograms per cubic meter ($\mu\text{g}/\text{m}^3$)**, other than for the particulate matter (~~PM₁₀~~ and (PM_{2.5}) standards **contained in subsection (b)(8)**, shall be corrected to a reference temperature of twenty-five (25) degrees Celsius and ~~to~~ a reference pressure of seven hundred sixty (760) millimeters of mercury (one thousand thirteen and two-tenths (1,013.2) millibars), as micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Measurements of ~~PM₁₀~~ and PM_{2.5}, for purposes of **comparison to** the standards contained in subsection ~~(b)(7) and~~ (b)(8), shall be reported based on actual ambient air volume measured at the actual ambient temperature and pressure at the monitoring site during the measurement period.

(b) Ambient air quality standards are as follows:

- (1) Sulfur oxides as sulfur dioxide (SO₂) requirements are as follows:

(A) For primary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Eighty (80) $\mu\text{g}/\text{m}^3$ (three-hundredths (0.03) parts per million (ppm)) annual arithmetic mean not to be exceeded in a calendar year.

(ii) Three hundred sixty-five (365) $\mu\text{g}/\text{m}^3$ (fourteen-hundredths (0.14) ppm) maximum twenty-four (24) hour average concentration not to be exceeded more than once per calendar year. The twenty-four (24) hour averages shall be determined from successive nonoverlapping three (3) hour blocks starting at midnight each calendar day.

(B) For secondary standards, the following value shall represent the maximum permissible ambient air quality levels: one thousand three hundred (1,300) $\mu\text{g}/\text{m}^3$ (five-tenths (0.5) ppm) maximum three (3) hour concentration not to be exceeded more than once per year. The three (3) hour averages shall be determined from successive nonoverlapping three (3) hour blocks starting at midnight each calendar day.

(C) SO_2 values may be converted to ppm using the conversion factor two thousand six hundred twenty (2,620) $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$.

(2) Total suspended particulates (TSP) requirements are as follows:

(A) For primary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Seventy-five (75) $\mu\text{g}/\text{m}^3$ annual geometric mean.

(ii) Two hundred sixty (260) $\mu\text{g}/\text{m}^3$ maximum twenty-four (24) hour average concentration not to be exceeded more than one (1) day per year.

(B) For secondary standards, the following value shall represent maximum permissible ambient air quality levels: one hundred fifty (150) $\mu\text{g}/\text{m}^3$ maximum twenty-four (24) hour average concentration not to be exceeded more than one (1) day per year.

(3) Carbon monoxide (CO) requirements are as follows:

(A) For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Ten (10) milligrams per cubic meter (mg/m^3) (ten thousand (10,000) $\mu\text{g}/\text{m}^3$) (nine (9) ppm) maximum eight (8) hour average concentration not to be exceeded more than once per year.

(ii) Forty (40) mg/m^3 (forty thousand (40,000) $\mu\text{g}/\text{m}^3$) (thirty-five (35) ppm) maximum one (1) hour average concentration not to be exceeded more than once per year.

(B) CO values may be converted to ppm using the conversion factor one thousand one hundred forty-five (1,145) $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$.

(4) Ozone (O_3) requirements are as follows:

(A) For the one (1) hour ozone standards, the level of the one (1) hour primary and secondary ambient air quality standards for ozone measured by a reference method based on 40 CFR 50, Appendix D* and designated in accordance with 40 CFR 53* is twelve-hundredths (0.12) ppm (two hundred thirty-five (235) $\mu\text{g}/\text{m}^3$). The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above twelve-hundredths (0.12) ppm (two hundred thirty-five (235) $\mu\text{g}/\text{m}^3$) is equal to or less than one (1) as determined by 40 CFR 50, Appendix H*.

(B) For the eight (8) hour ozone standards, the:

(i) level of the eight (8) hour primary and secondary ambient air quality standards for ozone, measured by a reference method based on 40 CFR 50, Appendix D* and designated in accordance with 40 CFR 53*, is eight-hundredths (0.08) ppm, daily maximum eight (8) hour average; and

(ii) eight (8) hour primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth highest daily maximum eight (8) hour average ozone concentration is less than or equal to eight-hundredths (0.08) ppm as determined in accordance with 40 CFR 50, Appendix I*.

(C) O_3 values may be converted to ppm using the conversion factor one thousand nine hundred sixty-five (1,965) $\mu\text{g}/\text{m}^3 = 1.0 \text{ ppm}$.

(5) Nitrogen dioxide (NO_2) requirements are as follows:

(A) For primary and secondary standards, the following value shall represent the maximum permissible ambient air quality level: one hundred (100) $\mu\text{g}/\text{m}^3$ (five-hundredths (0.053) [sic.] ppm) annual arithmetic mean concentration in a calendar year.

(B) NO_2 values may be converted to ppm using the conversion factor one thousand eight hundred eighty (1,880) $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$.

(6) Lead (Pb): For primary and secondary standards, the following value shall represent the maximum permissible ambient air quality level: one and five-tenths (1.5) micrograms lead per cubic meter of air (μg of Pb/m^3), averaged over a calendar quarter and measured as elemental lead.

(7) PM_{10} : For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

(A) Fifty (50) $\mu\text{g}/\text{m}^3$ annual arithmetic mean. The standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K*, is less than or equal to fifty (50) $\mu\text{g}/\text{m}^3$.

(B) One hundred fifty (150) $\mu\text{g}/\text{m}^3$ maximum twenty-four (24) hour average concentration. The standards are attained when the expected number of days per calendar year with a twenty-four (24) hour average concentration above one hundred fifty (150) $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50, Appendix K*, is equal to or less than one (1).

(8) $\text{PM}_{2.5}$: For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

(A) Fifteen (15) micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual arithmetic mean concentration. The standards are attained when the annual arithmetic mean concentration is less than or equal to fifteen (15) $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50, Appendix N* and measured in the ambient air as $\text{PM}_{2.5}$ by either:

(i) a reference method based on 40 CFR 50, Appendix L*, and designated in accordance with 40 CFR 53*; or

(ii) an equivalent method designated in accordance with 40 CFR 53*.

(B) Sixty-five (65) $\mu\text{g}/\text{m}^3$ twenty-four (24) hour average concentration. The standards are attained when the ninety-eighth percentile twenty-four (24) hour concentration is less than or equal to sixty-five (65) micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), as determined in accordance with 40 CFR 50, Appendix N and measured in the ambient air as $\text{PM}_{2.5}$ by either:

(i) a reference method based on 40 CFR 50, Appendix L*, and designated in accordance of 40 CFR 53*; or

(ii) an equivalent method designated in accordance with 40 CFR 53*.

*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 1-3-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2378; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3020; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3055; filed Mar 9, 2004, 3:45 p.m.: 27 IR 2224; filed Dec 20, 2004, 2:15 p.m.: 28 IR 1471)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on October 5, 2005, at 2:00 p.m. at the Pike County Court House, Auditorium, 801 Main Street, Petersburg, Indiana, the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 1-3-4.

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 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 Department of Environmental Management, 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.

TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND DRAFT RULE #05-236(APCB)

DEVELOPMENT OF NEW RULE CONCERNING NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM STEEL PICKLING HYDROCHLORIC ACID PROCESS SOURCES AND HYDROCHLORIC ACID REGEN- ERATION PLANTS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for a new rule concerning national emission standards for hazardous air pollutants for steel pickling hydrochloric acid process sources and hydrochloric acid regeneration plants. IDEM has scheduled a public hearing before the air pollution control board (board) for consideration of preliminary adoption of these rules.

CITATIONS AFFECTED: 326 IAC 20-29.

AUTHORITY: IC 13-15-2-1; IC 13-17-3-4.

STATUTORY REQUIREMENTS

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forego these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption, and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

- (1) the rule constitutes:
 - (A) an adoption or incorporation by reference of a federal law, regulation, or rule that:
 - (i) is or will be applicable to Indiana; and
 - (ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;
 - (B) a technical amendment with no substantive effect on an existing Indiana rule; or
 - (C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and
- (2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:
 - (A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;
 - (B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and
 - (C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

BACKGROUND

The 1990 Amendments to the Clean Air Act (CAA) require the United States Environmental Protection Agency (U.S. EPA) to regulate major sources of hazardous air pollutants (HAPs). A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that has the potential to emit, considering controls, ten (10) tons per year or more of any single hazardous air pollutant or twenty-five (25) tons per year or more of any combination of HAPs. U.S. EPA lists HAPs because they are either known or suspected to cause cancer or other serious health effects.

There are currently one hundred eighty-eight (188) HAPs listed in Section 112(b) of the CAA. On July 16, 1992 (57 FR 311576), U.S. EPA published a list of industrial groups or source categories that emit one (1) or more of the one hundred eighty-eight (188) listed HAPs. The CAA requires U.S. EPA to develop emission standards, referred to as national emission standards for hazardous air pollutants (NESHAPs),

that require the application of air pollution reduction measures based on maximum achievable control technology (MACT) for the listed source categories. The "MACT floor" is the minimum control level allowed for NESHAPs and ensures that the standard is set at a level that assures that all existing major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

On June 22, 1999, U.S. EPA issued a final rule (64 FR 33202) to reduce emissions of air toxics from steel pickling lines, acid regeneration plants, and storage tanks containing virgin or regenerated hydrochloric acid. Pickling is a process in which an acid solution is used to chemically remove oxide scale, or rust, that is formed on steel surfaces during hot rolling or hot forming, and occurs prior to shaping or coating of the finished steel product. The NESHAP is not applicable to facilities that pickle only speciality steels, such as stainless steel, nor to facilities that pickle carbon steel without using hydrochloric acid.

The steel pickling NESHAP reduces emission of two toxic air pollutants, hydrochloric acid and chlorine. Both have been identified by U.S. EPA as hazardous air pollutants (HAPs) under the CAA. Hydrochloric acid (HCl) can be characterized as a colorless aqueous solution or gas with a pungent odor. Chlorine is a greenish yellow gas with a suffocating odor. Chronic exposure to hydrochloric acid has been reported to cause gastritis, bronchitis, dermatitis, and photosensitization. Chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs. Acute exposure to high levels of chlorine may result in chest pain, vomiting, toxic pneumonitis, and pulmonary edema. The effects of exposure of a hazardous substance depends on the dose, the duration, how the exposure occurs, personal traits and habits, and whether other chemicals are present.

HCl is emitted from processing tanks used in continuous and batch pickling lines, acid regeneration plants, and pickling storage vessels. Chlorine is emitted from acid regeneration processes that reconstitute HCl pickling solution from spent pickle liquor.

For existing steel-pickling facilities, gas emissions must not contain HCl in a concentration exceeding eighteen (18) parts per million by volume (ppmv) or must be collected with control devices that have a collection efficiency of at least ninety-seven percent (97%). For new steel-pickling facilities, limits are separated by pickling line type. New continuous pickling lines are subject to a six (6) ppmv limit or a minimum collection efficiency of ninety-nine percent (99%). New batch pickling lines are subject to a eighteen (18) ppmv or a minimum collection efficiency of ninety-seven percent (97%).

For existing hydrochloric-acid regeneration plants, HCl emissions must not exceed a concentration of twenty-five (25) ppmv, and chlorine can not exceed six (6) ppmv. For new hydrochloric-acid regeneration plants, HCl emissions must not exceed twelve (12) ppmv, and chlorine can not exceed six (6) ppmv.

The NESHAP includes recordkeeping and reporting requirements, including those found in the general NESHAP provisions. Owners and operators must keep records on maintenance actions; process equipment startups, shutdowns, and malfunctions and actions taken during these times; air pollution control equipment malfunctions; scrubber operation parameters; and regeneration plant operation parameters.

During the promulgation of the steel pickling NESHAP, U.S. EPA estimated that there were one hundred three (103) pickling plants currently operating in twenty (20) states. Since the NESHAP was promulgated, sources in Indiana have consolidated, reorganized, or closed. At this time, Indiana has ten (10) sources that are subject to the NESHAP.

This new rulemaking is a direct incorporation by reference of the federal rule.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a direct adoption of federal requirements that are applicable to Indiana and contains no amendments that have a substantive effect on the scope or application of the federal rule.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
 IDEM Compliance and Technical Assistance Program
 OPPTA - MC60-04
 100 N. Senate Avenue
 W-041
 Indianapolis, IN 46204-2251
 (317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
 IDEM Small Business Assistance Program Ombudsman
 External Affairs - MC50-01
 100 N. Senate Avenue
 IGCN 1301
 Indianapolis, IN 46204-2251
 (317) 234-3386
elevenha@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on the incorporation by reference of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for hazardous air pollutants from steel pickling hydrochloric acid process sources and hydrochloric acid regeneration plants. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) The draft rule is the direct adoption of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law and state law to adopt NESHAPs or adopt rules that are as stringent as the federal regulations.
- (3) The citizens and regulated community of Indiana will benefit from prompt adoption of this rule because the state will have the legal authority to enforce this NESHAP.
- (4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.
- (5) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly

IC 13-14-9 Notices

Commissioner
Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Gayl Killough, Rules Section, Office of Air Quality (317) 233-8628 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 20-29 IS ADDED TO READ AS FOLLOWS:

Rule 29. Hydrochloric Acid Steel Pickling and Regeneration Plants

326 IAC 20-29-1 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 63.1155*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart CCC*.

*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 20-29-1*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on October 5, 2005 at 2:00 p.m., at the Pike County Court House, Auditorium, 801 Main Street, Petersburg, Indiana, the Air Pollution Control Board will hold a public hearing on new rule 326 IAC 20-29.

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

Additional information regarding this action may be obtained from Gayl Killough, Rules Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act Coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

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 Department of Environmental Management, 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.

TITLE 326 AIR POLLUTION CONTROL BOARD

LEGISLATIVE SERVICES AGENCY OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House

(317) 232-9855

ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

PROPOSED RULE: LSA Document #04-200

DATE PREPARED: Mar 21, 2005

STATE AGENCY: Air Pollution Control Board

DATE RECEIVED: Feb 10, 2005

FISCAL ANALYST: Valerie Ruda

PHONE NUMBER: 317-232-9867

Digest of Proposed Rule: This rule adds 326 IAC 10-5 to reduce nitrogen oxides for lean-burn internal combustion engines (ICE). It amends 326 IAC 10-3-3, 326 IAC 10-4-1, 326 IAC 10-4-2, 326 IAC 10-4-3, 326 IAC 10-4-13, 326 IAC 10-4-14, and 326 IAC 10-4-15 to make U.S. EPA required and other formatting amendments. The rule also amends 326 IAC 10-4-9 to correct energy efficiency formulas.

Governmental Entities: *State:* This rule places no unfunded mandates upon state government. *Local:* This rule places no unfunded mandates upon any local government unit.

Regulated Entities: This rule implements the second phase of the U.S. EPA's NOx SIP Call rule, of which the first phase was issued in 1998. Phase II of the NOx rule requires that nitrogen oxide emissions in Indiana be further reduced by 4,263 tons per year. According to the Indiana Department of Environmental Management, two regulated entities will be affected by this rule. Between the two entities, 17 internal combustion engines (ICEs) will require the purchase of emission-reducing equipment.

According to data provided by the two entities, it will cost approximately \$16 M to purchase the equipment for the 17 engines. The first entity estimates it will cost \$1M per engine, for its seven engines, for capital and operating costs to install the emission-reducing equipment. It will also cost \$10,000 per engine for emission monitoring. The second entity estimates it will cost between \$225,000 and \$1.3 M for direct and indirect costs based on the 10 engines' sizes. The entity also reported that emission-reducing equipment has already been installed on two engines at a cost of \$600,000 per engine.

Information Sources: Cost estimates from Panhandle Energy as provided through IDEM; ANR Pipeline (El Paso) email, January 18, 2005.

The Air Pollution Control Board gives notice that following publication of the Legislative Services Agency Fiscal Impact Statement, for LSA Document #04-200, the date of the public hearing for consideration of final adoption, printed at 28 IR 2780, has been scheduled.

IC 13-14-9-5 requires that a board may not final adopt a rule with an estimated economic impact on regulated entities that is greater than five hundred thousand dollars (\$500,000), until a copy of the legislative services agency fiscal impact statement required under IC 4-22-2-28 is printed in the Indiana Register. Because proposed rule LSA Document #04-200 was final adopted by the Air Pollution Control Board on August 3, 2005, in the absence of satisfying the requirement of IC 13-

14-9-5(a)(2)(C), the rule must be refinal adopted. The Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on October 5, 2005, at 2:00 p.m., at the Pike County Courthouse, Auditorium, 801 Main Street, Petersburg, Indiana, the Air Pollution Control Board will hold a public hearing on proposed 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 final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments and new rule. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from 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 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

provisions of Title 327 that may be affected by this rulemaking. Additionally, IDEM seeks comments on any other provisions of Senate Enrolled Act 620 that should be incorporated into this rulemaking.

CITATIONS AFFECTED: 327 IAC 2-1; 327 IAC 2-1.5; 327 IAC 5-1; 327 IAC 5-1.5; 327 IAC 5-2; 327 IAC 5-3.

AUTHORITY: IC 13-14-8-7; IC 13-18-3-2; IC 13-18-3-2.5; IC 13-18-3-2.6.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

Senate Enrolled Act (SEA) 620, passed in the 2005 legislative session, established the CSO wet weather limited use subcategory of the recreational use designation for waters receiving combined sewer overflows. SEA 620 requires the water pollution control board to adopt rules to implement the establishment of the subcategory. The subcategory is available to CSO communities that perform a use attainability analysis to change the designated use of waters receiving CSOs and have implemented an approved long term control plan. The long term control plan must be approved by IDEM and be incorporated into the NPDES permit or an order of the commissioner under IC 13-14-2-6. The long term control plan must also specify the water quality based requirements that apply to combined sewer overflows during and immediately following wet weather events. SEA 620 also provides authority to include compliance schedules within NPDES permits, where appropriate. The compliance schedules will require the permittee to take specific steps and meet specific milestones to achieve compliance with all applicable standards. A compliance schedule may be included in the NPDES permit for a CSO community during the period of development, approval and implementation of the long term control plan. The compliance schedule may not exceed the length of time required to implement an approved long term control plan. This rulemaking primarily affects CSO communities within the state. However, the overall effect will be to allow these communities to make progress in reducing and eliminating CSOs, which will positively affect all waters of the state.

SEA 620 also made amendments to IC 13-14-8-9, the NPDES variance statute. The amendments included the requirement to submit a pollutant minimization plan for the term for which a variance is sought, as well as amendments to the duration and renewal of variances. IDEM believes that a separate rulemaking to update both GLI and non-GLI variance regulations to conform to SEA 620 amendments and address other concerns with existing variance regulations is more appropriate than including the variance amendments within this rulemaking. Therefore, IDEM is preparing a separate first notice of rulemaking on that subject. However, if you believe this rulemaking to be the more appropriate forum for those amendments, please provide comments to this notice expressing your preference.

Alternatives To Be Considered Within the Rulemaking

Because SEA 620 mandates that the board adopt rules to implement the CSO wet weather limited use subcategory and allow for the use of compliance schedules in NPDES permits of qualifying CSO communities, there are no other alternatives being considered for those issues at this time. SEA 620 specifically outlines who qualifies for the subcategory designation and how the designation is to be obtained. Therefore, the implementing rules must be adopted in accordance with SEA 620. Similarly, SEA 620 defines who may seek a compliance schedule and the duration of the schedule. Therefore, the rules will implement the requirements of SEA 620 and, in accordance with SEA 620, assure that the rules comply with federal law.

TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#05-218(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES AND NEW RULES CONCERNING THE ESTABLISHMENT OF A CSO WET WEATHER LIMITED USE SUBCATEGORY AND THE USE OF PERMIT COMPLIANCE SCHEDULES FOR COMBINED SEWER OVERFLOW COMMUNITIES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules and new rules at 327 IAC 2-1, 327 IAC 2-1.5, and 327 IAC 5-2 and 327 IAC 5-3 concerning establishment of a CSO wet weather limited use subcategory and permit compliance schedules for qualifying communities affected by combined sewer overflows (CSO).

IDEM seeks comment on the affected citations listed and any other

One possible alternative to consider in this rulemaking is the consolidation of the issues of the subcategory and compliance schedules with amendments to the variance regulations. Currently, a separate rulemaking to address updating the variance regulations is being contemplated and a notice being prepared. However, if it is the general consensus of interested and affected parties that these rulemakings should be consolidated, IDEM would consider doing so.

Applicable Federal Law

40 CFR 122.47 Schedules of Compliance; 40 CFR 123.25 Requirements for Permitting; 40 CFR 131.10 Designation of Uses; 40 CFR 131.20 State Review and Revision of Water Quality Standards; 40 CFR 131.21 EPA Review and Approval of Water Quality Standards.

Potential Fiscal Impact

Because this rulemaking does not impose additional regulatory requirements on affected parties, no additional fiscal impact beyond those already incurred by communities developing and implementing use attainability analyses and long term control plans is anticipated. As the rule language is developed with the input of affected parties, potential fiscal impacts not currently anticipated will be discussed and any fiscal impact information provided to both the board and interested parties.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap/.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC 60-04

100 N. Senate Avenue, W-041
Indianapolis, IN 46204-2251
317-232-8578

selyusuf@idem.IN.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC 50-01

100 N. Senate Avenue, IGCN 1301
Indianapolis, IN 46204-2251
317-234-3386

elevenha@idem.IN.gov

Public Participation and Workgroup Information

A workgroup will be established for this rulemaking. All persons interested in participating in the workgroup are encouraged to do so. No meetings have been scheduled at this time but information on workgroup meetings will be posted on IDEM's Web site at www.in.gov/idem/rules/progress/. Click on the specific rule for workgroup times and dates and additional information. If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Kiran Verma, Rules Section, Office of Water Quality at (317) 234-0986 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#05-218(WPCB) CSO Rules
Kiran Verma
Rules Section
Office of Water Quality - MC 65-40
Indiana Department of Environmental Management
100 North Senate Avenue
IGCN 1255
Indianapolis, Indiana 46204-2251.

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, 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 a.m. 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 September 30, 2005.

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).

Bruno Pigott
Assistant Commissioner
Office of Water Quality

TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD
#05-233(WPCB)

**DEVELOPMENT OF NEW RULES CONCERNING INDIANA
PERFORMANCE TRACK INITIATIVES**

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules to 327 IAC concerning instituting a state voluntary performance-based program similar to the United States Environmental Protection Agency's National Environmental Performance Track Program to provide opportunities and incentives for eligible companies to allocate resources towards continuous improvement of their environmental management system and pollution prevention programs. IDEM seeks comment on inclusion of a voluntary performance program into Title 327.

CITATIONS AFFECTED: 327 IAC.

AUTHORITY: IC 13-14-8; IC 13-18-3-1.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

IDEM is considering implementing a performance-based incentive program for companies that not only meet environmental regulatory requirements, but that voluntarily go beyond those requirements to provide even greater protection to the environment and public health. To reward and encourage these companies, U.S. EPA and several states have implemented innovative programs that provide flexibility to eligible companies in meeting certain existing requirements. IDEM is considering basing a state incentive program on U.S. EPA's National Environmental Performance Track Program (Performance Track). The goal of the program is to achieve better environmental results, focusing more on outcomes than traditional measures. By providing regulatory flexibility, opportunities are provided to go beyond the compliance measures established by regulations. Opportunities are also created for state and federal government, as well as the regulated community, to focus resources more strategically to produce better overall environmental results.

Performance Track is a voluntary, performance-based program that provides incentives to companies that have gone above and beyond standard regulatory requirements. Incentives may include: recognition, networking opportunities, low priority for routine inspections, permitting flexibility, and decreased record keeping, reporting, and monitoring frequencies. These incentives include policy, guidance, and regulatory approaches. In some cases, other actions also must be completed before a company may take advantage of an incentive. For example, states are responsible for implementing parts of many federal environmental programs. In such cases, states may need to revise regulations, seek U.S. EPA approval of a revised program, re-issue permits, or take other actions.

IDEM is reviewing details of the Performance Track program and implementation challenges U.S. EPA has experienced. U.S. EPA's Performance Track program specifies that any facility, large or small, public or private, in the United States and its territories may apply for program membership. The program accepts applications twice per year, from February 1 to April 30, and from August 1 to October 31. To be accepted into the federal program, a company must satisfy four entry criteria:

- Facilities must be in compliance with applicable Federal, State, Local, and Tribal environmental regulations.
- Facilities must operate a well-designed environmental management system (EMS) as part of their overall management system.
- Facilities must demonstrate a record of environmental improvements for the previous two years beyond the minimums required of them. Facilities also must take additional future actions and commit to further improvements in the succeeding three years.

- Facilities must engage the public, and each year must report publicly on their progress toward meeting the goals that they have chosen, as well as summarize their compliance and the performance of their EMS. U.S. EPA makes the applications and annual performance reports of each company member available to the public.

Performance Track is designed so that U.S. EPA and other stakeholders can monitor and track the implementation of the benefits currently being offered to Program members, as well as those being considered. Member facilities commit to providing annual reports on the status of their efforts to achieve their commitments to improvements in specific environmental categories. This reporting commitment and other activities to engage the public result in a high level of scrutiny that will aid in monitoring the activities of the Performance Track Program. U.S. EPA analyzes these data and publishes a program report annually.

Companies are accepted into Performance Track for a period of three years. To continue receiving the benefits associated with the Program, facilities must renew their membership, which requires developing additional, continuing commitments to environmental performance improvements.

If a member company encounters significant performance problems that warrant its removal from Performance Track, U.S. EPA may remove the company from the program. Reasons for removal could include falsifying information in the application or Annual Performance Report, failing to file an Annual Performance Report, misrepresenting environmental performance in advertising or marketing claims, or for compliance problems that would be seen as inconsistent with Performance Track entry criteria.

If U.S. EPA decides that it may be necessary to remove a member company from Performance Track, U.S. EPA will provide the facility with notice of its intention. The company will be allowed 30 days to respond by taking corrective measures. If corrective measures resolve the issues, U.S. EPA will withdraw its notice of intention. A member company may also withdraw from the program at any time by notifying U.S. EPA of its intent in writing.

Other states that have developed performance-based incentive programs include Colorado, Michigan, New Jersey, Oregon, Texas, Virginia, and Wisconsin. IDEM plans to review these state programs for information and ideas that may be appropriate for Indiana.

Significant improvements in environmental quality are being achieved at the state and federal level as a result of performance-based programs. These programs provide opportunities and incentives for companies to allocate resources towards continuous improvement of their environmental management system and pollution prevention program. Through these focused efforts, U.S. EPA and state agencies are reporting increased compliance levels and reductions in material usage, energy consumption and emission levels by program members. With this notice, IDEM will begin discussions regarding the development of a voluntary performance-based program designed to recognize and provide greater flexibility to Indiana companies for exemplary environmental performance and stewardship.

A program developed for Indiana must be in accordance with U.S. EPA guidelines and be approvable by U.S. EPA. IDEM seeks comment on possible incentive topics that could be included in this or future rulemakings, elements of U.S. EPA's program and programs in other states that may be appropriate for Indiana, and any other issues related to development and implementation of a performance-based incentive program for Indiana companies.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Implement the program through new rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law, but it provides a regulatory framework to implement a voluntary state program based on the National Environmental Performance Track Program.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Implement the program through guidance.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. Do not implement the program in Indiana.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

This rule is based on the U.S. EPA's National Environmental Performance Track Program, a voluntary program that recognizes excellent environmental performance with opportunities and incentives. Specific environmental laws may become applicable if future federal rules for the National Environmental Performance Track Program are adopted at the state level.

Potential Fiscal Impact

There would be no fiscal impact imposed under any of the identified alternatives because the program is voluntary. However, companies taking advantage of the program could see reduced costs from some of the potential incentives such as reduced record keeping, reporting, and monitoring frequency.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301

Indianapolis, IN 46204-2251

(317) 234-3386

elevenha@idem.in.gov

Public Participation and Meeting Information

A public meeting will be held on September 27, 2005, at 1:00 p.m. in Indiana Government Center-South, Conference Center Room 4, 402 West Washington Street, Indianapolis, Indiana. The purpose of this meeting is to present information to interested parties about this rulemaking and to receive comment and answer questions from attendees. Additional meetings will be held as needed throughout the rulemaking process. If you are interested in attending the meeting or being informed of future meetings, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana), or at cpederse@idem.in.gov. Please provide your name, address, phone number, and e-mail address, if applicable, where you can be contacted.

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:

#05-233(WPCB) Performance Track for Water Programs
Christine Pedersen Mail Code 61-50
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

Bruno Pigott
Assistant Commissioner
Office of Water Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST NOTICE OF COMMENT PERIOD
#05-219(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REGULATION OF WASTES CONTAINING PCBs AT 329 IAC 4.1

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules and amendments to rules in 329 IAC 4.1 regulating wastes containing polychlorinated biphenyls (PCBs) concerning:

- clarifying the specific versions of secondary incorporation by reference materials to eliminate possible ambiguity over the specific versions of secondary incorporations (referenced in 40 CFR 761) to be used to comply with the article;
- updating addresses for mailing notices, viewing and copying documents, and ordering copies of regulations;
- removing an outdated restriction on use of the Uniform Hazardous Waste Manifest;
- removing references to a repealed rule;
- correcting a typographical error in 329 IAC 4.1-13-1 that causes confusion about how wastes that contain PCBs at a concentration of less than fifty (50) parts per million resulting from a source that had a concentration less than fifty (50) parts per million PCBs are regulated;
- making other appropriate changes recommended in public comments; and
- readopting 329 IAC 4.1 in accordance with IC 13-14-9.5.

IDEM seeks comment on the affected citations listed and any other provisions of 329 IAC 4.1 or other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 4.1.

AUTHORITY: IC 13-20-15-1.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

- IDEM is proposing to make the following specific changes:
- **329 IAC 4.1-1-6:** Clarify the specific versions of secondary incorporation by reference materials to eliminate possible ambiguity over the specific versions of secondary incorporations to be used to comply with the article. This action was requested by the Attorney General as a condition of approving the original PCB rule in 2000.
 - **329 IAC 4.1-2-1; 329 IAC 4.1-4-1; 329 IAC 4.1-5-1; 329 IAC 4.1-6-1; 329 IAC 4.1-11-1:** Correct the viewing/copying location and the address for the Superintendent of Documents.
 - **329 IAC 4.1-6-2:** Remove subdivision (5) that is no longer required

following P.L.143-2000 and repeal of 329 IAC 3.1-7-7 that established the Indiana Hazardous Waste Manifest. We do not prohibit use of EPA Form 8700-22 to manifest PCBs.

- **329 IAC 4.1-7-5; 329 IAC 4.1-8-5; 329 IAC 4.1-9-5; 329 IAC 4.1-10-1:** Correct the Office of Land Quality (OLQ) address.
- **329 IAC 4.1-13-1:** Remove the reference to repealed rule 329 IAC 10-8.1 in subsection (a). Correct a typographical error in subsection (d) that causes confusion about how wastes that contain PCBs at a concentration of less than 50 ppm resulting from a source that had a concentration less than 50 ppm PCBs are regulated. Remove subdivision (f)(7) that refers to 329 IAC 10-8.1.

Alternatives to be Considered Within the Rulemaking

We are considering the following alternatives in this rulemaking:

Alternative 1. Clarify the specific versions of secondary incorporation references in 329 IAC 4.1-1-6 or in a new section.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of federal standards and industry consensus standards.
- *Is this alternative imposed by federal law or is there a comparable federal law?* This alternative is not imposed under federal law, however, it incorporates by reference the federal PCB regulations in 40 CFR 761.
- *If this alternative is a federal requirement, is it different from federal law?* This alternative incorporates by reference the federal PCB regulations in 40 CFR 761.
- *If it is different, describe the differences.* Because section 18 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2617) generally preempts state regulation of PCB manufacturing and distribution, this incorporation is limited to the PCB disposal requirements in 40 CFR 761, Subparts D, G, K, and M through T, as well as limited requirements from 40 CFR 264, Subpart D.

Alternative 2. Correct the addresses for mailing notifications, viewing and copying documents, and ordering regulations throughout Article 4.1.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* No.
- *Is this alternative imposed by federal law or is there a comparable federal law?* No.
- *If this alternative is a federal requirement, is it different from federal law?* Not applicable.
- *If it is different, describe the differences.* Not applicable.

Alternative 3. Remove 329 IAC 4.1-6-2(5) that prohibits use of the Indiana hazardous waste manifest for manifesting PCB shipments.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference.
- *Is this alternative imposed by federal law or is there a comparable federal law?* The comparable federal standard is 40 CFR 761.207(b).
- *If this alternative is a federal requirement, is it different from federal law?* We are changing this requirement to be consistent with the federal requirement.
- *If it is different, describe the differences.* There are no differences.

Alternative 4. Amend 329 IAC 4.1-13-1 to remove references to 320 IAC 10-8.1, and correct a typographical error.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* Requires persons who dispose of wastes containing PCBs in municipal or non-municipal solid waste landfills to follow the federal PCB regulations.
- *Is this alternative imposed by federal law or is there a comparable federal law?* No. However, regardless of the existence of a state PCB rule, persons disposing of wastes containing PCBs are required

to follow the federal PCB regulations.

- *If this alternative is a federal requirement, is it different from federal law?* Rule 13 adds additional requirements for disposal of wastes containing PCBs in municipal or nonmunicipal solid waste landfills.
- *If it is different, describe the differences.* Rule 13 adds the following requirements for certain wastes containing PCBs when they are disposed of in a municipal or nonmunicipal solid waste landfill:
 - Obtain written authorization from the commissioner prior to disposal of any quantity of the waste.
 - Comply with any written conditions in the commissioner's authorization.
 - Dispose of nonleaking fluorescent light ballasts only in a municipal solid waste landfill that meets the design requirements of 329 IAC 10-17 (commonly referred to as a "Subtitle D" landfill with a composite liner) and follow the additional disposal requirements in 329 IAC 4.1-13-1(f).

Alternative 5. Readopt 329 IAC 4.1 under IC 13-14-9.5. IDEM proposes to readopt this article in anticipation of its expiration as provided for in IC 13-14-9.5-3. This article will expire on January 1, 2007. Beginning the readoption process now will ensure that it is completed by the expiration date. IDEM intends to readopt 329 IAC 4.1 under the full notice and comment provisions of IC 13-14-9 and IC 4-22-2.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of federal standards and industry consensus standards.
- *Is this alternative imposed by federal law or is there a comparable federal law?* This alternative is not imposed under federal law, however, it incorporates by reference the federal PCB regulations in 40 CFR 761.
- *If this alternative is a federal requirement, is it different from federal law?* This alternative incorporates by reference the federal PCB regulations in 40 CFR 761.
- *If it is different, describe the differences.* Because section 18 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2617) generally preempts state regulation of PCB manufacturing and distribution, this incorporation is limited to the PCB disposal requirements in 40 CFR 761, Subparts D, G, K, and M through T, as well as limited requirements from 40 CFR 264, Subpart D.

Alternative 6. Do not adopt one (1) or more of the preceding alternatives.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* No.
- *Is this alternative imposed by federal law or is there a comparable federal law?* No.
- *If this alternative is a federal requirement, is it different from federal law?* Not applicable.
- *If it is different, describe the differences.* Not applicable.

Additional Alternatives

This notice specifically solicits comment on the alternatives listed above and any other alternatives that would accomplish the purpose of this rule. Based on the comments received on this notice, additional alternatives may be considered.

Applicable Federal Law

Section 18 of TSCA (15 U.S.C. §2617) generally preempts state regulation of PCBs. However, that section does permit states to regulate disposal of PCBs as long as the state's regulations are at least as stringent as the corresponding federal regulations in 40 CFR 761.

Potential Fiscal Impact

Alternatives 1 through 5 are not imposed under federal law and may potentially have very limited fiscal impact on regulated entities affected

by this rule. Since IDEM is not proposing any new requirements at this time, we do not expect that this rule will result in any new costs. Some limited cost savings may result from streamlining and improvement of the rule but it is not possible to quantify those potential savings, if any, at this time.

Applicable Federal Law

Section 6(e) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2605) provides for regulation of PCBs. Section 18 of TSCA preempts state regulation of PCBs EPA regulates PCBs except for regulation of disposal of PCBs that is not more or less stringent than the federal regulations at 40 CFR 761. 329 IAC 4.1 incorporates by reference the portions of 40 CFR 761 that regulate disposal of PCBs.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue, W-041
Indianapolis, IN 46204-2251
317-232-8578
selyusuf@idem.IN.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue, IGCN 1301
Indianapolis, IN 46204-2251
317-234-3386
elevenha@idem.IN.gov

Public Participation and Workgroup Information

IDEM may establish an external workgroup to discuss issues involved in this rulemaking. The workgroup, if established, would be made up of department staff and a cross-section of stakeholders. If you believe a workgroup would further the purposes of this rule and result in better rulemaking, and you wish to participate in the workgroup, please submit your name, mailing address, telephone number, e-mail address, and the area(s) of interest you wish to represent to:

Marjorie Samuel (#05-219; Regulation of Wastes Containing PCBs)
Indiana Department of Environmental Management
Office of Land Quality
100 N. Senate Ave., Room 1101
Indianapolis, Indiana 46204-2241

If too many applications are received to form a functional workgroup, the department will select a representative group from the applications on file.

The formation of a workgroup, if it occurs, will be announced on IDEM's rulemaking website: <http://www.in.gov/idem/rules/>.

If a workgroup is formed and you wish to provide comments to the workgroup on the rulemaking, attend meetings, or submit suggestions related to the workgroup process, please contact Steve Mojonner, Rules, Planning and Outreach Section, Office of Land Quality at (317) 233-1655 or (800) 451-6027 (in Indiana). Please provide your name, phone number and e-mail address, if applicable, where you can be contacted.

The public is also encouraged to submit comments and questions directly to members of the workgroup who represent their particular interests in the rulemaking. If a workgroup is established, a list of workgroup members and the interests they represent will be provided on request.

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.
- (3) The submission of information on the fiscal impact of each alternative identified in this notice.

Mailed comments should be addressed to:

Marjorie Samuel (#05-219; Regulation of Wastes Containing PCBs)
Indiana Department of Environmental Management
Office of Land Quality
100 N. Senate Ave., Room 1101
Indianapolis, Indiana 46204-2241

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor East, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Steve Mojonier of the Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana), press zero (0), and ask for extension 3-1655. Additional information on this rule may also be found on IDEM's rulemaking Web site at <http://www.in.gov/idem/rules/>.

Bruce H. Palin
Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD**FIRST NOTICE OF COMMENT PERIOD
#05-234(SWMB)****DEVELOPMENT OF NEW RULES CONCERNING INDIANA
PERFORMANCE TRACK INITIATIVES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules to 329 IAC concerning instituting a state voluntary performance-based program similar to the United States Environmental Protection Agency's National Environmental Performance Track Program to provide opportunities and incentives for eligible companies to allocate resources towards continuous improvement of their environmental management system and pollution prevention programs. IDEM seeks comment on inclusion of a voluntary performance program into Title 329.

CITATIONS AFFECTED: 329 IAC.

AUTHORITY: IC 13-14-8; IC 13-19-3-1.

**SUBJECT MATTER AND BASIC PURPOSE OF
RULEMAKING****Basic Purpose and Background**

IDEM is considering implementing a performance-based incentive program for companies that not only meet environmental regulatory requirements, but that voluntarily go beyond those requirements to provide even greater protection to the environment and public health. To reward and encourage these companies, U.S. EPA and several states have implemented innovative programs that provide flexibility to eligible companies in meeting certain existing requirements. IDEM is considering basing a state incentive program on U.S. EPA's National Environmental Performance Track Program (Performance Track). The goal of the program is to achieve better environmental results, focusing more on outcomes than traditional measures. By providing regulatory flexibility, opportunities are provided to go beyond the compliance measures established by regulations. Opportunities are also created for state and federal government, as well as the regulated community, to focus resources more strategically to produce better overall environmental results.

Performance Track is a voluntary, performance-based program that provides incentives to companies that have gone above and beyond standard regulatory requirements. Incentives may include: recognition, networking opportunities, low priority for routine inspections, permitting flexibility, and decreased record keeping, reporting, and monitoring frequencies. These incentives include policy, guidance, and regulatory approaches. In some cases, other actions also must be completed before a company may take advantage of an incentive. For example, states are responsible for implementing parts of many federal environmental programs. In such cases, states may need to revise regulations, seek U.S. EPA approval of a revised program, re-issue permits, or take other actions.

IDEM is reviewing details of the Performance Track program and implementation challenges U.S. EPA has experienced. U.S. EPA's Performance Track program specifies that any facility, large or small, public or private, in the United States and its territories may apply for program membership. The program accepts applications twice per year, from February 1 to April 30, and from August 1 to October 31. To be accepted into the federal program, a company must satisfy four entry criteria:

- Facilities must be in compliance with applicable Federal, State, Local, and Tribal environmental regulations.
- Facilities must operate a well-designed environmental management system (EMS) as part of their overall management system.
- Facilities must demonstrate a record of environmental improvements for the previous two years beyond the minimums required of them. Facilities also must take additional future actions and commit to further improvements in the succeeding three years.
- Facilities must engage the public, and each year must report publicly on their progress toward meeting the goals that they have chosen, as well as summarize their compliance and the performance of their EMS. U.S. EPA makes the applications and annual performance reports of each company member available to the public.

Performance Track is designed so that U.S. EPA and other stakeholders can monitor and track the implementation of the benefits currently being offered to Program members, as well as those being considered. Member facilities commit to providing annual reports on the status of their efforts to achieve their commitments to improvements in specific environmental categories. This reporting commitment and other activities to engage the public result in a high level of scrutiny that will aid in monitoring the activities of the Performance Track Program. U.S. EPA analyzes these data and publishes a program report annually.

Companies are accepted into Performance Track for a period of three years. To continue receiving the benefits associated with the Program, facilities must renew their membership, which requires developing additional, continuing commitments to environmental performance improvements.

If a member company encounters significant performance problems that warrant its removal from Performance Track, U.S. EPA may remove the company from the program. Reasons for removal could include falsifying information in the application or Annual Performance Report, failing to file an Annual Performance Report, misrepresenting environmental performance in advertising or marketing claims, or for compliance problems that would be seen as inconsistent with Performance Track entry criteria.

If U.S. EPA decides that it may be necessary to remove a member company from Performance Track, U.S. EPA will provide the facility with notice of its intention. The company will be allowed 30 days to respond by taking corrective measures. If corrective measures resolve the issues, U.S. EPA will withdraw its notice of intention. A member company may also withdraw from the program at any time by notifying U.S. EPA of its intent in writing.

On April 22, 2004, U.S. EPA issued a regulation under the Resource Conservation and Recovery Act (RCRA) applicable to members of U.S. EPA's Performance Track Program to allow large quantity hazardous waste generators up to 180 days, and in certain cases 270 days, to accumulate their hazardous waste without a RCRA permit or interim status, provided the generator meets certain conditions. (69 FR 21737). This incentive will result in fewer loads. IDEM is considering adopting a similar incentive into state rules.

Other states that have developed performance-based incentive programs include Colorado, Michigan, New Jersey, Oregon, Texas, Virginia, and Wisconsin. IDEM plans to review these state programs for information and ideas that may be appropriate for Indiana.

Significant improvements in environmental quality are being achieved at the state and federal level as a result of performance-based programs. These programs provide opportunities and incentives for companies to allocate resources towards continuous improvement of their environmental management system and pollution prevention program. Through these focused efforts, U.S. EPA and state agencies are reporting increased compliance levels and reductions in material

usage, energy consumption and emission levels by program members. With this notice, IDEM will begin discussions regarding the development of a voluntary performance-based program designed to recognize and provide greater flexibility to Indiana companies for exemplary environmental performance and stewardship.

A program developed for Indiana must be in accordance with U.S. EPA guidelines and be approvable by U.S. EPA. IDEM seeks comment on possible incentive topics that could be included in this or future rulemakings, elements of U.S. EPA's program and programs in other states that may be appropriate for Indiana, adoption into a state program of elements similar to the federal program in the April 22, 2004 Federal Register, and any other issues related to development and implementation of a performance-based incentive program for Indiana companies.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Implement the program through new rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law, but it provides a regulatory framework to implement a voluntary state program based on the National Environmental Performance Track Program.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Implement the program through guidance.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. Do not implement the program in Indiana.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

This rule is based on the U.S. EPA's National Environmental Performance Track Program, a voluntary program that recognizes excellent environmental performance with opportunities and incentives. Specific environmental laws may become applicable if future federal rules for the National Environmental Performance Track Program are adopted at the state level. 40 CFR 262 (Standards Applicable to Generators of Hazardous Waste) contains the RCRA provisions affected by the federal incentives in the April 22, 2004 Federal Register (69 FR 21737).

Potential Fiscal Impact

There would be no fiscal impact imposed under any of the identified alternatives because the program is voluntary. However, companies taking advantage of the program could see reduced costs from some of the potential incentives such as reduced record keeping, reporting, and monitoring frequency.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental

regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

Public Participation and Meeting Information

A public meeting will be held on September 27, 2005, at 1:00 p.m. in Indiana Government Center-South, Conference Center Room 4, 402 West Washington Street, Indianapolis, Indiana. The purpose of this meeting is to present information to interested parties about this rulemaking and to receive comment and answer questions from attendees. Additional meetings will be held as needed throughout the rulemaking process. If you are interested in attending the meeting or being informed of future meetings, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana), or at cpederse@idem.in.gov. Please provide your name, address, phone number, and e-mail address, if applicable, where you can be contacted.

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:

#05-234(SWMB) Performance Track for Land Programs
Christine Pedersen Mail Code 61-50
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth Floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

Bruce H. Palin
Assistant Commissioner
Office of Land Quality

Nonrule Policy Documents

INDIANA DEPARTMENT OF INSURANCE

August 4, 2005

Bulletin 133

Pre-existing Condition Exclusion Waivers Individual and Non-employer Association or Discretionary Group Policies

This Bulletin is directed to all insurers that write individual health insurance policies or non-employer sponsored association or discretionary group health insurance policies. Beginning July 1, 2005, House Enrolled Act 1075 (P.L. 211-2005) allows insurers to issue individual policies with a waiver of coverage for a specified condition and complications directly related thereto. Department of Insurance Bulletins 96 and 121 are withdrawn.

When issuing waivers, the insurer must comply with several conditions. A waiver may not exceed ten (10) years. The insurer shall provide the applicant written notice explaining the waiver of coverage before issuance of the policy. The insurer must obtain the applicant's initials on the notice, offer of coverage and policy documents as proof that the applicant was provided the required notice and accepts the waiver of coverage. The offer of coverage and the policy must include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition. Only two (2) waivers per individual are permitted. The waiver period must run concurrently with any preexisting condition limitation or exclusionary period. The insurer must review the underwriting basis for the waiver upon request, one (1) time each year and remove the waiver if the insurer determines that evidence of insurability is satisfactory. The insurer must disclose to the applicant that he/she may decline the offer of coverage and apply for a policy with the Indiana Comprehensive Health Insurance Association (ICHIA). The individual's insurance card must include a telephone number for verification of whether a given procedure is excluded under the waiver of coverage.

A policy may not include a waiver for a mental health condition or a developmental disability, including pervasive developmental disorder as defined at IC 27-8-14.2. An insurer may not deny coverage, based on the waiver, for any condition or complication that is not specified in the written notice of the waiver, the offer of coverage and the issued policy. Once a waiver is lifted or expires, the insurer shall not consider the previously waived condition in renewal and underwriting determinations and must renew the policy in accordance with Indiana and federal laws.

Reporting Requirements

In order to assist the Department in preparing for its statutory reporting obligations, the Department is directing insurers to notify the Department in writing of an intent to use waivers prior to issuing any waivers. Also, insurers are reminded that waiver forms must be filed and approved by the Department under IC 27-8-5-1.

Each insurer that chooses to issue policies with waivers is required to report the following information on a form prescribed by the Department.

- (1) The number of policies and certificates that the insurer issued with a waiver.
- (2) A list of specified conditions that the insurer waived.
- (3) The number of waivers issued for each specified condition.
- (4) The number of waivers issued categorized by the period of time for which coverage of a specified condition was waived.
- (5) The number of applicants who were denied insurance coverage by the insurer because of a specified condition.

The form for these reports will be posted on the Department's website, www.in.gov/idoi. Reports will be due on September 1, 2006 and September 1, 2007. Insurers participating in the demonstration project under P.L. 211-2003 should file the report due August 1, 2005 for the reporting period of July 1, 2004, through June 30, 2005. Thereafter the reporting requirements of P.L. 211-2003 will be considered void as the 2005 legislation requires duplicative reports in 2006 and 2007 for all insurers issuing waivers.

INDIANA DEPARTMENT OF INSURANCE

James Atterholt, Commissioner

DEPARTMENT OF STATE REVENUE

COMMISSIONER'S DIRECTIVE #30

(Replaces Information Bulletin #1FB dated December 2002)

July 2005

DISCLAIMER: Commissioner's Directives are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Local Food and Beverage Taxes

REFERENCE: IC 6-9-12; IC 6-9-20; IC 6-9-21; IC 6-9-23; IC 6-9-24; IC 6-9-25; IC 6-9-26; IC 6-9-27; IC 6-9-33; IC 6-9-35; IC 6-9-36; and IC 6-9-38

INTRODUCTION

This directive is directed to retail merchants responsible for collecting the various county and municipal food and beverage taxes. The purpose of this directive is to assist retail merchants in the proper application of the food and beverage tax. In counties or municipalities that adopt a food and beverage tax, the rate is one percent (1%) of the gross retail income received from taxable food and beverage transactions. In some instances where **both a county and municipality within the county** have adopted the food and beverage tax, the total tax rate for a taxable transaction inside the municipality is two percent (2%).

I. LOCATION OF TRANSACTION

The food and beverage tax applies only to transactions that take place in a county or municipality that adopts the tax. A retail merchant that caters in counties that have not adopted the tax will not collect the tax on transactions in those counties.

II. TRANSACTIONS SUBJECT TO TAX

The food and beverage tax applies to any transaction in which food or beverage is furnished, prepared, or served by a retail merchant for consumption at a location or on equipment provided by the retail merchant in a county or municipality that adopts the tax.

For purposes of the food and beverage tax, consumption at a location or on equipment provided by the retail merchant includes food or beverage which is served by a retail merchant off the retail merchant's premises. This includes food sold and served by a retail merchant that is performing catering activities.

The transaction is taxable if the food is sold in a heated state or heated by the retail merchant. This includes food sold at a deli counter in a grocery store that is cooked or heated on the premises of the retail merchant.

Food or beverages sold by a retail merchant where the seller provides eating utensils including plates, knives, forks, spoons, glasses, cups, napkins, or straws results in a taxable transaction.

Food sold by a retail merchant where two or more food ingredients are mixed or combined by the retail merchant for sale as a single item results in a taxable transaction. This does not include food that is only cut, repackaged, or pasteurized by the seller and eggs, fish, meat, and poultry requiring cooking by the consumer.

III. EXEMPT TRANSACTIONS

The food and beverage tax does not apply to the sales of food and beverages if the transaction is exempt from the sales tax.

IV. COLLECTION AND REMITTANCE OF THE TAX

The food and beverage tax is imposed, paid and collected in the same manner as the sales tax. The filing of the return and the remittance of the tax collected is due thirty days after the end of the month in which the transaction occurs. The return for the food and beverage tax is a separate return from the sales and use tax return. A retailer that is required to collect and remit the tax may file a consolidated food and beverage tax return if the retailer operates multiple locations in the same county. A separate return is required to be filed by the retailer if the retailer has locations in different adopting counties.

The retailer is required to file a separate return if the retail establishment is located in a municipality inside a county where both units of government have adopted a food and beverage tax.

With the exception of Johnson County all tax returns and remittances for the food and beverage tax are required to be filed with the Indiana Department of Revenue. Johnson County has passed an ordinance to have the tax remitted to the county treasurer.

V. UNITS IMPOSING THE FOOD AND BEVERAGE TAX

Unit of Government	Rate	Effective Date
Marion County	2%	July 1981 July 2005 (Rate Increase)
Vanderburgh County	1%	August 1985
Delaware County	1%	August 1986
Allen County	1%	July 1986
Nashville (Brown County)	1%	July 1987
Henry County	1%	October 1987
Madison County	1%	February 1989
Mooresville (Morgan County)	1%	August 1990
Shipshewana (LaGrange County)	1%	July 1990
Plainfield (Hendricks County)	2%	August 1995
Brownsburg (Hendricks County)	2%	August 1995
Avon (Hendricks County)	2%	July 2005
Martinsville (Morgan County)	1%	July 2005
Boone County	1%	August 2005
Johnson County	1%	August 2005 Collected by county treasurer
Hamilton County	1%	August 2005

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Carmel (Hamilton County)	2%	August 2005
Noblesville (Hamilton County)	2%	August 2005
Hancock County	1%	August 2005
Hendricks County	1%	August 2005
Shelby County	1%	August 2005

Authorized but not adopted as of July 12, 2005

Fishers
Greenfield
Lebanon
Westfield
Zionsville
Lake County
Porter County
Wayne County
Cities and Towns within Wayne County
 John Eckart
 Commissioner

DEPARTMENT OF STATE REVENUE

IN REGARDS TO THE MATTER OF:

KOKOMO FIRE DRAGONS

3112 OXFORD STREET

KOKOMO, IN 46074

DOCKET NO. 29-2003-0432

PROPOSED ORDER

- 1) The Criminal Investigation Division of the Indiana Department of Revenue conducted an investigation of the Petitioner on July 8, 2003.
- 2) Petitioner was assessed three thousand five hundred dollars (\$3,500) in civil penalties and its license to conduct charity gaming was suspended for three (3) years.
- 3) Petitioner appealed the Department's proposed actions on October 29, 2003.
- 4) A power of attorney form (POA-1) was signed on November 10, 2003 by Petitioner's Secretary/Treasurer Judy Wade giving Chris L. Kemp, CPA the authority to receive confidential information and the full power to perform on behalf of the Petitioner all acts incidental to such representation.
- 5) A hearing in this matter was set for August 12, 2004 and again on June 21, 2005.
- 6) Petitioner's Directors held a meeting on May 26, 2005 regarding the organization's dissolution.
- 7) Petitioner's articles of dissolution were dated May 26, 2005.
- 8) The Petitioner's CPA, Chris L. Kemp, withdrew Petitioner's appeal on June 6, 2005.

PROPOSED DEPARTMENTAL ORDER

Following due consideration of the entire record, the Administrative Law Judge orders the following:
Petitioner's appeal is dismissed.

- 1) Administrative review of this proposed decision may be obtained by filing, with the Commissioner of the Indiana Department of State Revenue (100 North Senate Avenue, Room N248, Indianapolis, Indiana 46204-2253), a written document identifying the basis for each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).
- 2) Judicial review of a final order may be sought under IC 4-21.5-5.

THIS PROPOSED DEPARTMENTAL ORDER SHALL BECOME THE FINAL ORDER OF THE INDIANA DEPARTMENT OF STATE REVENUE UNLESS OBJECTIONS ARE FILED WITHIN FIFTEEN (15) DAYS FROM THE DATE THE ORDER IS SERVED ON THE PETITIONER.

Dated: _____

Bruce R. Kolb / Administrative Law Judge

DEPARTMENT OF STATE REVENUE

**IN REGARDS TO THE MATTER OF:
ANDERSON HOOP SHOOTERS, INC.
425 SYLVAN DRIVE
ANDERSON, IN 46012
DOCKET NO. 29-2004-0339**

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND PROPOSED DEPARTMENTAL ORDER**

An administrative hearing was held on Monday, January 31, 2005, and Tuesday, February 1, 2005 in the office of the Indiana Department of State Revenue, 100 N. Senate Avenue, Room N248, Indianapolis, Indiana 46204 before Bruce R. Kolb, Administrative Law Judge acting on behalf of and under the authority of the Commissioner of the Indiana Department of State Revenue.

Petitioner, Anderson Hoop Shooter, Inc., was represented by Marilyn A. Moores and Arend J. Abel of Cohen & Mallad, LLP, One Indiana Square, Suite 1400, Indianapolis, Indiana 46204. Attorney Doug Klitzke appeared on behalf of the Indiana Department of State Revenue.

A hearing was conducted pursuant to IC 4-21.5 et seq., evidence was submitted, and testimony given. The Department maintains a record of the proceedings. The transcript of the hearing was received by the Administrative Law Judge on February 24, 2005. A Supplemental Brief from the Department was received on March 18, 2005. A Supplemental Brief on behalf of the Petitioner was received on April 2, 2005. Being duly advised and having considered the entire record, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law, and Proposed Departmental Order.

REASON FOR HEARING

An investigation was conducted by the Criminal Investigation Division of the Indiana Department of Revenue and was completed on June 15, 2004. The Department issued a letter to Petitioner dated September 3, 2004, which imposed Eight Thousand Five Hundred Dollars (\$8,500) in civil penalties, and suspended the Petitioner from any and all gaming activities for a period of three (3) years. Petitioner's civil penalties were paid in full on September 17, 2004. The Petitioner protested the Department's decision in a timely manner.

FINDINGS OF FACTS

- 1) The Criminal Investigation Division of the Indiana Department of Revenue (hereinafter referred to as Department) conducted an investigation of Anderson Hoop Shooters, Inc. in 2002. (Record at 113).
- 2) Anderson Hoop Shooters, Inc. was founded by Dr. Philip Foley (hereinafter referred to as Dr. Foley) in 1987. (Record at 10).
- 3) Anderson Hoop Shooters, Inc. (hereinafter referred to as Petitioner) runs Slam Dunk Bingo. (Record at 31).
- 4) Before Slam Dunk Bingo, the Petitioner ran Warrior Bingo. (Record at 10).
- 5) Slam Dunk Bingo was located at 121 Federal Drive, Chesterfield, Indiana 46017. (Department's Exhibit #1).
- 6) Tom Arnbo and Sally Arnbo were the signatories on the Slam Dunk Bingo charity gaming account. (Record at 13).
- 7) Dr. Foley and David Clark were the signatories on Petitioner's checking account. (Record at 14).
- 8) Tom Arnbo, Sally Arnbo, and Dr. Foley were listed as operators for Anderson during the periods at issue. (Department's Exhibits #2, 3, and 4).
- 9) An operator is responsible for conducting an allowable event for a qualified organization under this article in accordance with Indiana law. (See IC 4-32-6-17).
- 10) The Department's letter to Petitioner, dated September 3, 2004, states in part, "For several years (September 1, 1997 to November 1, 2003) Anderson Hoop Shooters indicated that the location of its principal office was 1017 W. 19th Street, Anderson, IN. This is also the address of the Wilson Boys & Girls Club. Pursuant to a subpoena, Bruce Rhodes, Chief Professional Officer for Wilson Boys & Girls Club, indicated that the Anderson Hoop Shooters has never, during the period indicated above, utilized any portion of the facility located at 1017 W. 19th Street, Anderson, IN. Furthermore, Mr. Rhodes indicated that Anderson Hoop Shooters, Inc. has not had a lease agreement with the Wilson Boys & Girls Club during the period indicated...For over six (6) years Anderson Hoop Shooters told the Department that their principal office was located at 1017 W. 19th Street, Anderson, IN; however, Wilson Boys & Girls Club indicates that Anderson Hoop Shooters never utilized any portion of the facility located at 1017 W. 19th Street...**The Department imposes a civil penalty for the first violation of one thousand dollars (\$1,000).**"
- 11) Petitioner's address of its principal office listed on its CG-2Rs (Annual Bingo Renewal Application) for the year 2001 is 1017 W. 19th Street, Anderson, Indiana 46011. (Department's Exhibit #2).
- 12) Petitioner's address of its principal office listed on its CG-2Rs (Annual Bingo Renewal Application) for the year 2002 is 1017 W. 19th Street, Anderson, Indiana 46011. (Department's Exhibit #3).
- 13) Petitioner's address of its principal office listed on its CG-2R (Annual Bingo Renewal Application) for the year 2003, dated

November 3, 2003, is 425 Sylvan Drive, Anderson, Indiana 46012. (Department's Exhibit #4).

14) Petitioner's CG-2R (Annual Bingo Renewal Application) for the year 2003, dated November 3, 2003 was stamped received by the Indiana Department of Revenue Compliance Division, Charity Gaming Section on November 6, 2003. (Department's Exhibit #4).

15) According to Petitioner's letter dated November 1, 2003 (signed by Dr. Foley) the Department as well as the Indiana Secretary of State was notified that Petitioner's principal office address was changed to 425 Sylvan Drive, Anderson, Indiana 46012. (Petitioner's Exhibit N).

16) Petitioner's letter dated November 1, 2003 (Petitioner's Exhibit N) was stamped received by the Indiana Department of Revenue Compliance Division, Charity Gaming Section on November 6, 2003. (Petitioner's Exhibit N).

17) Dr. Foley stated at hearing that Petitioner's records were kept on the third floor of the building occupied by the Wilson Boys & Girls Club. This address was 1017 W. 19th Street address in Anderson, Indiana. (Record at 12-13).

18) Dr. Foley also testified, "We [Anderson Hoop Shooters] had a room upstairs which was part of the Warrior program where I had file cabinets, I had uniforms, and basketballs..." (Record at 45).

19) Dr. Foley testified that the Petitioner's records were moved out of the 1017 W. 19th Street address in Anderson, Indiana three or four years ago. (Record at 16).

20) When Dr. Foley was asked whether the reports turned into the Department were ever corrected to reflect the address change he replied, "No. Tom and Sally told me to just leave it that way because it might cause us some change in our license." (Record at 13).

21) The Department's investigator testified, "I asked Mr. Rhodes regarding the Anderson Hoop Shooters, I asked him if they were housed, had any offices or conducted any business out of 1017 West 19th Street in Anderson. Mr. Rhodes told me that Anderson Hoop Shooters, to his knowledge, never occupied space or maintained records during his tenure." (Record at 103).

22) Mr. Rhodes had been Chief Professional Officer for the Wilson Boys & Girls Club since February 15, 2000. (Department's Exhibit #10).

23) The Indiana Department of Revenue's *Charity Gaming Information Publication 2* has no legal authority or precedential value.

24) Petitioner had offices at the 1017 W. 19th Street address in Anderson, Indiana and ceased using them prior to February 15, 2000.

25) The conflicting evidence provided at hearing does not pinpoint the exact time when the Petitioner officially moved its principal offices out of the 1017 W. 19th Street address; however, the fact remains that Department did not receive notice of this address change until November 6, 2003.

26) The Department's letter to Petitioner, dated September 3, 2004, states in part, "For the period ending August 31, 2002 and August 31, 2003 Anderson Hoop Shooters indicated on its Schedule CG-Dist, Charitable Distribution Listing, that it donated \$26,239 and \$11,587 respectively to the Wilson Boys & Girls Club. In response to a subpoena, Bruce Rhodes, Chief Professional Officer for Wilson Boys & Girls Club, indicated that the Wilson Boys & Girls Club had no record of any moneys being donated to it by the Anderson Hoop Shooters... In this case, Anderson Hoop Shooters indicated that in excess of \$37,000 was donated to the Wilson Boys & Girls Club over a two (2) year period. Wilson Boys & Girls Club, Chief Professional Officer, denied that the organization ever received any moneys from the Anderson Hoop Shooters. Anderson Hoop Shooters has failed to file accurate reports with the Department and has failed to accurately account for all the net proceeds from allowable charity gaming events. Anderson Hoop Shooters has committed deceit and misrepresentation in the filing of the reports required by charity gaming statutes... **The Department imposes a civil penalty for the second violation of two-thousand five hundred dollars (\$2,500).**"

27) Petitioner's CG-Dist (Charitable Contribution Distribution Listing) contained entries for the period ending August 31, 2002 showing twenty-six thousand two hundred thirty-nine dollars (\$26,239) was donated to the Wilson Boys and Girls Club. (Department's Exhibit #8).

28) Petitioner's CG-Dist (Charitable Contribution Distribution Listing) contained entries for the period ending August 31, 2003 showing eleven thousand five hundred eighty-seven dollars (\$11,587) was donated to the Wilson Boys and Girls Club. (Department's Exhibit #11).

29) At hearing Dr. Foley stated under oath, "I have a statement recently by Bruce Rhodes, just this week, showing that the Boys and Girls club did receive money and that the Slam Dunk Bingo did provide money and funds for the Wilson Girls and Boys Club." (Record at 22).

30) Dr. Foley produced a written statement, by Mr. Rhodes dated January 28, 2005, which states, "This letter is in reference to the financial support of the Wilson Boys & Girls Club by Doctor Phillip Foley and Hoopshooter's Bingo. During the past few years Dr. Foley and the Hoopshooter's Bingo have provided funding for AAU Basketball Teams and their activities. Also, they have donated funds support Boys & Girls Club programming and activities. These funds were provided the funds to support the activities of this organization, impacting the lives of many youth through-out or community and Madison County."

(Petitioner's Exhibit L).

- 31) Dr. Foley provided all financial information contained in Exhibits C, D, E, and F. (Record at 36-39).
- 32) The evidence presented at hearing tends to support the Petitioner's contention that the donations at issue, sent to Wilson Boys & Girls Club, were in fact received.
- 33) The Department's letter to Petitioner, dated September 3, 2004, states in part, "The investigation by the Department revealed that Anderson Hoop Shooters failed to keep accurate records of the allowable events it conducted, and to make accurate and timely reports of all financial aspects of the allowable events as required by IC 4-32-9-17. The Department reconstructed that gaming records pertaining to the sale of pull tabs. The investigation determined that Anderson Hoop Shooters understated its gross receipts derived from the sale of pull tabs by \$3,592,499. This understatement of gross receipts derived from the sale of pull tabs resulted in the organization's charity gaming license fees being underreported by \$11,500 for the periods ended August 31, 2001, August 31, 2002 and August 31, 2003... **The Department imposes a civil penalty of five thousand dollars (\$5,000).**"
- 34) The Department's reconstruction was based upon Petitioner's financials filed with the Department, and the information provided by the organizations (suppliers) that sold pull tabs to the Petitioner. (Record at 107).
- 35) However, the Department did not thoroughly review the nightly game summaries provided by the Petitioner pursuant to a Departmental Subpoena. (Record at 117).
- 36) Petitioner's witness noted seven (7) instances of duplication in the Department's reconstruction which according to the witness was the result of gaming supplies being returned for a credit. (Record at 267-271) (See Petitioner's Exhibit X).
- 37) Neither Petitioner's original filings with the Department, nor the information provided by the suppliers, that sold pull tabs to the Petitioner, reflect a credit for supplies returned.
- 38) Petitioner's CG-8s (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the periods September 1, 2000 to August 31, 2001 and September 1, 2001 to August 31, 2002 list its principal office address as 1017 W. 19th Street, Anderson, Indiana 46011. (Department's Exhibits #6 and 8).
- 39) Petitioner's CG-8 (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the period September 1, 2002 to August 31, 2003 lists its principal office address as 425 Sylvan Drive, Anderson, Indiana 46012. (Department's Exhibit #11).
- 40) Petitioner's CG-8s (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the periods September 1, 2000 to August 31, 2001 and September 1, 2001 to August 31, 2002 lists as its address where the charity gaming financial records are maintained as 1017 W. 19th Street, Anderson, Indiana 46011. (Department's Exhibits #6 and 8).
- 41) Petitioner's CG-8 (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the period September 1, 2002 to August 31, 2003 lists as its address where the charity gaming financial records are maintained as 425 Sylvan Drive, Anderson, Indiana 46012. (Department's Exhibit #11).
- 42) Petitioner's CG-8 (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the period September 1, 2000 to August 31, 2001 lists Tom Arnbo as the name of the person maintaining these financial records. It also states that his address is P.O. Box 215, Chesterfield, Indiana 46017. (Department's Exhibit #6).
- 43) Petitioner's CG-8 (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the period September 1, 2001 to August 31, 2002 lists Tom Arnbo as the name of the person maintaining these financial records. It also states that his address is 5083 Stonespring Way, Anderson, Indiana 46012. (Department's Exhibits #8).
- 44) Petitioner's CG-8 (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the period September 1, 2002 to August 31, 2003 lists Philip D. Foley as the name of the person maintaining these financial records. It also states that his address is 425 Sylvan Drive, Anderson, Indiana 46012. (Department's Exhibit #11).
- 45) The Department alleges that Anderson failed to report \$3,592,499 in gross revenue from the sale of pull tabs for the periods ending August 31st of 2001, 2002, and 2003. (Record at 147).
- 46) Dr. Foley signed Anderson's CG-2Rs (Annual Bingo Renewal Application) for the years 2001, 2002, and 2003. (Department's Exhibits #2, 3, and 4).
- 47) Dr. Foley signed Anderson's CG-8s (Indiana Annual Bingo and/or Pull Tab License Financial Report) for the accounting periods September 1, 2000 to August 31, 2001; September 1, 2001 to August 31, 2002; and September 1, 2002 to August 31, 2003. (Department's Exhibits #6, 8, and 11).
- 48) Tom Arnbo's signature only appears on Anderson's CG-DIST, (Indiana Department of Revenue Charitable Contribution Distribution Listing) as the preparer of the schedule, for the period September 1, 2002 to August 31, 2003. (Department's Exhibit #11).
- 49) Sally Arnbo's signature appears on Anderson's CG-INV (Charity Gaming Ending Inventory Statement) for the period September 1, 2001 to August 31, 2002. (Department's Exhibits #8).
- 50) Sally Arnbo's signature appears on Anderson's CG-INV (Charity Gaming Ending Inventory Statement) for the period September 1, 2002 to August 31, 2003. (Department's Exhibits #11).
- 51) During cross examination Petitioner's witness Sally Arnbo was asked,

“Q And the bingo applications and the reapplications that we had introduced into evidence earlier, did you fill those applications out?

A Pretty much, yes. In total, yes, pretty much, but not total.

Q What part didn’t you fill out?

A Well, I didn’t fill the distribution, the part that Dr. Foley gave to Tom. Other than that, I pretty much filled the rest of it out.” (Record at 278).

52) Petitioner’s building was prone to water damage especially where the charity gaming supplies were kept as evidenced by Petitioner’s Exhibits BB through KK.

53) Sally Arnbo, Petitioner’s witness, when asked, “how bad would you say the water problem was before the landlord made the repairs?” stated, “The water problem was terrible and we complained to him many, many times about it, showed it to him, you know, and said, you know, you’ve got water, you know, there were times when literally we could see it running and we put garbage cans up when it was dripping out of the ceiling, so it was bad. It was bad. Sometimes worse than other times.” (Record at 241).

54) Petitioner’s operators allowed water damaged charity gaming supplies to be discarded by workers and other individuals without keeping any records as to which games or how much was destroyed. (Record at 239-240).

55) Petitioner’s witness Sally Arnbo testified under oath that as many as two thousand (2,000) boxes of pull tabs were discarded in the trash. (Record at 239).

56) Petitioner’s witness Sally Arnbo testified under oath that no inventory of discarded pull tabs was ever undertaken. (Record at 301).

57) Petitioner’s witness Sally Arnbo testified under oath that no one was held accountable for discarding of pull tabs in the trash. (Record at 302).

58) Petitioner’s witness Sally Arnbo testified under oath that there was no financial oversight and no one questioned the discarding of pull tabs. (Record at 302).

59) Petitioner’s witness Sally Arnbo testified under oath that insurance to cover the loss of pull tabs was cost prohibitive. (Record at 303).

60) Petitioner’s witness Sally Arnbo testified under oath that moving to another location to avoid water damage was never an option. (Record at 303).

61) Petitioner’s witness Sally Arnbo testified under oath that the discarded boxes of pull tabs were not accounted for in Anderson’s annual renewals or financial statements. (Record at 239-240).

62) Lack of proper record keeping and reporting regarding lost, stolen, or destroyed games was the impetus behind the Department’s initial investigation of Anderson.

63) The Department during its reconstruction of Petitioner’s records did not know that Petitioner’s operators gave away pull tabs as prizes. (Record at 138).

64) Sally Arnbo did not reconstruct Petitioner’s pull tab records (Petitioner’s Exhibits X, Y, and Z) until November of 2004. (Record at 301).

65) A serious reconstruction and reconciliation by Sally Arnbo of Petitioner’s charity gaming financial records did not occur until nearly two (2) years after the Department’s initial investigation began.

66) The Department’s letter to Petitioner, dated September 3, 2004, states in part, “Indiana § 4-32-12-1 provides that the Department may suspend the license of a qualified organization for failing to accurately account for the sale of pull tabs and for misrepresenting the location of the organization’s principal office and claiming donations to Wilson Boys & Girls Club which were never made. **The Department hereby suspends Anderson Hoop Shooters, Inc. from any and all gaming activities for a period of three (3) years effective with the receipt of this decision.**”

67) Petitioner’s counsel argues that the proposed three-year suspension is statutorily unauthorized. In support of its position, counsel states in its brief, “Charity Gaming licenses are only valid for one year. Ind. Code § 4-32-9-5(f). Given that the license expires after one year, it is obvious that the statute cannot authorize a ‘suspension’ that lasts more than one year. At most, a license could be ‘suspended’ for the remainder of its term, and even that, properly viewed, is a **termination** rather than a suspension.” (Petitioner’s Brief at 16).

68) Petitioner also contends that § 4-32-9-5(i) only authorizes the Department to deny a license if, “after a public hearing the commissioner determines that the applicant: (1) has violated a local ordinance; or (2) has engaged in fraud, deceit, or misrepresentation.” (Petitioner’s Brief at 16).

STATEMENT OF LAW

1) The Department’s hearings are governed by IC 4-21.5 exclusively. (See IC 4-32-8-5. *As added by P.L.188-2003, SEC.3.*)

2) IC 4-21.5-2-26(a) states, “The administrative law judge may admit hearsay evidence. If not objected to, the hearsay evidence may form the basis for an order. However, if the evidence is properly objected to and does not fall within a recognized exemption to the hearsay rule, the resulting order may not be based solely upon the hearsay evidence.”

3) IC 4-21.5-3-25(b) provides in pertinent part, “The administrative law judge shall regulate the course of the proceedings in ...an informal manner without recourse to the technical, common law rules of evidence applicable to civil actions in the courts...”

4) IC 4-32-1-2 states, “The purpose of this article 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.”

5) IC 4-32-7-1 states, “The department shall supervise and administer allowable events conducted in Indiana under this article.”

6) IC 4-32-9-5 states (a) The commissioner may issue a bingo license to a qualified organization if:

(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the department under IC 4-32-11.

(b) Each officer of a qualified organization that signs an application for a bingo license under this section must live in the county where the proposed bingo events will be held.

(c) The commissioner or the commissioner’s designee may hold a public hearing to obtain input on the proposed issuance of an annual bingo license to an applicant that has never held an annual bingo license under this article.

(d) The first time that a qualified organization applies for an annual bingo license, the commissioner shall publish notice that the application has been filed. The notification shall be in accordance with IC 5-14-1.5-5 and shall contain the following:

(1) The name of the qualified organization and the fact that it has applied for an annual bingo license.

(2) The location where the bingo events will be held.

(3) The names of the operator and officers of the qualified organization.

(4) A statement that any person can protest the proposed issuance of the annual bingo license.

(5) A statement that the department shall hold a public hearing if ten (10) written and signed protest letters are received by the department.

(6) The address of the department where correspondence concerning the application may be sent.

(e) If the department receives at least ten (10) protest letters, the department shall hold a public hearing in accordance with IC 5-14-1.5. The public hearing will be held within one (1) of the six (6) geographic regions designated by the department. The department shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

(f) A license issued under this section:

(1) may authorize the qualified organization to conduct bingo events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted bingo events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the department and upon the licensee’s payment of a fee set by the department.

(g) Notwithstanding subsection (f)(4), the commissioner shall hold a public hearing for the reissuance of an annual bingo license if:

(1) an applicant has been cited for a violation of law or a rule of the department; or

(2) the department finds, based upon investigation of at least three (3) written and signed complaints alleging a violation of law or a rule of the department in connection with the bingo license, that one (1) or more of the alleged violations:

(A) has occurred;

(B) is a type of violation that would allow the department to cite the applicant for a violation of a provision of this article or of a rule of the department; and

(C) has not been corrected after notice has been given by the department.

(h) If the department is required to hold a public hearing on an application for a reissuance of an annual bingo license it shall comply with the same procedures required under this section for notice and for conducting the hearing.

(i) The commissioner may deny a license if after a public hearing the commissioner determines that the applicant:

(1) has violated a local ordinance; or

(2) has engaged in fraud, deceit, or misrepresentation.

7) IC 4-32-9-17 states, “A qualified organization shall maintain accurate records of all financial aspects of an allowable event under this article. A qualified organization shall make accurate reports of all financial aspects of an allowable event to the department within the time established by the department....”

8) IC 4-32-9-21 states, “Except where a qualified organization or its affiliate is having a convention or other annual meeting of its membership, a qualified organization may only conduct an allowable event in the county where the principal office of the qualified organization is located. The principal office of a qualified organization shall be determined as follows:

Nonrule Policy Documents

- (1) Except as provided in subdivision (3) or subdivision (4), if a qualified organization is a corporation, the principal office shall be determined by the street address of the corporation's registered office on file with the secretary of state.
 - (2) If a qualified organization is not a corporation, the principal office shall be determined by the street address of the organization on file with the Internal Revenue Service, the department, or county property tax assessment board of appeals for tax exempt purposes.
 - (3) If a qualified organization is affiliated with a parent organization that:
 - (A) is organized in Indiana; and
 - (B) has been in existence for at least five (5) years;the principal office shall be determined by the principal place of business of the qualified organization.
 - (4) If a qualified organization is affiliated with a parent organization that:
 - (A) is a nationally recognized charitable organization;
 - (B) serves a majority of counties in Indiana; and
 - (C) has been in existence for at least twenty-five (25) years; the principal office shall be deemed to be present in every county served by the organization."
- 9) IC 4-32-12-1 provides, "(a) The department may suspend or revoke the license of or levy a civil penalty against a qualified organization or an individual under this article for any of the following:
- (1) Violation of a provision of this article or of a rule of the department.
 - (2) Failure to accurately account for:
 - (A) bingo cards;
 - (B) bingo boards;
 - (C) bingo sheets;
 - (D) bingo pads;
 - (E) pull tabs;
 - (F) punchboards; or
 - (G) tip boards.
 - (3) Failure to accurately account for sales proceeds from an event or activity licensed or permitted under this article.
 - (4) Commission of a fraud, deceit, or misrepresentation.
 - (5) Conduct prejudicial to public confidence in the department.
- (b) If a violation is of a continuing nature, the department may impose a civil penalty upon a licensee or an individual for each day the violation continues.
- 10) IC 4-32-12-2 states, "The department may impose upon a qualified organization or an individual the following civil penalties:
- (1) Not more than one thousand dollars (\$1,000) for the first violation.
 - (2) Not more than two thousand five hundred dollars (\$2,500) for the second violation.
 - (3) Not more than five thousand dollars (\$5,000) for each additional violation."
- 11) IC 4-32-12-3 states, In addition to the penalties described in section 2 of this chapter, the department may do all or any of the following:
- (1) Suspend or revoke the license.
 - (2) Lengthen a period of suspension of the license.
 - (3) Prohibit an operator or an individual who has been found to be in violation of this article from associating with charity gaming conducted by a qualified organization.
 - (4) Impose an additional civil penalty of not more than one hundred dollars (\$100) for each day the civil penalty goes unpaid.
- 12) IC 4-32-13-3 states, "The department shall conduct investigations necessary to ensure the security and integrity of the operation of games of chance under this article."

CONCLUSIONS OF LAW

- 1) Gambling in the State of Indiana is still illegal except for a few well defined exceptions.
- 2) The Indiana Legislature has made specific exceptions for charitable organization to participate in gambling.
- 3) The purpose of Indiana's charity gaming statutes is to permit a licensed qualified charitable organization to conduct gambling as a fund raising activity for lawful purposes of the organization.
- 4) To this end, the Indiana Department of State Revenue is responsible for conducting investigations necessary to ensure the security and integrity of the operation of games of chance under Article 32.
- 5) Petitioner had its principal offices located at the 1017 W. 19th Street address in Anderson, Indiana, and ceased using them prior to February 15, 2000.
- 6) The conflicting evidence provided at hearing does not pinpoint the exact date or year the Petitioner officially moved its

principal offices out of the 1017 W. 19th Street address; however, the fact remains that Department did not receive notice of this address change until November 6, 2003.

7) The failure to correct Petitioner's principal office address on the CG-2Rs (Annual Bingo Renewal Application) based upon the belief that any correction "might cause us some change in our license" constitutes a misrepresentation of the facts.

8) The evidence presented at hearing tends to support the Petitioner's contention that the donations at issue, sent to Wilson Boys & Girls Club, were in fact received.

9) Pursuant to IC 4-32-9-17 a qualified organization shall maintain accurate records and reports of all financial aspects of an allowable event under Article 32.

10) The burden rests with the Petitioner to show that its financial filings sent to the Department accurately reflect its fund raising activities. In this case they did not. The burden cannot be shifted to the Department by arguing that its attempt at reconstruction is flawed.

11) The lack of proper financial record keeping and the failure to accurately report lost, stolen, destroyed, or giveaway games in its filings with the Department, resulted in as much as \$3,592,499 of underreported pull tabs for the periods ending August 31st of 2001, 2002, and 2003.

12) IC 4-32-12-1(a) provides in pertinent part, "The Department may suspend or revoke the license or levy a civil penalty against a qualified organization..."

13) "IC 4-32-12-3 states, In addition to the penalties described in section 2 of this chapter, the department may do all or any of the following: (1) Suspend or revoke the license (2) **Lengthen a period of suspension of the license...**"(Emphasis added).

14) IC 4-32-9-5(f), cited by Petitioner's counsel, provides for the re-issuance of a charity game license.

15) Pursuant to IC 4-32-9-5(g) The Commissioner of the Department shall hold a public hearing for the re-issuance of a license if the provisions of subsection (1) or (2) are met. Under IC 4-32-9-5(h) the hearing on the re-issuance of a license must comply with the same procedures as required by section nine. The Commissioner under IC 4-32-9-5(i) may deny a license if after a public hearing he determines that the applicant has violated a local ordinance or has engaged in fraud, deceit, or misrepresentation. Therefore, the provisions of IC 4-32-9-5 cited by Petitioner would only apply to the re-issuance of its license after the qualified organization's suspension has ended.

16) The Department, pursuant to IC 4-32-12-1 and IC 4-32-12-3, may suspend a qualified organization from any and all gaming activities for a period greater than one (1) year.

PROPOSED DEPARTMENTAL ORDER

Following due consideration of the entire record, the Administrative Law Judge orders the following:

Petitioner's appeal is denied in part and sustained in part. The failure to correct Petitioner's principal office address on the CG-2Rs constitutes a misrepresentation of the facts. The donations at issue, sent to Wilson Boys & Girls Club, were in fact received. The lack of proper financial record keeping and the failure to accurately report lost, stolen, destroyed, or giveaway games in its filings with the Department, resulted in as much as \$3,592,499 of underreported pull tabs for the periods ending August 31st of 2001, 2002, and 2003. The Department, pursuant to IC 4-32-12-1 and IC 4-32-12-3, may suspend a qualified organization from any and all gaming activities for a period greater than one (1) year.

1) Administrative review of this proposed decision may be obtained by filing, with the Commissioner of the Indiana Department of State Revenue (100 North Senate Avenue, Room N248, Indianapolis, Indiana 46204-2253), a written document identifying the basis for each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).

2) Judicial review of a final order may be sought under IC 4-21.5-5.

THIS PROPOSED DEPARTMENTAL ORDER SHALL BECOME THE FINAL ORDER OF THE INDIANA DEPARTMENT OF STATE REVENUE UNLESS OBJECTIONS ARE FILED WITHIN FIFTEEN (15) DAYS FROM THE DATE THE ORDER IS SERVED ON THE PETITIONER.

Dated: _____

Bruce R. Kolb / Administrative Law Judge

DEPARTMENT OF STATE REVENUE

04990537.LOF

LETTER OF FINDINGS NUMBER: 99-0537

Sales and Use and Withholding Taxes

For the Tax Period 1992-1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

1. Withholding Tax-Imposition

Authority: IC 6-3-2-1, IC 6-3-4-8(a), IC 6-8.1-5-1(b), IC 6-8.1-5-4.

The taxpayer protests the assessment of withholding tax.

2. Sales and Use Tax- Imposition

Authority: IC 6-2.5-2-1, IC 6-2.5-3-2 (a).

The taxpayer protests the imposition of sales and use tax.

STATEMENT OF FACTS

The taxpayer is a corporation that over the years has operated a variety of printing shops and a theater. After an audit, the Indiana Department of Revenue (department) issued an assessment for additional sales and use tax, interest, and penalty. The department has also issued assessments for withholding tax, interest and penalty. The taxpayer protested these assessments. A hearing was held and this Letter of Findings results.

1. Withholding Tax-Imposition

DISCUSSION

Indiana imposes a tax on the adjusted gross income of all residents. IC 6-3-2-1. Indiana employers are required to withhold Indiana adjusted gross income tax from employees and remit it to the state. IC 6-3-4-8(a). The department assessed withholding tax against the taxpayer. The taxpayer protested the assessment contending that its payroll service properly paid all taxes as they were due.

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(b). Taxpayers are also required to keep documentation for presentation to the department as stated in the following provisions of IC 6-8.1-5-4:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records in this subsection include *all source documents necessary to determine the tax*, including invoices, register tapes, receipts, and canceled checks. (*Emphasis added*)

The taxpayer was offered every opportunity to offer proof that all withholding taxes had been properly remitted to the department. The taxpayer failed to do so. The taxpayer did not sustain its burden of proving that the withholding taxes were imposed improperly.

FINDING

The taxpayer's protest is denied.

2. Sales and Use Tax- Imposition

DISCUSSION

Indiana imposes an excise tax, the sales tax, on the retail sales of tangible personal property. IC 6-2.5-2-1. Indiana imposes a complementary 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).

An audit indicated that the taxpayer did not collect and remit sales tax on the sales of refreshments at the theater. The audit also indicated that the taxpayer did not pay use tax on its use of several items such as office supplies and costumes. The department assessed tax on these amounts pursuant to the audit. The taxpayer paid a portion of the assessment and protested the remainder.

The taxpayer also submitted returns without payments after the audit period. The department assessed additional sales tax, interest and penalty for these amounts. The taxpayer protested these assessments.

The taxpayer submitted several checks to prove that he had properly paid all of his tax liabilities. Upon review, it was determined that each of those payments had already been credited to the taxpayer's liabilities.

The taxpayer did not offer any other documentation to sustain its burden of proving that the sales and use tax assessments were made in error.

FINDING

The taxpayer's protest to the assessment of sales and use tax is denied.

DEPARTMENT OF STATE REVENUE

01-20020504.LOF

LETTER OF FINDINGS NUMBER: 02-0504

**Adjusted Gross Income Tax
For the 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

1. Adjusted Gross Income Tax – Unreported Gross Income

Authority: IC 6-8.1-5-1 (b), IC 6-3-2-1, IC 6-3-1-3.5, 26 USCA 62(a),

The taxpayer protests the assessment of adjusted gross income tax on unreported gross income.

2. Adjusted Gross Income Tax-Subcontractor Expense

Authority: IC 6-3-1-3.5, 26 USCA 62(a), 26 USCA 162(a)(1).

The taxpayer protests the disallowance of certain subcontractor expenses.

STATEMENT OF FACTS

The taxpayer is a sole proprietor who installs wallpaper and other wall coverings in hotels and/or motels around the United States. After an investigation for the tax period 1998-2000, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional adjusted gross income tax, interest and penalty. The taxpayer agreed with some of the assessed items and protested the remainder of the assessment. A hearing was held and this Letter of Findings results.

1. Adjusted Gross Income Tax-Unreported Gross Income

DISCUSSION

Indiana Department of Revenue assessments are presumed to be correct. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1. The Indiana adjusted gross income is determined by starting with the taxpayer's federal adjusted gross income and making certain modifications. IC 6-3-1-3.5. A taxpayer's federal adjusted gross income is determined by taking the federal gross income and making certain adjustments. 26 USCA 62(a).

The taxpayer reported his gross income for federal purposes on Schedule C of his federal tax returns. For each of the years of the tax period, the taxpayer's gross income as reported on Schedule C was less than the deposits into taxpayer's bank accounts. The excess of deposits over the income reported by the taxpayer was considered unreported gross income in the investigation. The department adjusted the taxpayer's federal gross income to reflect the unreported gross income. After adjusting the taxpayer's federal gross income, the department recalculated the amount of Indiana adjusted gross income tax due. The recalculated amounts were higher than the Indiana adjusted gross income taxes paid by the taxpayer. The department assessed the difference, interest and penalty against the taxpayer.

The taxpayer conceded that he owed Indiana adjusted gross income tax on unreported income of \$3,297.38 in 1998, \$4,312.77 in 1999 and \$5,927.36 in 2000.

The taxpayer contends that the amounts he didn't concede are not subject to the Indiana adjusted gross income tax because they were personal loans to the business, deposits from a line of credit and repayments of loans. In support of these contentions, the taxpayer submitted extensive financial records. The taxpayer's records indicate that the taxpayer commingled his personal and business accounts.

The taxpayer contended that he transferred funds (\$170,000 in 1999 and \$530,000 in 2000) from his personal brokerage accounts to the checking account. He argued that these transfers were not income subject to the Indiana adjusted gross income tax. Rather, these transfers were personal loans to the corporation. Review of the taxpayer's brokerage accounts and checking accounts indicate that these deposits in the checking accounts actually originated in the taxpayer's personal brokerage accounts. The taxpayer's financial records support the contention that the 1999 deposit of \$170,000 and 2000 deposit of \$530,000 were actually personal loans from the taxpayer to the business. These amounts are not subject to the Indiana adjusted gross income tax. The taxpayer's protest to the assessment of tax on these amounts is sustained.

The taxpayer also contended that a 2000 deposit into the checking account represented a loan from a line of credit. The taxpayer presented documentation that the line of credit existed and that the \$530,000 deposit was a loan from the line of credit. This deposit does not represent business income subject to the Indiana adjusted gross income tax. The taxpayer's protest to the assessment of tax on this amount is sustained.

The taxpayer contended that the remainder of the deposits subjected to Indiana adjusted gross income tax represented repayments of loans from various parties. The taxpayer did not present any loan documentation, interest payment schedules or any other documentation substantiating that the deposited amounts were actually loan repayments subject to the tax. The taxpayer did not sustain his burden of proving that the amounts were not subject to the Indiana adjusted gross income tax.

FINDING

The taxpayer's protest to the assessment of Indiana adjusted gross income tax on the unreported amounts represented by the taxpayer's personal loans to the corporation and/or deposits from the line of credit are sustained. The taxpayer's protest to the remainder of the assessments is denied.

2. Adjusted Gross Income Tax- Subcontractor Expense

DISCUSSION

The Indiana adjusted gross income is determined by starting with the taxpayer's federal adjusted gross income and making

certain modifications. IC 6-3-1-3.5. A taxpayer's federal adjusted gross income is determined by taking the federal gross income and making certain adjustments. 26 USCA 62(a). One of the adjustments a person makes in determining the federal adjusted gross income is a deduction for "salaries or other compensation for personal services actually rendered;" 26 USCA 162(a)(1). Pursuant to this provision, the taxpayer took deductions on his federal Schedule C for subcontractor expenses. Pursuant to the investigation, the department disallowed some of these expenses. The taxpayer protested this disallowance.

During the investigation the taxpayer submitted 1099s showing payments to subcontractors. The calculator tapes totaling the 1099s for 1998 and 2000 included amounts that were not backed up by a 1099. As a result the taxpayer's totals were too high. The department adjusted the totals for 1998 and 2000 to reflect the correct totals. The taxpayer protested this adjustment. The taxpayer did not, however, present any documentation to explain why the total of subcontractor expenses reflected by 1099s was incorrect. Therefore, this point of the taxpayer's protest is denied.

The taxpayer also protested the department's failure to give it credit for subcontractor expenses that were not documented by 1099s. After the hearing, the taxpayer presented documentation other than 1099s substantiating payments to subcontractors for services rendered. These amounts totaled \$45,563 for 1998, \$11,035 for 1999 and \$131,812 for 2000. The taxpayer's protest to the disallowance of subcontractor expense deductions in these amounts is sustained.

FINDING

The taxpayer's protest to the disallowance of subcontractor expense deductions is denied in part and sustained in part.

DEPARTMENT OF STATE REVENUE

0420030111.LOF

LETTER OF FINDINGS NUMBER: 03-0111

Use Tax: Production Exemption

Penalty: Request for Waiver

For Years 1999, 2000, 2001

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax—Production Exemption

Authority: IC § 6-8.1-5-1(b); IC § 6-2.5-2-1; IC § 6-2.5-3-2; IC § 6-2.5-3-4; IC § 6-2.5-3-7; IC § 6-2.5-5-5.1; 45 IAC 15-5-3(8); 45 IAC 2.2-2-1; 45 IAC 2.2-3-4; 45 IAC 2.2-5-8

Taxpayer protests the assessment of use tax, arguing that, because of the asset sale, it has no tax liability to pay. Further, taxpayer argues that the assessed items were used in production, and are therefore exempt from tax.

II. Penalty—Request for Waiver

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the imposition of the 10% negligence penalty, and requests a waiver.

STATEMENT OF FACTS

Taxpayer was a manufacturer of printed circuit board assemblies before going out of business in March of 2002. During the audit of the tax years at issue, examination of purchase invoices revealed taxpayer was remitting estimated use tax each month. There was no audit trail to determine on what items taxpayer was remitting use tax. Also, during 1999, taxpayer leased a copier in which sales tax was not paid. The audit assessed use tax accordingly. Taxpayer went out of business because taxpayer had defaulted on loans from a bank in August of 2001. Under the loan agreement, all of taxpayer's assets were collateralized to the bank. Therefore, the bank, in a UCC Article 9 asset sale, sold all of taxpayer's assets to a newly formed corporation whose shareholders were completely different than taxpayer's. Approximately 18 months later, this corporation sold all the assets to another corporation, a subsidiary of yet another corporation. There are no common shareholders among any of these corporate entities. Further facts will be supplied as necessary.

DISCUSSION

I. Use Tax—Production Exemption

Taxpayer has offered no support for its argument that the items the audit assessed for additional use tax were consumed in the direct production of the products it sold. Instead, taxpayer has chosen to rest its entire protest on the asset sale, and the fact that the entity no longer exists. Taxpayer provided a copy of the loan agreement between itself and the bank; there is nothing relevant in that agreement that would relieve taxpayer of its use tax liability.

Pursuant to IC § 6-8.1-5-1(b) and 45 IAC 15-5-3(8), a "notice of proposed assessment is prima facie evidence that the

department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the assessment is made." Pursuant to IC § 6-2.5-2-1, a "person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state." *See also*, 45 IAC 2.2-2-1. Pursuant to IC §§ 6-2.5-3-2 through 6-2.5-3-7, an "excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction." An exemption is provided in IC § 6-2.5-3-4 if "the property was acquired in a retail transaction and the state gross retail tax" was paid at the time of purchase. IC § 6-2.5-3-7 provides that a "person who acquires tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for storage, use, or consumption in Indiana;" therefore, the presumption of taxability exists until rebutted. *See also*, 45 IAC 2.2-3-4.

IC § 2.5-5-5.1 and 45 IAC 2.2-5-8 provide the statutory and regulatory basis for exempting from the state's gross retail and use taxes purchases of items directly used in the direct production of tangible personal property. Taxpayer has not provided any evidence to support the contention that the audit was incorrect is assessing use tax on the items in question.

FINDING

Taxpayer's protest of the assessment of use tax on items purchased, on both grounds—asset sale and the direct production exemption—is denied.

II. Penalty—Request for Waiver

Taxpayer protests the imposition of the 10% negligence penalty on the assessment.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit taxes held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed...." In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits.

Taxpayer has not set forth a basis whereby the Department could conclude taxpayer exercised the degree of care statutorily imposed upon an ordinarily reasonable taxpayer. Therefore, given the totality of all the circumstances, waiver of the 10% negligence penalty is inappropriate in this particular instance.

FINDING

Taxpayer's protest concerning the proposed assessment of the 10% negligence penalty is denied.

DEPARTMENT OF STATE REVENUE

02-20030181.LOF

LETTER OF FINDINGS NUMBER: 03-0181

Corporate Income Tax

For the Years 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. Income Tax—Property tax add-back

Authority: IC 6-8.1-5-1(b); IC 6-3-1-3.5; *Subaru-Isuzu Auto. v. Dept. of Revenue*, 782 N.E.2d 1071 (Ind. Tax 2003).

Taxpayer protests the assessment by the Department in which it added back into Indiana income on the Indiana return the deduction taken on the federal return for state and local property taxes.

II. Income Tax—Tax refund carry-forward

Authority: IC 6-8.1-9-1; IC 6-8.1-9-2; IC 6-3-4-4.1(d).

Taxpayer protests the denial by the Department to carry-forward Taxpayer's tax refund beyond the three-year statute of limitations.

III. Income Tax—Enterprise Zone

Authority: IC 6-2.1-3-32; IC 6-8.1-5-1(b); 6-2.1-3-32(d).

Taxpayer protests the Department’s apportionment of income earned by Taxpayer within and outside an enterprise zone.

IV. Income Tax—Interest paid by the federal government

Authority: Ind. Const. Art. 10, § 8; IC 6-2.1-3-1; IC 6-2.1-3-2; 45 IAC 1.1-3-1; Income Tax Information Bulletin #19: Government Obligations.

Taxpayer protests the assessment of income taxes on interest income earned on contracts paid by the U.S. Government.

STATEMENT OF FACTS

Taxpayer manufactures vehicles for sale to the federal government and the general public. Taxpayer maintains several office and manufacturing facilities within Indiana. Taxpayer is wholly-owned by a corporate parent. Taxpayer has two wholly owned subsidiaries. The Department conducted an audit of Taxpayer for fiscal years 1995, 1996, 1997, and 1998. While Department records indicated the timely receipt of quarterly estimated payments from Taxpayer, the Department had not received annual corporate income tax returns for the periods in question. Other facts will be provided concerning each specific protest within the discussion for that issue.

I. Income Tax—Property tax add-back

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). *Subaru-Isuzu Auto. v. Dept. of Revenue*, 782 N.E.2d 1071 (Ind. Tax 2003), held that a corporation’s capitalized property taxes are exclusions, not deductions, under the statutory definition of adjusted gross income. Thus, capitalized property taxes are not subject to the property tax add-back provision of Indiana’s income tax code.

In IC 6-3-1-3.5, the Indiana General Assembly defined **adjusted gross income** (AGI) for Indiana income tax purposes. The calculation of Indiana AGI begins with a taxpayer’s federal AGI and is modified by additional Indiana deductions and the add-back of certain federal deductions. One such add-back is the inclusion back into Indiana income of state and local taxes deducted on the federal income return. *See* IC 6-3-1-3.5(b)(3). *Subaru-Isuzu* distinguished between capitalized property taxes and deducted property taxes. The decision held that capitalized property taxes are not added-back into Indiana AGI because the treatment of the tax is an exclusion from income—not a deduction from income. However, deducted property taxes are added-back into Indiana AGI because the treatment of the tax is not an exclusion, but a deduction. The Tax Court differentiated between exclusions and deductions in rendering the distinction in treatment of how property taxes are accounted for by a business for tax purposes.

Taxpayer expensed the property taxes it paid; it did not capitalize the property tax it paid. Because it is a deduction, it must be added-back into Indiana income to arrive at AGI.

FINDING

For the reasons stated above, Taxpayer’s protest is denied

II. Income Tax—Tax refund carry-forward

DISCUSSION

The Department audited Taxpayer’s corporate income tax returns for the fiscal years 1995, 1996, 1997, and 1998. At the beginning of the audit, the Department had no record of Taxpayer filing any income tax returns for 1995, 1996, 1997, and 1998. During the audit, returns marked by Taxpayer as “Duplicate Original or Return Previously Filed” were submitted to the auditor. The returns were dated February 25, 2000 and were received by the Department on February 29, 2000. Taxpayer argued the original returns had been filed timely each year and that the Department had lost each of the original returns. The IT-6 carry-forward from Taxpayer’s submitted 1995 return was disallowed because the statute of limitations had expired for claiming a refund for 1995 pursuant to 6-8.1-9-1, which allows three years for a refund. No exceptions to the three year limitations apply in this case.

IC 6-8.1-9-2, **Excess tax payments; procedure for credit or refund**—which comes under Chapter 9, titled, **Refunds**—states: (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. If any excess remains after the department has applied the overpayment against the person’s tax liabilities, the department shall either refund the amount to the person or, at the person’s request, credit the amount to the person’s future tax liabilities.

...

IC 6-8.1-9-2 does not extend the three-year statute of limitations for claiming a refund. The provision is a procedure to instruct the Department where to apply excess tax payments; it is not a provision to extend the statute of limitations on refunds.

Form IT-6 is remitted with each quarterly estimated corporate income tax payment. Under Indiana statute, a corporation is required to remit to the Department the estimated income tax payment for the quarter. This is done by filing Form IT-6, which is due on April 20, June 20, September 20, and December 20—if the corporation files on a calendar year basis. If the corporation files on a fiscal year basis—which Taxpayer does—the estimated quarterly income tax return is due on the twentieth day of the fourth, sixth, ninth and twelfth months of the fiscal tax year. IC 6-3-4-4.1(d). Taxpayer’s fiscal year is from November 1 to October 31. Taxpayer is required to file and pay the estimated quarterly income tax payments on March 20, May 20, August 20, and November 20. *Id.* The

only payment applied to Taxpayer's account for fiscal year 1995 was a payment posted by the Department on August 6, 1996. According to Department records, Taxpayer failed to take credit for all estimated payment amounts credited to Taxpayer's account. The main discrepancy occurred in the fourth quarter of 1997; Taxpayer took credit for \$34,455, but the Department's records show a payment of \$263,095.

The annual corporate income tax return, IT-20, is required to be filed on or before the fifteenth day of the fourth month following the close of the tax year. For calendar year filers, the due date is April 15. For Taxpayer, the due date is February 15. An extension to file is permitted. The Department normally recognizes the Internal Revenue Service's application for automatic extension of time to file—Form 7004. A taxpayer must attach the federal extension form when the Indiana return is filed. If a federal extension is not needed, a corporation may request, in writing, from the Indiana Department of Revenue, Corporate Income Tax Section, an extension of time to file. In general, the federal government grants six month extensions. The due date for Taxpayer's return would have been August 15 of the year after the close of the fiscal year. Taxpayer's return for fiscal year 1995 would have been due by February 15, 1996—and August 15, 1996, if an extension was filed. When Taxpayer submitted copies of its Indiana income tax returns, Form 7004 was attached to each. Based on this, Taxpayer has indicated that it sought extensions for each of the returns in question. This establishes the August 15 due date.

Taxpayer argues that it filed its annual IT-20 corporate returns in a timely manner—before the due date. Taxpayer submitted photocopies of the return receipt for certified mail. The photocopies were low quality reproductions. The dates listed on the receipts—as best read—are: August 14, 1997; August 6, 1998; and August 3, 1999. The month of August was clearly legible on the photocopies. Taxpayer was unable to supply a return receipt for certified mail for the 1995 return—which according to the pattern Taxpayer is trying to establish, would be August 1996. The receipts are unconvincing evidence that the IT-20s were filed in a timely manner because the receipt does not list the contents of the mailing, nor does the address to which the mailing was sent offer an insight as to the nature of the contents.

Taxpayer has not presented reliable evidence of the timely filing of IT-20 returns. The statute of limitations for filing a claim for refund is three years. The submission of the 1995 return, dated February 25, 2000 and received by the Department on February 29, 2000 places the claim for refund outside the three year statute of limitations.

FINDING

For the reasons stated above, Taxpayer's claim for a tax-refund carry-forward is denied.

III. Income Tax—Enterprise Zone

DISCUSSION

Taxpayer operates several office and manufacturing sites within Indiana. One manufacturing site is located within a designated Enterprise Zone. IC 6-2.1-3-32, which has since been repealed, stated that qualified increased enterprise zone gross income received by a taxpayer is exempt from the Gross Income Tax. Taxpayer failed to take the exemption in 1995. In 1996, 1997, and 1998, Taxpayer deducted all sales receipts shipped from the facility located within the enterprise zone. Audit adjusted the Enterprise Zone Credit. Taxpayer disagrees with this adjustment.

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). 6-2.1-3-32(d) states that if business income derived from sources within an enterprise zone cannot be separated from business income derived from sources outside the enterprise zone—then the business income derived from sources inside the enterprise zone is determined by an apportionment formula. A reading of the statute supports apportionment as an assessment method **if** the incomes cannot be differentiated. Taxpayer is able and has separated its income from within the enterprise zone from the income outside the enterprise zone. Taxpayer is entitled to the presumption of segregation of income—so long as Taxpayer can and has separated the income. The interpretation of IC 6-2.1-3-32(d) indicates that separation of income is the default assessment. Taxpayer has done so, and is thus entitled to the deduction; assessment based on apportionment is not appropriate in this case.

FINDING

For the reasons stated above, Taxpayer's protest is sustained.

IV. Income Tax—Interest paid by the federal government

DISCUSSION

Taxpayer sold vehicles to the United States government under contract and was paid interest on the accounts receivable billed amount. Payment was made to Taxpayer directly by the U.S. Government at rates agreed to by the U.S. Government. Taxpayer is protesting the characterization of this interest income by the Department as taxable on Taxpayer's Gross Income Tax returns. Taxpayer seeks to have the interest income characterized as tax-exempt.

IC 6-2.1-3-1, which has since been repealed, stated:

Interest or other earnings paid upon bonds or other securities issued by the United States are exempt from gross income tax to the extent the United States Constitution prohibits the taxation of that gross income.

Article 10, § 8 of the Indiana Constitution permits the General Assembly to levy and to collect a tax upon income—**from whatever source derived**—at rates it prescribes, in the manner it prescribes, and with the exemptions it prescribes by law. IC 6-2.1-3-2, which has since been repealed, stated:

Nonrule Policy Documents

Gross income derived from sales to the United States government is exempt from gross income tax to the extent the state of Indiana is prohibited by the United States Constitution from taxing that gross income.

Taxpayer derived substantial income from sales of military vehicles to the United States Government. Taxpayer is not arguing that the income derived from those sales is prohibited from income taxation; taxpayer focuses on seeking an exemption on the portion of the income from sales derived from interest paid on outstanding accounts receivable. For the many years that the gross income tax statutes were in force, receipts derived from contracts with the federal government were properly taxable because it was determined that it is not the United States government—but the contractor—who is burdened with the tax. 45 IAC 1.1-3-2 fortifies this. It states:

(a) Gross income derived from sales to the federal government is taxable unless such income is prohibited from taxation by the United States Constitution.

(b) The income from such sales is taxable even though the gross income tax is paid indirectly by the federal government, either as a reimbursement or as an inclusion in the purchase price.

45 IAC 1.1-3-1 states:

(a) Earnings paid to holders of securities issued by the federal government are exempt from the gross income tax to the extent the United States Constitution prohibits the states from taxing such income.

(b) As used in this section, “earnings” means the amount paid less the expenses related to such income. The term does not include the gain derived from the sale of such securities.

(c) As used in this section, “securities issued by the federal government” means direct obligations issued by a federal agency. The term does not include the following:

(1) Securities issued by an entity sponsored by, but not a part of, the federal government.

(2) Securities guaranteed by, but not issued by, an agency of the federal government.

(d) The exemption provided by subsection (a) applies to the proportionate share of earnings received by a taxpayer from an **investment fund** that invests in federal government securities. In other words, the exemption passes through to the ultimate taxpayer.

[emphasis added]

The regulation clarifies that “security” refers to something held in an investment fund. It also includes “direct obligations issued by a federal agency.” Taxpayer seeks to include interest paid on an account receivable as a “direct obligation.” Such an expansive inclusion also would sweep in the earnings from the sale of the vehicles. That is an absurdity. An interpretation of the uniform application of the statutory and regulatory tax scheme does not support a statement that Indiana intends to tax earnings to the full extent allowed under the federal constitution and a statement that sales to the United States government are taxable—while also supporting statutes and regulations that would summarily exclude those earnings. That is contradictory.

The Department clearly stated on page 3 of the July 1992 version of **Income Tax Information Bulletin #19: Government Obligations** that interest or dividends received on “promissory notes of a federal instrumentality” are not exempt from gross income tax or adjusted gross income tax. Taxpayer referenced Bulletin #19 in the brief submitted to the Department to outline its tax protests. Taxpayer engaged in an elaborate discussion of Bulletin #19, outlining federal organizations that issue tax exempt obligations and those that do not. But Taxpayer fails to acknowledge the clear and simple statement on page 3 of the Bulletin confirming that interest on promissory notes of the federal government is not tax exempt income.

Interest received on the payment of an accounts receivable paid by the United States Government is taxable income in Indiana.

FINDING

For the reasons stated above, Taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

04-20030246.LOF

LETTER OF FINDINGS NUMBER: 03-0246 Gross Retail & Use Taxes: Out of State Vendor Penalty: Request for Waiver For Years 1998-2002

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUES

I. Gross Retail & Use Taxes—Out-of-state vendor

Authority: IC § 6-8.1-5-1(b); IC § 6-2.5-1-2; IC § 6-2.5-2-1; IC § 6-2.5-3-1(c) IC § 6-2.5-3-2; IC § 6-2.5-3-4; IC § 6-2.5-3-6; IC

§ 6-2.5-3-7; IC § 6-2.5-4-1; 45 IAC 15-5-3(8); 45 IAC 2.2-2-1; 45 IAC 2.2-3-4; 45 IAC 2.2-3-20; 45 IAC 2.2-5-54

Taxpayer, a Kentucky corporation, protests the Department's assessment of Indiana's use tax on sales to Indiana customers where the only presence taxpayer shows in the state of Indiana is taxpayer's delivery trucks, used to deliver the tangible personal property to its Indiana customers.

II. Penalty—Request for waiver

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the imposition of the 10% negligence penalty, and requests a waiver.

STATEMENT OF FACTS

Taxpayer is a regular Kentucky corporation primarily engaged in the retail sale of new and used pianos. Taxpayer delivers pianos to Indiana customers via its own delivery trucks. Taxpayer did not charge Indiana's gross retail tax to its Indiana customers, believing that it was not a retail merchant doing business in the state of Indiana. Further facts will be added as necessary.

I. Gross Retail & Use Taxes—Out-of-state vendor

DISCUSSION

Taxpayer is a Kentucky corporation, in business since 1971, and has paid Kentucky gross retail tax since then on sales of pianos to Kentucky customers. Taxpayer has kept itself informed of its ongoing state and federal tax obligations over the years, including attempting to find out what, if any, tax obligations taxpayer needed to satisfy for its sales to Indiana customers. Based on taxpayer's reading of various Indiana publications, personal experience in purchasing tangible personal property from out-of-state vendors, and phone calls to the Indiana Department of Revenue, taxpayer concluded that it was not obligated to collect and remit Indiana gross retail tax on pianos sold to Indiana customers and delivered to Indiana customers in taxpayer's own delivery trucks. The entry of taxpayer's delivery trucks into Indiana is taxpayer's only contact with the state of Indiana.

Pursuant to IC § 6-8.1-5-1(b) and 45 IAC 15-5-3(8), a "notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the assessment is made." Pursuant to IC § 6-2.5-2-1, a "person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state." *See also*, 45 IAC 2.2-2-1. Pursuant to IC §§ 6-2.5-3-2 through 6-2.5-3-7, an "excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction." An exemption is provided in IC § 6-2.5-3-4 if "the property was acquired in a retail transaction and the state gross retail tax" was paid at the time of purchase. Taxpayers are personally liable for the tax. (IC § 6-2.5-3-6). IC § 6-2.5-3-7 provides that a "person who acquires tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for storage, use, or consumption in Indiana;" therefore, the presumption of taxability exists until rebutted. *See also*, 45 IAC 2.2-3-4.

The specific statutes at issue, cited *supra*, seem clear cut when applied to "retail transactions made in Indiana" by retail merchants located in Indiana. (IC § 6-2.5-2-1(a)). A common sense application of subsection b is perfectly reasonable: a purchaser making a retail transaction in Indiana is "liable for the tax on the transaction and... shall pay the tax to the retail merchant" who "shall collect the tax as agent for the state." The phrase that causes complexity for both retail merchants and taxpayers is "except as otherwise provided in this chapter." Taxpayer in this protest is not "a retail merchant located in Indiana." What, exactly, is taxpayer's status?

IC § 6-2.5-1-2(a) defines a "retail transaction" as a transaction of a retail merchant that constitutes selling at retail as described in IC § 6-2.5-4-1...." Subsection b of IC § 6-2.5-4-1 provides in pertinent part:

A person is engaged in selling at retail when, in the course of his regularly conducted trade or business, he:

- (1) acquires tangible personal property for the purpose of resale; and
- (2) transfers that property to another person for consideration.

Taxpayer certainly fits within this definition. However, a refinement of that definition occurs in IC § 6-2.5-3-1(c):

"A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property for use, storage, or consumption in Indiana and who maintains:

- (1) an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either directly or indirectly, and either by himself or through an agent or subsidiary; or
- (2) a representative, agent, salesman, canvasser, or solicitor who, while operating in Indiana under the authority of and on behalf of the retail merchant or a subsidiary of the retail merchant, sells, delivers, or takes orders for sales of tangible personal property to be used, stored or consumed in Indiana.

Information Bulletin # 37 (Sales Tax) has undergone a number of revisions over the years taxpayer has been in business, and twice during the tax years at issue. The Bulletin in effect until May of 1988 provides in pertinent part:

An out-of-state vendor will be deemed to be engaged in business in Indiana as to required [sic] such vendor to become registered as an Indiana Retail Merchant and charge Indiana Use Tax on tangible personal property delivered in Indiana where

the out-of-state vendor's only Indiana activity is as mentioned in [IC § 6-2.5-3-1(c)]. This includes:

- (a) maintaining an administrative office;
- (b) maintaining a research facility;
- (c) displaying merchandise at local trade fairs and exhibitions;
- (d) maintaining a factory or warehouse;
- (e) delivery of goods into Indiana by seller's truck where title and possession transfers in Indiana.

(emphasis in original)

The Bulletin in effect until January of 2003 provides in pertinent part:

An out-of-state vendor is engaged in business in Indiana and must be registered as an Indiana retail Merchant and charge Indiana Use Tax on tangible personal property delivered in Indiana if the out-of-state vendor's only Indiana activity is within [IC § 6-2.5-3-1(c)]. This activity includes:

(emphasis in original). The remainder of the section is identical to the previous Bulletin.

The Bulletin in effect until August of 2004 is identical to language already quoted. The Bulletin currently in effect has changes in the Definition of Indiana Retail Merchant, adding two categories to the two previously quoted. The two additional categories include being closely "related to another person that maintains a place of business in Indiana," or entering "into a contract to provide property or services to a state agency or a state educational institution." With respect to out-of-state vendors, they are "engaged in business in Indiana and must be registered" if their only Indiana activity falls within one of the now four categories. The section goes on to state: "This activity may include any of the following:", where the same five items appear as before. (emphasis added).

The regulation at issue, 45 IAC 2.2-5-54, *infra*, imposes either gross retail or use tax; 45 IAC 2.2-5-54(a) provides that sales of "tangible personal property which are delivered to the purchaser in Indiana are subject to gross retail or use tax, except (citation omitted) for certain sales of motor vehicles and aircraft."

The Department concludes that during the tax years at issue, taxpayer was a retail merchant delivering tangible personal property into Indiana, and therefore should have collected and remitted to the Department sales tax on sales to Indiana residents. Since taxpayer did not, taxpayer is liable for the use tax.

FINDING

Taxpayer's protest concerning the assessment of Indiana's use on sales to Indiana customers, where the only presence taxpayer shows in the state of Indiana is taxpayer's delivery trucks, is denied.

II. Penalty—Request for waiver

DISCUSSION

Taxpayer protests the imposition of the 10% negligence penalty on the assessment.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit taxes held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed..." In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits.

Taxpayer has set forth a basis whereby the Department could conclude taxpayer exercised the degree of care statutorily imposed upon an ordinarily reasonable taxpayer. Therefore, given the totality of all the circumstances, waiver of the 10% negligence penalty is appropriate in this particular instance.

FINDING

Taxpayer's protest concerning the proposed assessment of the 10% negligence penalty is sustained.

DEPARTMENT OF STATE REVENUE

0420030399.LOF

LETTER OF FINDINGS: 03-0399

Gross Retail 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.

ISSUES

I. Automobile Sales – Gross Retail Tax.

Authority: IC 6-2.5-2-1(a, b); IC 6-2.5-6-1(a); IC 6-2.5-9-3; IC 6-8.1-5-1; IC 6-8.1-5-1(a); IC 6-8.1-5-1(b); 45 IAC 2.2-3-22.

Taxpayer maintains that he is not responsible for paying his S-Corporation's sales tax because the automobile sales – on which the sales tax was calculated – were neither made by nor authorized by taxpayer.

II. Twenty-Percent Penalty.

Authority: IC 6-8.1-10-2.1(b); IC 6-8.1-10-2.1(d); IC 6-8.1-10-3(b).

Taxpayer argues that the twenty-percent "failure-to-file" penalty should be abated.

STATEMENT OF FACTS

Taxpayer is an S-Corporation, is located in Indiana, and is in the business of selling used cars. The S-Corporation has a single shareholder. Even though the S-Corporation is technically the "taxpayer," for clarity's sake, the sole shareholder is hereinafter referred to as the "taxpayer" and his used car business is referred to as the "S-Corporation."

Taxpayer describes his S-Corporation as a "buy here – pay here" operation. According to taxpayer, most of the vehicles cost about \$2,000. This means a customer could both purchase and finance a car through taxpayer's S-Corporation. The customer could buy a car from taxpayer's business, make an initial payment at the time of purchase, and subsequently make weekly payments directly to the S-Corporation. According to taxpayer – given the nature of his "buy here – pay here" car business – it is unusual for a retail customer to ever pay the full price of a purchased car. Taxpayer states that the cars sold by his business are typically repossessed, or the cars fail before the purchase price is fully paid.

Taxpayer started his business in 1997 and ran the business with occasional help from his brother. According to taxpayer, during 1998 brother expressed an interest in taking over the entire business; taxpayer turned control of the S-Corporation over to brother with the apparent understanding that brother would compensate taxpayer for the cost of the then existing inventory of cars.

Taxpayer indicates that he contacted the Department of Revenue (Department) and closed out his "withholding accounts" on December 31, 1998. One of the S-Corporation's two sales tax accounts was also closed at the end of 1998. The S-Corporation's remaining sales tax account remained current because it was assigned to the specific location from which brother continued to operate the used car business. That second account was not closed until the end of 2000. Eventually, the Department issued a letter which stated that "as of April 29, 2003, [S-Corporation] is closed with the state of Indiana."

After brother took over the used car business in 1998, he began to sell cars under the auspices of taxpayer's S-Corporation. According to taxpayer, brother later denied any responsibility for paying income tax on the money he received from operating the business. Brother apparently believed that the S-Corporation owed the income tax and any other unpaid tax.

Taxpayer had his accountant prepare a corporate tax return for 1999 and 2000 based upon partial records supplied by brother. According to brother, all original sales records "were destroyed by rats and rain" and were thrown away. The Department of Revenue (Department) conducted a sales and income tax audit investigation of taxpayer's available business records and tax returns. The Department concluded that the taxpayer owed both sales and additional income tax and sent taxpayer notices of "Proposed Assessment."

Taxpayer disagreed with the Department's conclusions and submitted a protest to that effect. An administrative hearing was conducted during which taxpayer explained the basis for his protest. This Letter of Findings – addressing the *sales tax* issue – results.

DISCUSSION

I. Automobile Sales – Gross Retail Tax.

In Indiana, retail merchants are responsible for collecting gross retail (sales) tax on behalf of the state. IC 6-2.5-2-1(a, b) states that, "An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana. The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. *The retail merchant shall collect the tax as agent for the state.*" (*Emphasis added*).

No sales tax returns were originally filed during 1999 and 2000, the years during which brother purportedly operated taxpayer's S-Corporation. However, the audit investigation – by checking records with the Indiana Bureau of Motor Vehicles (BMV) – found that cars were sold under the auspices of the S-Corporation during 1999 and 2000.

The audit investigation assessed taxpayer for unpaid sales tax under authority of IC 6-8.1-5-1 which states in part that, "If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department." IC 6-8.1-5-1(a). In order to determine the amount of sale tax due, the audit employed information supplied by the BMV; for example, if the BMV recorded that a customer purchased a \$2,000 car from taxpayer's S-Corporation, the audit calculated that taxpayer's S-Corporation had collected 5 percent of \$2,000 in sales tax and owed \$100 in sales tax.

Taxpayer's argument – that his customers rarely paid off the full amount of the price of the used cars – is irrelevant because

the S-Corporation collected the sales tax on the entire amount of the sale “up front.” If the S-Corporation sold customer a \$2,000 car but agreed to accept a down payment with weekly payments to follow, the S-Corporation would have nonetheless collected the entire \$100 at the time of the initial contract otherwise the customer could not have received a license for the car. 45 IAC 2.2-3-22 states as follows:

No vehicle shall be licensed by Indiana for highway use in Indiana unless the registered owner thereof shall present to the licensing agency at the time such vehicle is first licensed in his name proper evidence, as prescribed by the Department, of the payment of the state gross retail tax or use tax owing in respect to his acquisition of ownership of such vehicle, or shall then pay to such agency upon forms and receipts prescribed by the Department, the amount of any such tax owing and unpaid on the purchase of such vehicle.

The sales tax assessment was based upon the amount of sales tax that should have been collected by the S-Corporation at the time the initial sale to the customer was completed. The fact that the customer stopped making weekly payments or simply abandoned the car does not change the fact that the S-Corporation was expected to collect the entire amount of sales tax up front on each sales transaction. Having collected the sales tax, that amount was held in trust on behalf of Indiana and should have been timely forwarded to the Department. *See* IC 6-2.5-6-1(a); IC 6-2.5-9-3.

Taxpayer also contests the audit’s conclusions by arguing that the audit misinterpreted information obtained from the BMV. Taxpayer points to the S-Corporation’s purported sale of a \$15,000 vehicle. Taxpayer indicates that this particular sale is suspect because of the high dollar value of the vehicle and because “the record keeping behind the sale also raises questions as to the true identity of the individual selling the car.” Taxpayer suspects that the sale of the \$15,000 vehicle was actually a private transaction made by an unknown person who improperly used the S-Corporation’s identity to facilitate the sale.

Taxpayer also points to BMV records indicating that the S-Corporation sold a \$6,000 vehicle. Again, taxpayer points out that the sales price for this particular vehicle is unusually high given the nature of the S-Corporation’s “buy here – pay here” business and that the transaction took place more than five months after the S-Corporation closed its physical location.

The Department does not challenge taxpayer’s assertion that at least two of the sales transactions took place under unusual or suspect conditions. However, the audit arrived at its conclusion based upon the “best information available.” IC 6-8.1-5-1(a). Given the lack of more authoritative records, the Department can find no fault in the audit’s attempt to piece together the details of sales transactions which took place two or three years earlier. “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.” IC 6-8.1-5-1(b). Taxpayer has raised facially legitimate questions concerning two of the sales attributable to the S-Corporation; however, taxpayer has not his burden of “*proving* that the proposed assessment is wrong....” *Id.* (*Emphasis added*).

Brother may have assumed operational control of the car sales business during this period, but the S-Corporation remained as the entity under which brother conducted the business. As sole officer and shareholder of the S-Corporation, taxpayer remained responsible for collecting and forwarding to the Department the sales tax collected on each transaction. As set out in IC 6-2.5-9-3, “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. (*Emphasis added*).

Brother conducted an auto sales business under the auspices of taxpayer’s S-Corporation. The audit investigation calculated the amount of 1999 and 2000 sales based upon the best information available at the time the audit was conducted. The S-Corporation was responsible for collecting and forwarding the sales tax to the state. As sole shareholder of the S-Corporation, taxpayer is now personally responsible for those taxes.

FINDING

Taxpayer’s protest is respectfully denied.

II. Twenty-Percent Penalty.

The Department assessed a twenty-percent penalty on the ground that taxpayer failed to file sales tax returns during 1999 and 2000 and because the Department prepared sales tax returns on taxpayer’s behalf. The Department did so under authority of IC 6-8.1-10-3(b) which states that, “If the department prepares a person’s return under this section, the person is subject to a penalty of twenty percent (20%) of the unpaid tax. In the absence of fraud, the penalty imposed under this section is in place of and not in addition to the penalties imposed under any section.”

Taxpayer cites to IC 6-8.1-10-2.1(d) asking that the Department exercise its discretion to abate the twenty-percent penalty. That particular section states that, “If a person subject to the penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person’s return, timely remit tax held in trust, or pay the deficiency determined by department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty.” *Id.* Taxpayer believes it had reasonable cause for failing to pay sales tax because he had turned over operation of the S-Corporation to brother.

Taxpayer’s reliance on IC 6-8.1-10-2.1(d) is unfounded because that portion of the law permits the Department to abate the

ten-percent “negligence” penalty assessed under IC 6-8.1-10-2.1(b). The twenty-percent “failure to file” penalty is an entirely different matter. Once the twenty-percent penalty is assessed, the Department is without authority to abate the amount.

FINDING

Taxpayer’s protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0120030400.LOF

LETTER OF FINDINGS: 03-0400

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.

ISSUES

I. Money Received from S-Corporation – Adjusted Gross Income Tax.

Authority: IC 6-8.1-5-1; IC 6-8.1-5-1(a); IC 6-8.1-5-1(b); 45 IAC 3.1-1-66.

Taxpayer argues that he did not receive income from his S-Corporation during 1999 and 2000.

II. Ten-Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer maintains that because he was not responsible for car sales made during 1999 and 2000 and had no control over his S-Corporation during that time, he should not be penalized.

STATEMENT OF FACTS

Taxpayer incorporated his used car business in Indiana electing S-Corporation status. Taxpayer is the sole shareholder of the business. The used car business operated as a “buy here – pay here” operation in which a customer would both purchase and finance the car through taxpayer’s S-Corporation. According to taxpayer, most of the vehicles cost about \$2,000.

Taxpayer stated that he ran the business with the help of his brother until late 1998. According to taxpayer, brother expressed interest in taking over the business in 1998, and taxpayer permitted brother to do so.

Brother began to sell cars under the auspices of taxpayer’s S-Corporation. According to taxpayer, brother later denied any responsibility for paying income tax on the money he received from operating the business. Brother apparently believed that the S-Corporation owed the income tax.

Taxpayer had his accountant prepare a corporate tax return for 1999 and 2000 based upon records supplied by brother. The Department of Revenue (Department) conducted a sales and income tax audit investigation of taxpayer’s business records and tax returns. The Department concluded that the taxpayer owed both sales and additional income tax and sent taxpayer notices of “Proposed Assessment.”

Taxpayer disagreed with the Department’s conclusions and submitted a protest to that effect. An administrative hearing was conducted during which taxpayer explained the basis for his protest. This Letter of Findings – addressing the *income tax* issue – results.

DISCUSSION

I. Money Received from S-Corporation – Adjusted Gross Income Tax.

An S corporation normally does not pay income tax. 45 IAC 3.1-1-66 states that, “Corporations electing Subchapter S status under Internal Revenue Code § 1372... are exempt from adjusted gross and supplemental net income tax on all income except capital gains...” Rather than taxing the income at the business level, an S corporation’s income is passed through to the shareholders. The shareholders then must report the income on their own income tax return. 45 IAC 3.1-1-66 states that, “Subchapter S corporation shareholders are taxed on their distributive shares of income at the individual income tax rate.” This is the rule which the audit followed; the audit assessed taxpayer additional income tax based upon the amount of money which the S-Corporation purportedly received from selling cars during 1999 and 2000.

Taxpayer maintains that the audit erred when it determined the amount of income received from the S-Corporation. Taxpayer states that the audit erred by including the total sales price of the cars sold during 1999 and 2000. Taxpayer states that – given the nature of the “buy here – pay here” car business – it is unusual for a retail customer to ever pay the full price of a purchased car. Taxpayer states that the cars sold by his business are typically repossessed or the cars fail before the purchase price is fully paid. For example, customer agrees to purchase a \$2,000 car, makes a limited series of weekly payments, but then stops making payments either because the customer is no longer able to afford the payments or because the car simply stops working. In either case, taxpayer states

that it is unusual for a customer to ever pay \$2,000 for a car which cost \$2,000.

The audit based its income tax calculation based upon 1999 and 2000 Bureau of Motor Vehicles (BMV). The audit made at least one correction of the information supplied by the BMV and provided taxpayer an opportunity to provide more detailed and presumably more accurate sales information. According to brother – who purportedly operated the car sales business during 1999 and 2000 – the original sales records “were destroyed by rats and rain” and were thrown away.

The audit investigation assessed taxpayer for unpaid income tax under authority of IC 6-8.1-5-1 which states in part that, “If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department.” IC 6-8.1-5-1(a).

The Department does not quarrel with taxpayer’s description of his “buy here – pay here” car business. However, taxpayer has provided no specific information which would justify altering the audit’s determination as to the amount of money the S-Corporation earned from selling cars during 1999 and 2000. The income tax assessment was based upon the “best information available to the department.” *Id.* Given the lack of more complete records, the Department can find no fault in the audit’s attempt to piece together the details of sales transactions which took place two or three years earlier. “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.” IC 6-8.1-5-1(b). Taxpayer has not met that burden.

However, taxpayer sets out a secondary argument. Taxpayer points that he closed out the S-Corporation’s sales tax account and withholding account effective December 31, 1998. On the ground that the sales tax and withholding account was closed at the end of 1998, the Department should have realized that “the company was no longer a party-in-interest to the auto sales business.” Taxpayer argues that because his S-Corporation “did not receive the economic benefit of the sales conducted in 1999 and 2000 by [brother], then [taxpayer] as sole share of [S-Corporation], did not receive any benefit either.” Taxpayer is correct in noting that he notified the Department to close out one of the S-Corporation’s sales tax accounts and the S-Corporation’s withholding account. However, the S-Corporation maintained two sales accounts with the Department only one of which was closed in December 1998. The remaining sales tax account – representing the second of the two locations from which the S-Corporation originally conducted business – was not closed out until 2000. As far as the Department was concerned, the S-Corporation remained a viable entity in the business of buying and selling used cars during 1999 and 2000. Brother may have assumed operational controls of the car sales business during this period, but the S-Corporation remained as the entity under which brother conducted the business. As the sole shareholder of that S-Corporation, any income received by the S-Corporation “flowed through” to taxpayer.

FINDING

Taxpayer’s protest is respectfully denied.

II. Ten-Percent Negligence Penalty.

Taxpayer maintains that “it is patently unfair to assess the... a penalty for not reporting the income imputed by the Department, when [taxpayer] had no control over the operations of the auto business that [brother] was operating, and did not receive any economic benefit of the imputed sales.”

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer’s negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as “the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.” Negligence is to “be determined on a case-by-case basis according to the facts and circumstances of each taxpayer.” *Id.*

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on “reasonable cause and not due to willful neglect.” Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish “reasonable cause,” the taxpayer must demonstrate that it “exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...”

The Department must question whether taxpayer’s business decisions constitute the “reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.”

FINDING

Taxpayer’s protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0320040039.LOF

LETTER OF FINDINGS NUMBER 04-0039

RESPONSIBLE OFFICER

SALES TAX and WITHHOLDING TAX

For Tax Period 1993-1998

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 specific issues.

ISSUE

Sales and Withholding Tax -Responsible Officer Liability

Authority: IC 6-2.5-9-3, IC 6-3-4-8 (f), IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of responsible officer liability for unpaid corporate sales and withholding taxes.

STATEMENT OF FACTS

The taxpayer was a director and vice- president of a corporation that did not remit the proper amount of sales and withholding taxes to Indiana for the tax period 1993-1998. The Indiana Department of Revenue (department) assessed the outstanding corporate withholding and sales taxes, interest, and penalty against the taxpayer personally. The taxpayer protested the assessment and a telephone hearing was held. This Letter of Findings results.

Sales and Withholding Tax-Responsible Officer Liability

DISCUSSION

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."

Indiana Department of Revenue assessments are prima facie evidence that the tax assessment is correct. The taxpayer bears the burden of proving that the assessment is incorrect. IC 6-8.1-5-1 (b).

The taxpayer contended that she was not responsible for the payment of the taxes to the state because she did not have control over the financial affairs of the corporation. The taxpayer did not offer adequate documentation to sustain her burden of proving that she was not responsible for the remittance of the trust taxes to the state.

The taxpayer also argued that since the corporation and its debts were awarded to her ex-husband at the time of the dissolution of their marriage, she does not owe the trust taxes to the state. The department disagrees with this conclusion. The settlement of the dissolution proceedings is between the taxpayer and her ex-spouse. Their agreement does not dissolve the taxpayer's liability for taxes or preclude the state from collecting from her. She is still personally responsible for the payment of the trust taxes to the state.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050050.LOF

LETTER OF FINDINGS NUMBER: 04-0050

Sales and Use Tax

For Tax Years 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use—Aircraft Purchase

Authority: Gregory v. Helvering, 293 U.S. 465 (1935); IC 6-2.5-2-1; IC 6-2.5-5-27; IC 6-6-6.5-9; 45 IAC 2.2-5-15; 45 IAC 2.2-4-27; Horn v. Commissioner of Internal Revenue, 968 f.2d 1229 (D.C. Cir. 1992); Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570 (2nd Cir. 1949); Black's Law Dictionary (7th ed. 1999)

Taxpayer protests the imposition of use tax on the purchase of an aircraft.

STATEMENT OF FACTS

Taxpayer purchased an aircraft, but did not pay sales tax on the purchase. Taxpayer claimed that the purchase was exempt from

sales tax because the aircraft was to be used for rental or leasing to others. The Indiana Department of Revenue (“Department”) conducted an investigation regarding the rental or leasing of the aircraft and determined that there was insufficient evidence to support the claim of rental or leasing as the use of the aircraft. As a result of this investigation, the Department denied the claim for exemption and issued a proposed assessment for use tax on the purchase of the aircraft. Taxpayer protests the assessment. Further facts will be supplied as required.

I. Sales and Use—Aircraft Purchase

DISCUSSION

Taxpayer purchased an aircraft for two hundred fifteen thousand dollars (\$215,000.00) and claimed a sales tax exemption. The Department compared a non-related aircraft rental company’s rate for the same type of aircraft, to the rate taxpayer charged for its aircraft. The rental rate was far below the market rate. The Department determined that taxpayer was not renting the aircraft and denied the exemption. Taxpayer protests the denial.

Taxpayer offers several arguments in support of its claim for the exemption. First, taxpayer refers to IC 6-6-6.5-9(a)(4), which states:

(a) The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following;

...

(4) An aircraft owned or operated by a person who is either an air carrier certified under Federal Air Regulation Part 121 or a scheduled air taxi operator certified under Federal Air Regulation Part 135, unless such person is a corporation incorporated under the laws of the state of Indiana or an individual who is a resident of Indiana.

Taxpayer states that IC 6-6-6.5-9(a)(4) provides that an aircraft owned or operated by a person who is either an air carrier certificated under Federal Air Regulation Part 121 or an air taxi operator certified under Federal Air Regulation Part 135, is exempt to state sales and use tax. Taxpayer is incorrect.

As plainly stated in IC 6-6-6.5-9(a), “The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following;”. The chapter referred to is chapter 6.5 of article 6 of title 6 of the Indiana Code. Chapter 6.5 of article 6 of title 6 deals with aircraft license excise tax. IC 6-6-6.5-9(4) only applies to aircraft license taxes, not the sales tax which is the tax at issue in this protest. Therefore, taxpayer’s reliance on that subsection is misplaced.

The sales tax is established at IC 6-2.5-2-1, which states:

(a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.

(b) The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state.

Sales tax is due on retail transactions, such as the purchase or rental of an aircraft. Neither taxpayer nor its customer provided documentation establishing exempt use of the aircraft. The Department considered this insufficient to prove that the aircraft was used for renting or leasing. The Department never received any documentation establishing that any other third party used the aircraft. This contributed to the Department’s determination that taxpayer was not renting or leasing the aircraft.

Next, taxpayer refers to IC 6-2.5-5-27, which states:

Transactions involving tangible personal property and services are exempt from the state gross retail tax, if the person acquiring the property or service directly uses or consumes it in providing public transportation for persons or property.

Taxpayer claims that this exemption applies to its purchase of the aircraft.

By taxpayer’s own explanation, it did not directly use the aircraft in providing public transportation. Taxpayer states that it rented to another business which in turn provided public transportation. The exemption, if applicable at all, would apply to taxpayer’s customer since it is the one claiming to directly use the aircraft in public transportation. Therefore, the exemption found in IC 6-2.5-5-27 is not applicable to taxpayer.

Next, taxpayer states that the aircraft was used for rental to others, and therefore was exempt from sales tax under 45 IAC 2.2-5-15, which states:

(a) The state gross retail tax shall not apply to sales of any tangible personal property to a purchaser who purchases the same for the purpose of reselling, renting or leasing, in the regular course of the purchaser’s business, such tangible personal property in the form in which it is sold to such purchaser.

(b) General rule. Sales of tangible personal property for resale, renting or leasing are exempt from tax if all of the following conditions are satisfied:

(1) The tangible personal property is sold to a purchaser who purchases this property to resell, rent or lease it;

(2) The purchaser is occupationally engaged in reselling, renting or leasing such property in the regular course of his business; and

(3) The property is resold, rented or leased in the same form in which it was purchased

(c) Application of general rule.

(1) The tangible personal property must be sold to a purchaser who makes the purchase with the intention of reselling,

renting or leasing the property. This exemption does not apply to purchasers who intend to consume or use the property or add value to the property through the rendition of services or performance of work with respect to such property.

(2) The purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. Occasional sales and sales by servicemen in the course of rendering services shall be conclusive evidence that the purchaser is not occupationally engaged in reselling the purchased property in the regular course of his business.

(3) The property must be resold, rented or leased in the same form in which it was purchased.

Taxpayer states that it was in the business of leasing aircraft and therefore qualifies for the exemption provided by 45 IAC 2.2-5-15. 45 IAC 2.2-5-15(b) requires that three conditions be met in order to qualify for the exemption. One condition is 45 IAC 2.2-5-15(b)(2) states that the purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. The Department notes that a single individual signed as both lessee and lessor on the leasing agreement. Combined with the rental rate far below normal market rates, this shows that taxpayer was not occupationally engaged in reselling, renting or leasing the aircraft in the regular course of its business. Under these circumstances, taxpayer does not satisfy 45 IAC 2.2-5-15-(b)(2) and does not qualify for the leasing exemption.

Next, taxpayer explains that its customer paid a lower lease rate because it was paying other expenses which, when added to the lease rate, brought the total customer paid closer to comparable lease rates. Taxpayer explains that, under the “dry lease”, the lessee was responsible for paying expenses such as insurance, hangar, fuel, maintenance and crew. This supposedly brought the leasing costs to appropriate levels. 45 IAC 2.2-4-27(d) states in relevant part:

The rental or leasing of tangible personal property, by whatever means effected and irrespective of the terms employed by the parties to describe such transaction, is taxable.

(1) Amount of actual receipts. The amount of actual receipts means the gross receipts from the rental or leasing of tangible personal property without any deduction whatever for expenses or costs incidental to the conduct of the business. The gross receipts include any consideration received from the exercise of an option contained in the rental or lease agreement; royalties paid, or agreed to be paid, either on a lump sum or other production basis, for use of tangible personal property; and any receipts held by the lessor which may at the time of their receipt or some future time be applied by the lessor as rentals.

...

This regulation means that taxpayer was required to collect sales tax on all consideration it received from its customer for lease of the aircraft. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, maintenance and crew. This is further evidence that taxpayer’s relationship with its customer was not a valid lessor/lessee relationship.

Next, taxpayer states that it only created the leasing corporation in order to avoid liability in the event of a catastrophic loss. Taxpayer explained that it was difficult if not impossible to purchase enough insurance to cover potential liabilities from a crash, so it created the lessee corporation to shelter the lessor corporation from those potential liabilities. While this may or may not be the case, it is ultimately irrelevant since it does not explain why the rental rate was set at a fraction of the rate charged for comparable aircraft in the area. The fact that the rental rate was so low makes it plain that the rental agreement was set up to avoid sales tax, since the rental rate would have nothing to do with potential liabilities from a crash.

Finally, the Department notes that a lease is defined as “[a] contract by which the rightful possessor of personal property conveys the right to use that property in exchange for consideration.” Black’s Law Dictionary 898 (7th ed. 1999). The parties’ agreement reflected the fact that pilot/lessee never expected to pay consideration sufficient to justify recognizing the agreement as a lease. Instead, the lease agreement falls squarely within the definition of a “sham transaction.” The “sham transaction” doctrine is long established both in state and federal tax jurisprudence dating back to Gregory v. Helvering, 293 U.S. 465 (1935). In that case, the Court held that in order to qualify for a favorable tax treatment, a corporate reorganization must be motivated by the furtherance of a legitimate corporate business purpose. Id. at 469. A corporate business activity undertaken merely for the purpose of avoiding taxes was without substance and “[t]o hold otherwise would be to exalt artifice above reality and to deprive the statutory provision in question of all serious purpose.” Id. at 470. The courts have subsequently held that “in construing words of a tax statute which describe [any] commercial transactions [the court is] to understand them to refer to transactions entered upon for commercial or industrial purposes and not to include transactions entered upon for no other motive but to escape taxation.” Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570, 572 (2nd Cir. 1949), *cert. denied*, 338 U.S. 955 (1950). “[t]ransactions that are invalidated by the [sham transaction] doctrine are those motivated by nothing other than the taxpayer’s desire to secure the attached tax benefit” but are devoid of any economic substance. Horn v. Commissioner of Internal Revenue, 968 f.2d 1229, 1236-7 (D.C. Cir. 1992). The rental/lease rate charged by taxpayer for the aircraft in question here can only be considered a “sham transaction”. The only reason to charge a fraction of the fair market rate for rental/lease of the aircraft and arrange for alternate compensation is to avoid tax. Since taxpayer was not involved in a valid lease or rental agreement with its sole customer the Department was correct to deny taxpayer’s claim for the rental/lease exemption.

In conclusion, taxpayer’s reference to IC 6-6-6.5-9(a)(4) is inapplicable since it deals with aircraft licensing tax rather than sales

Nonrule Policy Documents

tax. Taxpayer was not directly providing public transportation and was not eligible for the exemption described in IC 6-2.5-5-27. Taxpayer was not occupationally engaged in renting to others and does not qualify for the exemption found in 45 IAC 2.2-5-15. It is irrelevant if the leasing corporation was formed to shield taxpayer from liability in the event of a crash, since that would have no influence on the rental rate. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, maintenance and crew, as required by 45 IAC 2.2-4-27(d). Taxpayer's relationship with its customer was too close and the terms of the rental agreement too generous to establish an arms-length business relationship. The rental/lease arrangement between taxpayer and its customer constitutes a "sham transaction" entered into for the sole purpose of avoiding taxes, as established in Gregory v. Helvering. Without a valid rental/lease agreement, taxpayer is ineligible for the rental exemption on the purchase of the aircraft.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20040102.LOF

LETTER OF FINDINGS: 04-0102

Sales and Use Tax For Tax 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 the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales and Use Tax—Delivery charges

Authority: Ind. Code § 6-2.5-4-10; 45 IAC 2.2-4-3.

Taxpayer protests the assessment of sales tax with respect to delivery charges incurred in transporting rental property to customers.

II. Tax Administration: Negligence Penalty

Authority: Ind. Code § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the assessment of a negligence penalty.

STATEMENT OF FACTS

Taxpayer is in the business of renting and leasing modular buildings. The buildings will be delivered to the customer's locations in Taxpayer's own vehicles. The contracts between Taxpayer and its customers separately state delivery charges and do not specify F.O.B. terms.

The Department audited Taxpayer for the years in question, and assessed sales tax for the delivery charges imposed, as well as use tax for several items not in dispute here. The Department also assessed penalties on the entire assessment, which Taxpayer has protested as well.

DISCUSSION

I. Sales and Use Tax—Delivery charges

In general, the lease or rental of tangible personal property is subject to sales tax. Ind. Code § 6-2.5-4-10(a), which stated during the relevant period "[a] person, other than a public utility, is a retail merchant making a retail transaction when he rents or leases tangible personal property to another person." This statute is silent with respect to delivery charges. By contrast, Ind. Code § 6-2.5-4-1(e)(2) provided that:

Except as provided in subsection (g), any bona fide charges which are made or preparation, fabrication, alteration, modification, finishing, completion, delivery or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records.

Taxpayer argues that the delivery charges should not be subject to sales tax based on the language of 45 IAC 2.2-4-3, which provides:

Sec. 3. (a) Separately stated delivery charges are considered part of selling at retail and subject to sales and use tax if the delivery is made by or on behalf of the seller of property not owned by the buyer.

(b) The following guidelines have been developed:

- (1) Delivery charge separately stated with F.O.B. destination-taxable.
- (2) Delivery charge separately stated with F.O.B. origin-non taxable.
- (3) Delivery charge separately stated where no F.O.B. has been established-non taxable.

- (4) Delivery charges included in the purchase price are taxable.
- (c) Two considerations must always be kept in mind in applying these guidelines:
- (1) The rules do not override established interstate commerce exemptions recognized by IC 6-2.1-3-3 (see 6-2.5-5-24(b)(010) [45 IAC 2.2-5-54]).
 - (2) The rules are only applicable in determining whether or not the delivery charge of an otherwise taxable sale is also subject to sales or use tax.

The statute and regulation discussing exemption for certain delivery charges hinges on the point at which title in the underlying tangible personal property transfers between buyer and seller, indicating a sale of tangible personal property. In this case, the tangible personal property that Taxpayer transports is not sold to customers, but rather is rented or leased. Accordingly, because the property in question was not sold, the delivery charges were subject to sales tax.

FINDING

Taxpayer's protest is denied.

II. Tax Administration: Negligence Penalty

The Department may impose a ten percent (10%) negligence penalty. Ind. Code § 6-8.1-10-2.1 and 45 IAC 15-11-2. Taxpayer's failure to timely file income tax returns, generally, will result in penalty assessment. Ind. Code § 6-8.1-10-2.1(a)(1). The Department, however, may waive this penalty if the taxpayer can establish that its failure to file "was due to reasonable cause and not due to negligence." 45 IAC 15-11-2(c). A taxpayer may demonstrate reasonable cause by showing "that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...." *Id.* Taxpayer has not made the necessary showing in this case.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050126.LOF

LETTER OF FINDINGS NUMBER: 04-0126

**Sales and Use Tax
For Tax Years 2004**

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—Aircraft Purchase

Authority: Gregory v. Helvering, 293 U.S. 465 (1935); IC 6-2.5-2-1; IC 6-6-6.5-9; 45 IAC 2.2-5-15; 45 IAC 2.2-4-27; Horn v. Commissioner of Internal Revenue, 968 f.2d 1229 (D.C. Cir. 1992); Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570 (2nd Cir. 1949); Black's Law Dictionary (7th ed. 1999)

Taxpayer protests the imposition of use tax on the purchase of an aircraft.

STATEMENT OF FACTS

Taxpayer purchased an aircraft, but did not pay sales tax on the purchase. Taxpayer claimed that the purchase was exempt from sales tax because the aircraft was to be used for rental or leasing to others. The Indiana Department of Revenue ("Department") conducted an investigation regarding the rental or leasing of the aircraft and determined that there was insufficient evidence to support the claim of rental or leasing as the use of the aircraft. As a result of this investigation, the Department denied the claim for exemption and issued a proposed assessment for use tax on the purchase of the aircraft. Taxpayer protests the assessment. Further facts will be supplied as required.

I. Sales and Use—Aircraft Purchase

DISCUSSION

Taxpayer purchased an aircraft for two million, seven hundred fifteen thousand, two hundred thirty dollars (\$2,715,230.00) with a trade-in aircraft valued at one million, two hundred fourteen thousand, forty two dollars (\$1,214,042.00) for a final purchase price of one million, five hundred one thousand, one hundred eighty eight dollars (\$1,501,188.00) and claimed a sales tax exemption. The Department compared a non-related aircraft rental company's rate for the same type of aircraft, to the rate taxpayer charged for its aircraft. Taxpayer's rental rate was far below the market rate. The Department determined that taxpayer was not renting the aircraft and denied the exemption. Taxpayer protests the denial.

Taxpayer offers several arguments in support of its claim for the exemption. First, taxpayer refers to IC 6-6-6.5-9(a)(4), which

states:

(a) The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following;

...

(4) An aircraft owned or operated by a person who is either an air carrier certified under Federal Air Regulation Part 121 or a scheduled air taxi operator certified under Federal Air Regulation Part 135, unless such person is a corporation incorporated under the laws of the state of Indiana or an individual who is a resident of Indiana.

Taxpayer states that IC 6-6-6.5-9(a)(4) provides that an aircraft owned or operated by a person who is either an air carrier certificated under Federal Air Regulation Part 121 or an air taxi operator certified under Federal Air Regulation Part 135, is exempt to state sales and use tax. Taxpayer is incorrect.

As plainly stated in IC 6-6-6.5-9(a), "The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following;". The chapter referred to is chapter 6.5 of article 6 of title 6 of the Indiana Code. Chapter 6.5 of article 6 of title 6 deals with aircraft license excise tax. IC 6-6-6.5-9(4) only applies to aircraft license taxes, not the sales tax which is the tax at issue in this protest. Therefore, taxpayer's reliance on that subsection is misplaced.

The sales tax is established at IC 6-2.5-2-1, which states:

(a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.

(b) The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state.

Sales tax is due on retail transactions, such as the purchase or rental of an aircraft. Neither taxpayer nor its customer provided documentation establishing exempt use of the aircraft. The Department considered this insufficient to prove that the aircraft was used for renting or leasing. The Department never received any documentation establishing that any other third party used the aircraft. This contributed to the Department's determination that taxpayer was not renting or leasing the aircraft.

Next, taxpayer states that the aircraft was used for rental to others, and therefore was exempt from sales tax under 45 IAC 2.2-5-15, which states:

(a) The state gross retail tax shall not apply to sales of any tangible personal property to a purchaser who purchases the same for the purpose of reselling, renting or leasing, in the regular course of the purchaser's business, such tangible personal property in the form in which it is sold to such purchaser.

(b) General rule. Sales of tangible personal property for resale, renting or leasing are exempt from tax if all of the following conditions are satisfied:

(1) The tangible personal property is sold to a purchaser who purchases this property to resell, rent or lease it;

(2) The purchaser is occupationally engaged in reselling, renting or leasing such property in the regular course of his business; and

(3) The property is resold, rented or leased in the same form in which it was purchased

(c) Application of general rule.

(1) The tangible personal property must be sold to a purchaser who makes the purchase with the intention of reselling, renting or leasing the property. This exemption does not apply to purchasers who intend to consume or use the property or add value to the property through the rendition of services or performance of work with respect to such property.

(2) The purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. Occasional sales and sales by servicemen in the course of rendering services shall be conclusive evidence that the purchaser is not occupationally engaged in reselling the purchased property in the regular course of his business.

(3) The property must be resold, rented or leased in the same form in which it was purchased.

Taxpayer states that it was in the business of leasing aircraft and therefore qualifies for the exemption provided by 45 IAC 2.2-5-15. 45 IAC 2.2-5-15(b) requires that three conditions be met in order to qualify for the exemption. One condition is 45 IAC 2.2-5-15(b)(2) states that the purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of his business. The Department notes that the same individual signed the leasing agreement as lessor and as lessee. Also, the Department has not received any documentation establishing that taxpayer's leasing business ever showed a profit. While profitability of a business is not normally germane as to the existence of a true lessor/lessee relationship, in this case it does indicate that taxpayer had arranged for its two owner/renter parties to pay much less than a fair market value for the rental of the aircraft. The rental at issue here was not an arms-length transaction. Under these circumstances, taxpayer does not satisfy 45 IAC 2.2-5-15-(b)(2) and does not qualify for the leasing exemption.

Next, taxpayer explains that its customer paid a lower lease rate because it was paying other expenses which, when added to the lease rate, brought the total customer paid closer to comparable lease rates. Taxpayer explains that, under the "dry lease", the lessee was responsible for paying expenses such as insurance, hangar, fuel, maintenance and crew. This supposedly brought the leasing costs to appropriate levels. 45 IAC 2.2-4-27(d) states in relevant part:

The rental or leasing of tangible personal property, by whatever means effected and irrespective of the terms employed by the

parties to describe such transaction, is taxable.

(1) Amount of actual receipts. The amount of actual receipts means the gross receipts from the rental or leasing of tangible personal property without any deduction whatever for expenses or costs incidental to the conduct of the business. The gross receipts include any consideration received from the exercise of an option contained in the rental or lease agreement; royalties paid, or agreed to be paid, either on a lump sum or other production basis, for use of tangible personal property; and any receipts held by the lessor which may at the time of their receipt or some future time be applied by the lessor as rentals.

...

This regulation means that taxpayer was required to collect sales tax on all consideration it received from its customer for lease of the aircraft. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, maintenance and crew. This is further evidence that taxpayer's relationship with its customer was not a valid lessor/lessee relationship.

Next, taxpayer states that it only created the leasing corporation in order to avoid liability in the event of a catastrophic loss. Taxpayer explained that it was difficult if not impossible to purchase enough insurance to cover potential liabilities from a crash, so it created the lessee corporation to shelter the lessor corporation from those potential liabilities. While this may or may not be the case, it is ultimately irrelevant since it does not explain why the rental rate was set at a fraction of the rate charged for comparable aircraft in the area. The fact that the rental rate was so low makes it plain that the rental agreement was set up to avoid sales tax, since the rental rate would have nothing to do with potential liabilities from a crash.

Finally, the Department notes that a lease is defined as "[a] contract by which the rightful possessor of personal property conveys the right to use that property in exchange for consideration." Black's Law Dictionary 898 (7th ed. 1999). The parties' agreement reflected the fact that pilot/lessee never expected to pay consideration sufficient to justify recognizing the agreement as a lease. Instead, the lease agreement falls squarely within the definition of a "sham transaction." The "sham transaction" doctrine is long established both in state and federal tax jurisprudence dating back to Gregory v. Helvering, 293 U.S. 465 (1935). In that case, the Court held that in order to qualify for a favorable tax treatment, a corporate reorganization must be motivated by the furtherance of a legitimate corporate business purpose. Id. at 469. A corporate business activity undertaken merely for the purpose of avoiding taxes was without substance and "[t]o hold otherwise would be to exalt artifice above reality and to deprive the statutory provision in question of all serious purpose." Id. at 470. The courts have subsequently held that "in construing words of a tax statute which describe [any] commercial transactions [the court is] to understand them to refer to transactions entered upon for commercial or industrial purposes and not to include transactions entered upon for no other motive but to escape taxation." Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570, 572 (2nd Cir. 1949), *cert. denied*, 338 U.S. 955 (1950). "[t]ransactions that are invalidated by the [sham transaction] doctrine are those motivated by nothing other than the taxpayer's desire to secure the attached tax benefit" but are devoid of any economic substance. Horn v. Commissioner of Internal Revenue, 968 f.2d 1229, 1236-7 (D.C. Cir. 1992). The rental/lease rate charged by taxpayer for the aircraft in question here can only be considered a "sham transaction". The only reason to charge a fraction of the fair market rate for rental/lease of the aircraft and arrange for alternate compensation is to avoid tax. Since taxpayer was not involved in a valid lease or rental agreement with its sole customer the Department was correct to deny taxpayer's claim for the rental/lease exemption.

In conclusion, taxpayer's reference to IC 6-6-6.5-9(a)(4) is inapplicable since it deals with aircraft licensing tax rather than sales tax. Taxpayer was not occupationally engaged in renting to others and does not qualify for the exemption found in 45 IAC 2.2-5-15. It is irrelevant if the leasing corporation was formed to shield taxpayer from liability in the event of a crash, since that would have no influence on the rental rate. Taxpayer was not collecting sales tax on the consideration it received from its customer when the customer paid for insurance, hangar, fuel, maintenance and crew, as required by 45 IAC 2.2-4-27(d). Taxpayer's relationship with its customer was too close and the terms of the rental agreement too generous to establish an arms-length business relationship. The rental/lease arrangement between taxpayer and its customer constitutes a "sham transaction" entered into for the sole purpose of avoiding taxes, as established in Gregory v. Helvering. Without a valid rental/lease agreement, taxpayer is ineligible for the rental exemption on the purchase of the aircraft.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1820040179.LOF

LETTER OF FINDINGS: 04-0179

Financial Institutions Tax

For the 2001 Tax Year

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. Net Operating Loss Carryforward – Financial Institutions Tax.

Authority: IC 6-3-2-1; IC 6-3-2-2; IC 6-3-2-2.6; IC 6-3-2-2.6(a); IC 6-5.5 et seq.; IC 6-5.5-2-1(a); IC 6-5.5-2-1(a)(2); 45 IAC 3.1-1-9; 45 IAC 17-2-1(a).

Taxpayer maintains that the Department of Revenue's audit erred when it disallowed a net operating loss carryforward originally attributable to taxpayer's subsidiary.

STATEMENT OF FACTS

Taxpayer is an out-of-state company which files Indiana Financial Institution Tax (FIT) returns. The Department of Revenue (Department) conducted an audit review of taxpayer's returns and financial records during 2003.

During 2001, taxpayer acquired a brokerage company which became taxpayer's subsidiary. Previously, the brokerage company had filed Indiana IT-20 returns because it was subject to the state's adjusted gross income tax. In calculating its adjusted gross income tax, the subsidiary determined that it was entitled to claim a net operating loss (NOL) and to "carry forward" that amount. 2001 was the last year in which the brokerage firm filed its own IT-20 returns.

In the belief that – along with the brokerage firm's other assets and liabilities – it had acquired the NOL, taxpayer "carried forward" the NOL on its own 2001 FIT return.

During the course of the audit review, the audit came to the conclusion that taxpayer – as an FIT filer – was not entitled to carry forward the subsidiary's Adjusted Gross Income tax NOL. Taxpayer disagreed and submitted a protest to that effect. An administrative hearing was conducted during which taxpayer explained the basis for the protest. This Letter of Findings results.

FINDING

I. Net Operating Loss Carryforward – Financial Institutions Tax.

The audit disallowed taxpayer's NOL on that ground that, "A net operating loss calculated under the adjusted gross income tax statutes cannot be used to offset income subject to the financial institutions tax pursuant to IC 6-5.5-2[-]1(a)(2)." The relevant portion of the law states as follows:

The amount of [FIT] for a taxable year shall be determined by multiplying eight and one-half percent (8.5%) times the remainder of: (1) the taxpayer's adjusted gross income or apportioned income; minus (2) the taxpayer's deductible Indiana net operating losses as determined under this section.... IC 6-5.5-2-1(a).

Taxpayer disagrees with the audit's conclusion stating that it "feel[s] the utilization of this NOL on [its] 2001 Indiana FIT return is justified based on a fair and rational interpretation of the statute and to disallow the NOL entirely is unreasonable." In effect, taxpayer argues that it should be permitted to carry forward the previously unabsorbed net operating loss sustained by its brokerage subsidiary. According to taxpayer, since the brokerage subsidiary ceased its independent corporate existence during 2001 and ceased filing its own adjusted gross income tax return, disallowing the carryforward operates to "strand" the unabsorbed net operating loss.

Indiana imposes a franchise tax, known as the FIT, on corporations transacting the business of a financial institution within the state. IC 6-5.5 et seq. The tax is imposed on resident financial institutions, nonresident financial institutions, and on non-bank entities that transact the business of a financial institution. 45 IAC 17-2-1(a). Taxpayer qualifies as a financial institution and filed FIT returns under the provisions of that particular portion of the state's tax law.

Elsewhere in the state's tax structure, the state imposes a tax on the adjusted gross income of resident and nonresident corporations and individuals. IC 6-3-2-1; IC 6-3-2-2. The tax is imposed on that portion of the taxpayer's income derived from sources from within the state. Under the provisions of the Indiana's Adjusted Gross Income (AGI) tax, nonresident corporations – such as the formerly independent brokerage – are permitted to carry forward net operating losses (*See* IC 6-3-2-2.6; 45 IAC 3.1-1-9).

Taxpayer maintains that an NOL created under the AGI tax statutes and modified using the receipts factor in accordance with IC 6-5.5-2-1(c), can be carried forward into taxpayer's FIT calculation. The Department must respectfully disagree with taxpayer's conclusion. Despite the fact that NOL carryforward provisions are found under both the AGI tax and the FIT, the two taxing schemes are operationally and functionally distinct from one another. The FIT operates as a franchise tax while the AGI tax operates as a tax on the corporation's income. While taxpayer is correct in pointing out that both the FIT and the AGI tax borrow from and define themselves in reference to the Internal Revenue Code, there is nothing within their respective statutory or regulatory provisions which permits a taxpayer to carry forward net operating losses back and forth between the two distinct schemes. To the contrary, the statutory language within each of the two taxing provisions would seem to indicate that the Legislature intended each provision to operate independently. For example, the FIT provides that the taxpayer's net operating losses are calculated in a manner "as determined under *this* section." IC 6-5.5-2-1(a)(2) (*Emphasis added*). Similarly, the brokerage's adjusted gross income tax – including any relevant net operating loss – was calculated relative to the provisions of IC 6-3-2-2.6(a) exclusive to the "purposes of section 1 of *this* chapter." (*Emphasis added*).

While taxpayer's decision to acquire the brokerage may have had the unexpected effect of "stranding" unabsorbed net operating

losses to which the brokerage was otherwise entitled, neither the Department nor the taxpayer has the discretionary authority to create from whole cloth the authority to carry over net operating losses, attributable to an AGI calculation, to taxpayer's FIT returns.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0320040221P.LOF

LETTER OF FINDINGS NUMBER: 04-0221P

**Withholding Tax
For the Calendar Year 2003**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2;

The taxpayer protests the late penalty.

STATEMENT OF FACTS

The late penalty was assessed on the late payment and filing of an annual withholding tax return for the calendar year 2003.

The taxpayer is a company residing outside of Indiana.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer argues the late penalty should be abated as the taxpayer did not receive the WH-1 form, and, the taxpayer has a good compliance record.

With regard to the good compliance record, the Department notes the taxpayer has had several errors in the past. On this point, the Department does not consider the taxpayer's compliance record a factor in waiving penalty.

With regard to the unreceived WH-1, the Department points out the taxpayer did not contact the Department until March 23, 2004 which was eight days after the due date. The Department considers the taxpayer to be negligent on this point as the taxpayer was already late (negligent) before contacting the Department 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

04-20040227.LOF

LETTER OF FINDINGS NUMBER: 04-0227

**Sales/Use 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.

ISSUES

I. Sales and Use Tax-Vehicles

Authority: Ind. Code § 6-2.5-2-1; Ind. Code § 6-2.5-3-6; Ind. Code § 6-2.5-3-7; Ind. Code § 6-2.5-4-1; Ind. Code § 6-2.5-5-15.

Taxpayer protests the Department's assessment of sales tax with respect to the sale of trailers by Taxpayer, which Taxpayer claims were titled outside Indiana.

II. Sales and Use Tax-Services

Authority: Ind. Code § 6-8.1-5-4.

Taxpayer protests the imposition of sales tax with respect to charges that Taxpayer maintains were for services.

III. Sales and Use Tax-Imposition

Authority: Ind. Code § 6-2.5-3-2; Ind. Code § 6-2.5-3-5.

Taxpayer protests the imposition of use tax with respect to items that were purchased outside Indiana or constituted overhead expenses.

STATEMENT OF FACTS

Taxpayer is a corporation engaged in the sale of cargo trailers. Taxpayer purchases the trailers from another company, and then in turn sells them to purchasers, both in and out of Indiana according to Taxpayer.

During late 2002, Taxpayer's office was burglarized. After the burglary, Taxpayer reported a number of items stolen during the burglary. Later that same year, Taxpayer was audited by the Department. In the early part of 2003, after the Department notified Taxpayer of the audit, Taxpayer amended the original police report to include many other items, including Taxpayer's business records.

During the audit, the Department noted a difference between Taxpayer's sales reported for income tax purposes and sales reported for sales tax purposes. Taxpayer has protested this assessment, arguing that the sales were shipped to out-of-state purchasers or that the sales represented fees received for services performed by Taxpayer. Taxpayer has further protested the imposition of use tax with respect to several items that Taxpayer maintains were purchased outside Indiana or represented overhead expenses.

I. Sales and Use Tax-Vehicles

DISCUSSION

Taxpayer argues that the sales in controversy were to out of state purchasers, and therefore exempt from sales tax. Taxpayer maintains, however, that the records were stolen in a burglary in late 2002. Taxpayer provided a list of sales indicating the various destinations of the trailers in controversy.

Under Ind. Code § 6-2.5-4-1, the sale of tangible personal property in the regular course of a person's regularly conducted trade or business is subject to sales tax. The sale of trailers constituted Taxpayer's regularly conducted trade or business, and accordingly Taxpayer had a responsibility to collect sales and use tax with respect to the sale of trailers. Ind. Code § 6-2.5-2-1(b); Ind. Code § 6-2.5-3-6(b).

Further, under Ind. Code § 6-2.5-3-7, property purchased in Indiana is presumed to be purchased for use in Indiana unless the seller has either been provided an exemption certificate by the purchaser or the seller or purchaser can otherwise establish that the property purchased was not used in Indiana, or was used for an exempt purpose.

However, Ind. Code § 6-2.5-5-15 stated that, for the years in question, trailers were exempt from sales tax if the purchaser immediately transports the trailer outside Indiana, titles or registers the vehicle in another state and does not title or register the trailer in Indiana.

Taxpayer has two avenues for establishing that Taxpayer is not liable for the tax in question. The first is to demonstrate that Taxpayer received an exemption certificate from the purchaser at the time of the purchase. Ind. Code § 6-2.5-3-7(b). Taxpayer has not done this.

In the alternative, Taxpayer can establish that the property was transported for use outside Indiana. To do this, Taxpayer would need to establish that the property was titled outside Indiana. Under the laws of Indiana and many other states, trailers are required to be registered with a relevant state agency. A quick analysis revealed that third-party title searches generally may be done at certain state offices for a very modest price per search, and at least one state may permit such searches to be done online. Even though Taxpayer is a short distance from two states that border Indiana, Taxpayer has not provided such documentation for even those jurisdictions, much less other jurisdictions.

The Department is generally sympathetic to taxpayers whose records are lost or destroyed due to no fault of the taxpayer. However, Taxpayer does not explain how the absence of business records for the period prior to the burglary escaped his notice, nor does he provide any documentation for the period after the burglary-when new records were presumably maintained. Taxpayer further does not explain how his federal income tax returns-documenting several hundred thousands of dollars of sales-were prepared, nor does Taxpayer explain why no backup or supporting documentation was provided.

FINDING

Taxpayer's protest is denied.

II. Sales and Use Tax-Services

DISCUSSION

Taxpayer further argues that a portion of the sales in controversy actually represented service fees rather than the sale of tangible

personal property, but lost his records in the 2002 burglary. While Taxpayer does make a correct statement of law if the charges in question were separately stated on the taxpayer's records, the issue becomes Taxpayer's records. Under Ind. Code § 6-8.1-5-4, a taxpayer is required to maintain books and records necessary to permit Department review of a taxpayer's liability by reference to those books and records. Otherwise, the taxpayer becomes subject to liability on the best information available to the Department. Without the records to substantiate this claim, the best information available in this case is Taxpayer's gross sales per his federal income tax return. Accordingly, Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

III. Sales and Use Tax-Imposition

DISCUSSION

Taxpayer protests the imposition of use tax with respect to several items. In particular, Taxpayer argues that the items constituted overhead expenses or were purchased outside of Indiana (both representations were contained in Taxpayer's protest), and accordingly is not subject to use tax on these items.

Indiana, like other states with sales taxes, imposes a use tax to complement its sales tax. In Indiana, a taxpayer is generally responsible for use tax with respect to all tangible personal property purchased in retail transactions, along with automobiles, watercraft and aircraft regardless of whether those items are purchased at retail, if the property in question is used in Indiana. Ind. Code § 6-2.5-3-2. If a taxpayer has paid sales or use tax to another state, the taxpayer is eligible for a credit against the use tax. Ind. Code § 6-2.5-3-5. Taxpayer has not demonstrated that the purchases qualified for statutory exemptions (e.g., manufacturing), that the purchases were casual sales of certain items, that the items were not used in Indiana, or that sales or use tax payments sufficient to allow for an offsetting credit were made.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02-20040304P.LOF

**LETTER OF FINDINGS NUMBER 04-0304P
TAX ADMINISTRATION—NEGLIGENCE PENALTY FOR
THE PERIOD COVERING CALENDAR 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. Tax Administration—Negligence Penalty

Authority: IC article 6-2.1 (1998) (repealed 2003); IC §§ 6-8.1-1-1, -5-1(b) and -10-2.1 (1998) (current respective versions at *id.* (2004)); 45 IAC article 1.1 (1996) (2001) (repealed 2003)

The taxpayer protests the assessment of the negligence penalty.

STATEMENT OF FACTS

The taxpayer is a holding corporation organized in Delaware in 1994 and headquartered in a state other than Delaware or Indiana. During calendar years 2000-02 (hereinafter "the audit period") it had no physical presence, and was not authorized to do business, in Indiana. However, the taxpayer is a wholly owned subsidiary of another foreign corporation that is so authorized. The taxpayer's main assets consist of the trade names and trademarks developed for that business by, sold by, and licensed back to, the parent. It continues to use the licensed intellectual property in that business, which it conducted, among other places, at three Indiana locations during the audit period. During that time taxpayer and its parent filed separate Indiana income tax returns.

The Department conducted a simultaneous audit of the taxpayer and its parent for all types of Indiana income tax they incurred during the audit period. The field auditor ultimately adjusted the gross income tax ("GIT") liability of the taxpayer. The Audit Division issued Notices of Proposed Assessment of GIT to the taxpayer based on the adjustments made to its liability. The taxpayer paid the respective base taxes and interest, but protested the proposed negligence penalty. The Department will provide additional facts as needed.

DISCUSSION

The field auditor recognized that for GIT purposes the taxpayer could not have joined in filing consolidated returns with the parent because the taxpayer was a foreign corporation not authorized to do business in Indiana. See IC § 6-2.1-5-5(b) (1998) and 45 IAC § 1.1-5-3(a) and (b) (2001) (both repealed 2003) (permitting corporations incorporated or authorized to do business in

Indiana to file consolidated gross income tax returns). The auditor therefore conducted a separate audit of the taxpayer under the Gross Income Tax Act of 1933, IC article 6-2.1 (1998), and its implementing regulations at 45 IAC article 1.1 (2001) (both repealed 2003). He adjusted the taxpayer's GIT liability by treating the licensing royalties it received as gross income derived from business sites within the state pursuant to 45 IAC § 1.1-6-2 and calculating gross income tax on those royalties at high rate.

The taxpayer's sole argument, as stated in its protest letter, consists of the bare statement that it had no intention to purposely disregard the law. For the reasons the Department will set out below, this allegation is insufficient as a matter of law to sustain, and the Department must therefore deny, the taxpayer's protest.

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 the Department administers. These taxes are listed in IC § 6-8.1-1-1 and until 2003 included the gross income tax. IC § 6-8.1-10-2.1(a) states the circumstances under which the Department may impose a negligence penalty. It states in relevant part 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.* The formula for calculating the penalty is set out in IC § 6-8.1-10-2.1(b), which states in relevant part 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 file a return, timely remit tax held in trust, or pay the deficiency determined by the department was *due to reasonable cause and not due to willful neglect*, the department shall waive the penalty." *Id.* (Emphasis added.)

The taxpayer has not submitted any evidence or legal authority whatever to the Department to support its assertion. Nor has the taxpayer even mentioned, much less discussed or proven, the existence of reasonable cause. The taxpayer has therefore failed to sustain the burden of proof imposed on it by IC § 6-8.1-5-1(b) as to protests in general and IC § 6-8.1-10-2.1(e) as to penalty protests in particular, that the proposed assessment of the negligence penalty is wrong.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120040318.LOF

LETTER OF FINDINGS NUMBER: 04-0318 ADJUSTED GROSS INCOME TAX FOR TAX PERIOD: 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

Adjusted Gross Income Tax: Imposition

Authority: IC 6-3-1-12, IC 6-8.1-5-1(b), IC 6-3-2-2 (a), *State Election Board v. Evan Bayh*, 521 N.E.2d 1212, (Ind. 1988).

The taxpayer protests the imposition of the adjusted gross income tax.

STATEMENT OF FACTS

The taxpayer moved to Nevada in April, 2003. He filed an Indiana Adjusted Gross Income Tax return for 2003. Later he filed an amended return requesting a refund of Indiana taxes paid for the period after April, 2003. The Indiana Department of Revenue (department) denied the taxpayer's request for refund. The taxpayer protested the denial and a hearing was scheduled. The taxpayer submitted documentation supporting his request for refund and requested that the decision be based upon review of the submitted documentation in lieu of a hearing.

Adjusted Gross Income Tax: Imposition

DISCUSSION

Indiana imposes an adjusted gross income tax pursuant to the following provisions of IC 6-3-2-1 (a):

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 nonresident person.

The department denied the taxpayer's request for refund of the Indiana adjusted gross income taxes remitted to Indiana for the period May, 2003 through December, 2003. The taxpayer contends that he earned that income as a nonresident of Indiana and is not subject to the imposition of the tax. The issue to be determined is whether or not the taxpayer was an Indiana resident for purposes of Indiana adjusted gross income taxation during the 2003. tax year. Nevada does not have an adjusted gross income tax. Therefore

there is no possibility of double taxation.

For purposes of adjusted gross income tax, IC 6-3-1-12 defines the term “resident” as “any individual who was domiciled in this state during the taxable year.” In accordance with this definition, the taxpayer would be considered an Indiana resident and subject to tax on income earned during the period when he was domiciled in Indiana.

Indiana tax assessments are presumed to be correct and taxpayers bear the burden of proving that any particular assessment is incorrect. IC 6-8.1-5-1 (b).

The Indiana Supreme Court considered the issue of the meaning of domicile in *State Election Board v. Evan Bayh*, 521 N.E.2d 1212, (Ind. 1988). In that case, Mr. Bayh desired to run for governor of the state. Pursuant to public discussion concerning whether Mr. Bayh met the residency requirements for governor, Mr. Bayh sought a declaratory judgment determining that he met the residency requirement. The Indiana Supreme Court affirmed the trial court’s decision that the standard for residency was whether or not Mr. Bayh had an Indiana domicile. It also affirmed that Mr. Bayh was domiciled in Indiana.

Domicile in Indiana is defined as “the place where a person has his true, fixed, permanent home and principal establishment, and to which place he has, whenever he is absent, the intention of returning.” *State Election Board* at page 1317. Once established, a person’s domicile is presumed to continue until the person’s actions provide adequate evidence that along with moving to another jurisdiction, the person intends to establish a domicile in the new residence. Whether or not the person has successfully established a new domicile is a question of fact to be determined by the trier of fact. *Id.* at page 1317. Some of the facts considered were that Mr. Bayh paid in-state tuition at Indiana University, out -of -state tuition at the University of Virginia law school and voted in the elections in Vigo County, Indiana. He also registered for the draft from Indiana. The Supreme Court considered these acts adequate evidence to prove that Mr. Bayh intended to return to Indiana and retained his Indiana domicile even though he had lived outside the state for several years.

The taxpayer accepted a transfer to a job in Nevada in April, 2003. The taxpayer argues that this move established his domicile in Nevada in April, 2003. However, the taxpayer did not move his car to Nevada, obtain a Nevada driver’s license or register to vote in Nevada until 2004. He actually renewed his Indiana license plate for his car in September, 2003. These acts on the part of the taxpayer indicate that he did not establish his domicile in Nevada until 2004.

The taxpayer did not meet his burden of proving that he changed his domicile from Indiana to Nevada during the 2003 tax period.

FINDING

The taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

0120040320P.LOF

LETTER OF FINDINGS NUMBER: 04-0320P

**Individual Income Tax
For 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 the date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUES

I. Tax Administration – Penalty

Authority: IC 6-8.1-6-1(a) and (c); IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayers protest the penalty assessed for failure to remit 90% of their Indiana individual income tax liability by the original due date of their return.

STATEMENT OF FACTS

The taxpayers filed their individual income tax return for 2002 after the due date. The calculated amount of tax due was remitted with the return. However, the taxpayers failed to remit 90% of their Indiana individual income tax liability by the original due date of the return. Accordingly, the department assessed a penalty for the taxpayers’ failure to timely remit their tax. In her letter of protest, the taxpayers’ representative requested that the penalty be abated due to reasonable cause.

I. Tax Administration – Penalty

The taxpayers assert that the penalty should be waived because an extension of time to file their return was submitted. In her correspondence, she makes statements that appear to be in conflict:

- “An extension of time to file was submitted (on April 15, 2003) with payment for the projected tax liability.”
- “The taxpayers did pay the tax plus the interest due on the extended due date of the return.”

IC 6-8.1-6-1(a) and (c) state as follows:

(a) If a person responsible for filing a tax return is unable to file the return by the appropriate due date, he may petition the department, before that due date, for a filing extension. The person must include with the petition a payment of at least ninety percent (90%) of the tax that is reasonably expected to be due on the due date. When the department receives the petition and the payment, the department shall grant the person a sixty (60) day extension...

(c) If the Internal Revenue Service allows a person an extension on his federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

Hence, there exists an extension of time to file a return, but there is no extension with regard to the payment of tax. Further, the department's records indicate that no request for an extension of time to file the 2002 return was ever submitted.

Administrative Rule 45 IAC 15-11-2 (b) states the following:

"Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayers have not established that their failure to timely pay 90% of the full amount of tax due was due to reasonable cause and not due to negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120040321P.LOF

**LETTER OF FINDINGS NUMBER: 04-0321P
Individual Income Tax
For 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 the date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Tax Administration – Penalty

Authority: IC 6-8.1-6-1(a) and (c); IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayers protest the penalty assessed for failure to remit 90% of their Indiana individual income tax liability by the original due date of their return.

STATEMENT OF FACTS

The taxpayers filed their individual income tax return for 2002 after the due date. The calculated amount of tax due was remitted with the return. However, the taxpayers failed to remit 90% of their Indiana individual income tax liability by the original due date of the return. Accordingly, the department assessed a penalty for the taxpayers' failure to timely remit their tax. In her letter of protest, the taxpayers' representative requested that the penalty be abated due to reasonable cause.

I. Tax Administration – Penalty

The taxpayers assert that the penalty should be waived because an extension of time to file their return was submitted. In her correspondence, she makes statements that appear to be in conflict:

- "An extension of time to file was submitted (on April 15, 2003) with payment for the projected tax liability."
- "The taxpayers did pay the tax plus the interest due on the extended due date of the return."

IC 6-8.1-6-1(a) and (c) state as follows:

(a) If a person responsible for filing a tax return is unable to file the return by the appropriate due date, he may petition the department, before that due date, for a filing extension. The person must include with the petition a payment of at least ninety percent (90%) of the tax that is reasonably expected to be due on the due date. When the department receives the petition and the payment, the department shall grant the person a sixty (60) day extension...

(c) If the Internal Revenue Service allows a person an extension on his federal income tax return, the corresponding due dates

for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

Hence, there exists an extension of time to file a return, but there is no extension with regard to the payment of tax. Further, the department's records indicate that no request for an extension of time to file the 2002 return was ever submitted.

Administrative Rule 45 IAC 15-11-2 (b) states the following:

"Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayers have not established that their failure to timely pay 90% of the full amount of tax due was due to reasonable cause and not due to negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120040322P.LOF

LETTER OF FINDINGS NUMBER: 04-0322P

Individual Income Tax or 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 the date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Tax Administration – Penalty

Authority: IC 6-8.1-6-1(a) and (c); IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayers protest the penalty assessed for failure to remit 90% of their Indiana individual income tax liability by the original due date of their return.

STATEMENT OF FACTS

The taxpayers filed their individual income tax return for 2002 after the due date. The calculated amount of tax due was remitted with the return. However, the taxpayers failed to remit 90% of their Indiana individual income tax liability by the original due date of the return. Accordingly, the department assessed a penalty for the taxpayers' failure to timely remit their tax. In her letter of protest, the taxpayers' representative requested that the penalty be abated due to reasonable cause.

I. Tax Administration – Penalty

The taxpayers assert that the penalty should be waived because an extension of time to file their return was submitted. In her correspondence, she makes statements that appear to be in conflict:

- "An extension of time to file was submitted (on April 15, 2003) with payment for the projected tax liability."
- "The taxpayers did pay the tax plus the interest due on the extended due date of the return."

IC 6-8.1-6-1(a) and (c) state as follows:

(a) If a person responsible for filing a tax return is unable to file the return by the appropriate due date, he may petition the department, before that due date, for a filing extension. The person must include with the petition a payment of at least ninety percent (90%) of the tax that is reasonably expected to be due on the due date. When the department receives the petition and the payment, the department shall grant the person a sixty (60) day extension...

(c) If the Internal Revenue Service allows a person an extension on his federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

Hence, there exists an extension of time to file a return, but there is no extension with regard to the payment of tax. Further, the department's records indicate that no request for an extension of time to file the 2002 return was ever submitted.

Administrative Rule 45 IAC 15-11-2 (b) states the following:

“Negligence” on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayers have not established that their failure to timely pay 90% of the full amount of tax due was due to reasonable cause and not due to negligence.

FINDING

The taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

0420040374.LOF

LETTER OF FINDINGS NUMBER: 04-0374

Sales Tax

For the period ending 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. Sales Tax—Assessment on Unreported Taxable Sales

Authority: IC 6-8.1-5-1(b), IC 6-8.1-5-4, IC 6-8.1-5-1(a).

Taxpayer protests the assessment of sales tax on unreported taxable sales.

STATEMENT OF FACTS

Taxpayer is an Indiana resident engaged in the business of purchasing pre-owned vehicles for resale in retail transactions. Taxpayer failed to file some of his sales and use tax returns and was billed using the best information available. Business income was determined by examining bank statements. Business expenses were recorded based on cancelled checks, automobile purchase invoices, credit card statements, and cash disbursement journal. Additional taxable sales were determined.

I. Sales Tax—Assessment on Unreported Taxable Sales

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). IC 6-8.1-5-4 affirmatively requires a taxpayer to keep books and records so that the Department can review the documents to determine the amount of a taxpayer’s liability for applicable taxes. If the Department reasonably believes that a taxpayer has not reported the proper amount of tax due, IC 6-8.1-5-1(a) mandates the Department to make a proposed assessment of the amount of unpaid tax on the basis of the best information available to the Department.

Taxpayer was audited and assessed additional sales tax based on a best information available audit. The auditor took Taxpayer’s total bank deposits, backed out insurance proceeds and loans, and then determined the remaining deposits were taxable sales. Credit was given for reported taxable sales, and the balance was assessed for additional sales tax.

Taxpayer protested, arguing that within the total bank deposits, there were two items for the sale of real estate which should be backed out. Taxpayer asserted that he sold one piece of real estate for \$3,000 and the other for \$7,500. Taxpayer’s protest letter indicated a check for \$3,000 dated January 16, 2002 and a check for \$7,500 dated March 29, 2002. At the hearing, copies of the checks were presented. It needs to be noted that the check dated January 16, 2002 was \$2,900, not \$3,000. That has little bearing on the disposition of the case; it simply needs to be stated so as to establish the correct amount of each check.

Taxpayer’s records did not support these large deposits. There is no indication that these checks were deposited into Taxpayer’s bank account. When questioned about this, Taxpayer told the auditor he cashed the two checks and then deposited them into the bank, little by little. These cash deposits could not be verified.

Auditor tried to verify the two checks in Taxpayer’s records. Taxpayer’s January 2002 total deposit was only \$1360 and the March total deposit was only \$3215. The April deposits also were considered. Since the business income of Taxpayer was based on his deposit history, the two alleged checks were disregarded in the audit.

At the hearing, Taxpayer offered no new or compelling evidence to rebut the best information available assessment made by the Department. Taxpayer did present copies of the checks and copies of the deeds and contracts supporting the sale of real estate, but these do not offer evidence that the income was deposited and that those deposits would support a different assessment.

FINDING

For the reasons stated above, Taxpayer's protest is denied. The Department's assessment is sustained.

DEPARTMENT OF STATE REVENUE

0420040441.LOF

LETTER OF FINDINGS NUMBER: 04-0441

**Sales/Use Tax
For the Year 2003**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales/Use Tax—Assessment on Purchase of Aircraft

Authority: IC 6-2.5-5-27; IC 6-8.1-5-1(b); IC 6-6-6.5-2; IC 6-2.5-9-6; IC 6-2.5-2-1; IC 6-2.5-8-8; IC 6-6-6.5-5; IC 6-6-6.5-3; IC 6-6-6.5-12; IC 6-6-6.5-13; 45 IAC 2.2-5-61(b); Panhandle Eastern Pipeline Company v. Dept. of Revenue, 741 N.E.2d 816 (Ind. Tax 2001); Carnahan Grain, Inc. v. Department of State Revenue, 2005 Ind. Tax LEXIS 29; Cambria Iron Co., v. Union Trust Co., 154 Ind. 291, 55 N.E. 745 (1899); Department of Revenue v. Interstate Warehousing, 783 N.E.2d 248 (Ind. 2003); Title 14 CFR, Part 91, 119, 121, 125, 135; FAA AC 120-12A (4/24/86).

Taxpayer protests the assessment of sales tax on the purchase of an aircraft Taxpayer asserts is used in public transportation.

STATEMENT OF FACTS

Taxpayer is a single member LLC. Taxpayer stated it provides transportation services to affiliated entities. In May 2003, Taxpayer purchased an aircraft. Taxpayer seeks the public transportation exemption to sales and use tax permitted in IC 6-2.5-5-27, which states:

Public transportation; acquisitions

Transactions involving tangible personal property and services are exempt from the state gross retail tax, if the person acquiring the property or service directly uses or consumes it in providing public transportation for persons or property.

The Department has promulgated a regulation addressing and defining public transportation, as it relates to the exemption. 45 IAC 2.2-5-61(b) states:

Definition: Public Transportation.

Public transportation shall mean and include the movement, transportation, or carrying of persons and/or property for consideration by a common carrier, contract carrier, household goods carrier, carriers of exempt commodities, and other specialized carriers performing public transportation service for compensation by highway, rail, air, or water, which carriers operate under authority issued by, or are specifically exempt by statute or regulation from economic regulation of, the public service commission of Indiana, the Interstate Commerce Commission, the aeronautics commission of Indiana, the U.S. Civil Aeronautics Board, the U.S. Department of Transportation, or the Federal Maritime Commissioner; however, the fact that a company possesses a permit or authority issued by the P.S.C.I., I.C.C., etc., does not of itself mean that such a company is engaged in public transportation unless it is in fact engaged in the transportation of persons or property for consideration as defined above.

Taxpayer operates the aircraft under a Part 91 certification by the FAA.

I. Sales/Use Tax—Assessment on Purchase of Aircraft

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). Tax exemption statutes are construed strictly in favor of taxation. Panhandle Eastern Pipeline Company v. Dept. of Revenue, 741 N.E.2d 816, 818 (Ind. Tax 2001). To prevail, a taxpayer must prove that it meets the requirements of IC 6-2.5-5-27. *See id.* Taxpayer asserts that it meets the statutory requirements of IC 6-2.5-5-27 for entitlement to the public transportation exemption. Taxpayer asserts it meets the regulatory requirements of 45 IAC 2.2-5-61(b) to be defined as a public transportation company. Taxpayer asserts it operates under 45 IAC 2.2-5-61(b) as a contract carrier.

Having received the evidence presented by Taxpayer and having considered the testimony given at hearing, the Department must apply the elements of the public transportation exemption statute and regulation.

The Tax Court has stated that the public transportation exemption provided by IC 6-2.5-5-27 is an all-or-nothing exemption; a taxpayer must acquire tangible personal property for predominate use in providing public transportation for third parties to be entitled to the exemption. Panhandle, 741 N.E.2d at 819; *see also*, Carnahan Grain, Inc. v. Department of State Revenue, 2005 Ind.

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Public transportation of others is a serious matter—a high duty of care is imposed. Air travel is highly regulated. The Indiana Supreme Court—as well as courts across the land—have stated that a party cannot have the benefits without the burdens. *See Cambria Iron Co., v. Union Trust Co.*, 154 Ind. 291, 301-02; 55 N.E. 745, 749 (1899). Taxpayer is seeking the benefits of the public transportation exemption—without assuming the burdens of being a public transportation entity. 45 IAC 2.2-5-61(b) states that public transportation carriers are required to operate under an authority of a regulatory agency—unless specifically exempted.

The aircraft is registered with the FAA to operate under Part 91; the aircraft has yet to be registered by Taxpayer with the State of Indiana. Under the Department’s public transportation regulation, an entity seeking the public transportation exemption is required to demonstrate that it is a public transportation entity by operating under the authority of—in this case—the U.S. Department of Transportation, specifically the FAA. Taxpayer has stated that it operates under the authority of the FAA. While Taxpayer is authorized to operate its aircraft—Taxpayer has not registered to operate its aircraft under FAA regulations as a public transportation entity.

The FAA has issued an Advisory Circular discussing private carriage versus common carriage of persons or property. FAA AC 120-12A (4/24/86). The FAA states that the advisory circular furnishes general guidelines for determining whether transportation operations constitute private or common carriage. *Id.* at 1.

All aircraft are required to possess an airworthiness certificate—an FAA document which grants authorization to operate an aircraft in flight. There are two different classifications of FAA airworthiness certificates: FAA Form 8100-2, **Standard Airworthiness Certificate**, and FAA Form 8130-7, **Special Airworthiness Certificate**. Standard Airworthiness Certificates are airworthiness certificates issued for aircraft types certificated in the normal, utility, acrobatic, commuter, or transport category, and for manned free balloons, and for aircraft designated by the FAA Administrator as special classes of aircraft. Taxpayer’s aircraft qualifies under a standard airworthiness certificate.

Under Standard Airworthiness Certificates, a registered owner or an owner’s agent of an aircraft applies for particular operation certificates. These commonly are referred to as (FAR) Part Registrations. There are four Part Registrations:

Part 91—**Private Carriers**

General Operating and Flight Rules

Part 121—**Airline Operators**

Air Carriers and Commercial Operators

Part 125—**Business and Commercial Airlines**

Airplanes having a Seating Capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more

Part 135—**Air Taxi Operators**

Commuter and On-Demand Operations

As can be seen, Parts 121, 125, and 135 are operation certificates for airlines, commercial operators, commuter, and on-demand (charter) services. Taxpayer’s aircraft is not an airliner; for this reason, it would not be registered under Part 121 or 125, but would be registered under Part 135 to obtain FAA authority to conduct public transportation operations. Parts 121, 125, and 135 are classified under Subchapter G of Title 14. Subchapter G is entitled, **Air Carriers and Operators for Compensation or Hire: Certification and Operations**. Those operating under these Parts need to acquire a Part 119 Air Carriers and Commercial Operations Certification. Part 91 is classified under Subchapter F, entitled, **Air Traffic and General Operating Rules**. Those operating under a Part 91 certification operate in private carriage; in general—with strict and narrow exceptions—those operating under Part 91 are restricted from engaging in carriage for hire. Those operating under Part 91 maintain operational control of the aircraft; passengers on the aircraft are extensions of those who operate the aircraft. Those who claim to be operating as a public transportation entity are by definition operating in carriage for hire; the passengers are not extensions of those operating the aircraft.

A Part 91 registration is the baseline registration. All owners and aircraft are required to adhere to these general operating and flight rules—as well as the basic pilot and maintenance requirements. Specific types of aircraft and business operations are required to obtain more stringent Part Registrations and to operate under more demanding regulations. For example, under a Part 91 registration, any qualified pilot may fly an aircraft—regardless of the pilot’s age. But under a Part 121 registration, a pilot over the age of 60 may no longer fly an airline aircraft after age 60—because of safety and operation concerns. There are five pilot certificates (licenses) granted by the FAA:

1. A **student pilot certificate** (license) is designed for the initial training period of flying. The student pilot must have a flight instructor present. He or she can solo after appropriate instructor endorsements.
2. A **recreational pilot certificate** limits the holder to: specific categories and classes of aircraft, the number of passengers which may be carried, the distance that may be flown from the departure point, flight into controlled airports, and other limitations.
3. A **private pilot certificate** lets the pilot carry passengers and provides for limited business use of an airplane.
4. A **commercial pilot certificate** lets the pilot conduct some operations for compensation and hire.
5. An **airline transport pilot certificate** is required to fly as captain by some air transport operations.

The FAA regulations require that a pilot operating under a Part 135 air carrier certificate hold a commercial pilot license—with a minimum of 1200 hours of experience as a pilot-in-command. FAR Part 135.243(c)(2). Some operations are required to have a flight crew of at-least two pilots, depending on the size of the aircraft and the number of passengers.

Under a Part 135, those engaged in commuter or air-taxi operations are held to higher safety and operation standards than Part 91—because they are no longer operating in private carriage but are operating in the carriage of others for hire and compensation. FAR Part 135.141 prescribes the additional aircraft and equipment requirements for operations as an air carrier. Some of the heightened requirements apply only to certain aircraft or passenger numbers, but all demonstrate heightened regulation of those being carried in public transportation.

Taxpayer seeks the benefits of the public transportation exemption without the burdens of public transportation regulations. The Department requires those seeking the public transportation exemption to act as a public transportation entity—subject to the stringent regulations of Part 135. Taxpayer operates under Part 91—a less stringent set of regulations. If Taxpayer seeks the public transportation exemption—then Taxpayer is required to seek authority to do so and must submit and operate as required by that authority.

Taxpayer asserts it purchased the aircraft for the purpose of engaging in public transportation. Concerning Taxpayer’s assertion that it is a public transportation entity, this introduces evidence of Taxpayer’s intentions when Taxpayer acquired the aircraft. 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, Department of Revenue v. Interstate Warehousing*, 783 N.E.2d 248, 250 (Ind. 2003).

IC 6-6-6.5-2 requires an Indiana resident who owns an aircraft to register the aircraft with the Department within 31 days after the purchase date. This is done by submitting Form 7695, **Application for Aircraft Registration or Exemption**. IC 6-2.5-9-6 states that the State of Indiana may not register an aircraft unless the person obtaining the registration:

- (1) presents proper evidence, prescribed by the department, showing that the state gross retail and use taxes imposed in respect to the aircraft have been paid or that the state gross retail and use taxes are inapplicable because of an exemption; or
- (2) files the proper form and pays the state gross retail and use taxes imposed in respect to the aircraft.

Taxpayer has yet to file Form 7695 with the Department—despite the fact that the Department sent an application for registration to Taxpayer in August 2003. The Department became aware of Taxpayer’s ownership of the aircraft during a comparison of FAA registration records to the Department’s records. The FAA records showed that the Taxpayer was issued a certificate on June 18, 2003. Based on this, the Department sent Taxpayer a letter notifying it that the aircraft must be properly registered with the state and informing Taxpayer that sales and use tax was due. Taxpayer did not return the Form 7695 provided by the Department. Taxpayer instead wrote a letter stating that it had attached a check for the registration fees and an exemption certificate. The certificate attached was a Form ST-105, **General Sales Tax Exemption Certificate**. Form ST-105 is given to a merchant by a taxpayer for sales tax exempt purchases. Merchants are required under Indiana law to collect sales tax on all sales unless the purchaser provides the merchant with a sales tax exemption certificate. *See IC 6-2.5-2-1 and IC 6-2.5-8-8*. In this case, Taxpayer did not purchase the aircraft from the Department. Presumably, Taxpayer submitted Form ST-105 in an attempt to substantiate an exemption.

In the two years since acquiring the aircraft, Taxpayer has not complied with Indiana law; Taxpayer has yet to submit a valid registration Form 7695. The registration process is similar to the registration of a motor vehicle—legal registration occurs and a concurrent assessment of applicable taxes, including sales tax, is made. The form contains sections requiring the owner to state the particulars of the aircraft, such as the FAA registration number, the serial number, the make and model, the type and number of engine(s), and the gross landing weight. These are used to determine the fees and taxes due on the aircraft—sales/use tax, annual excise tax, and the annual registration fee.

Registration of an aircraft is valid for one year; the registration fee is \$10. IC 6-6-6.5-5 and IC 6-6-6.5-3. As well, an annual aircraft license excise tax is imposed; the tax is in lieu of the ad valorem property tax. IC 6-6-6.5-12. The tax imposed is based on the age, class, and maximum landing weight of the taxable aircraft; computed based on a statutory table. IC 6-6-6.5-13. In order for the Department to calculate the aircraft license excise tax due, it needs to have a record of the particulars of an aircraft. Form 7695 collects and consolidates the necessary information.

As well, the registration form has the owner state the ownership details, such as who owns the aircraft, the type of ownership, the taxpayer ID numbers, and the address of the owners. The owner is to state at which airport the aircraft is to be based. The registration form also provides a section in which sales and use tax due is determined. In this section, the owner states if an exempt use is being claimed. If an exempt use is being claimed, the owner is to provide its retail merchant number and is to state which exemption is being claimed. In order to claim the public transportation exemption, Form 7695 requires Taxpayer to state the FAA Part it operates under and to submit a copy of the FAA Certificate for Public Transportation. Finally, the form requires the owner to provide purchase and trade-in allowance amounts so that sales and use tax due can be computed.

Taxpayer has not completed and submitted the registration form. The Department provided Form 7695 to Taxpayer. The registration form is the statutory means imposed so that the Department has the information on file in a consolidated and unified manner so as to administer the taxes imposed on aircraft. The Department has needed to piece together—without the benefit of the registration form—the information necessary to assess Taxpayer the statutory taxes due. Taxpayer is seeking the benefit of sales tax

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exemption without complying with the burden—albeit it a modest burden—of providing the necessary information so as to claim and substantiate an exemption. Under Indiana law, it is Taxpayer’s responsibility to substantiate an exemption; tax statutes are construed in favor of taxation.

Taxpayer is not operating as a public transportation entity; it is operating as a private carrier under FAR Part 91. It has not secured authority to be a public transportation entity. Additionally, Taxpayer has not registered the aircraft with the state as required by law; Taxpayer has not met the threshold requisite documentation to begin establishing an exempt use.

FINDING

For the reasons stated above, Taxpayer’s claim for the public transportation exemption is denied.

DEPARTMENT OF STATE REVENUE

0220050004P.LOF

LETTER OF FINDINGS NUMBER: 05-0004P

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, and, the underpayment of estimated tax penalty.

STATEMENT OF FACTS

The late penalty and underpayment penalty were assessed on the filing of a calendar year corporate income tax return for the year 2002.

The taxpayer is an out-of-state company.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer requests the penalty be abated as the error was the fault of the taxpayer’s accountant.

The Department points out the accountant is an agent of the taxpayer, and therefore the taxpayer is liable for the actions of the accountant. “Generally, a principal who controls or has the right to control the physical conduct of his agent in the performance of a service is an employer upon whom liability for the torts of the agent may be imposed.” Dague v. Fort Wayne Newspapers, 647 NE 2nd 1138 (Ind. Ct. App.) (1995).

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

0420050047P.LOF

LETTER OF FINDINGS NUMBER: 05-0047P

Sales/Use Tax

For the Calendar Year 2004

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(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); IC 6-8.10-5; 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer in a letter dated December 3, 2004 protested the late payment penalty assessed and states it exercised due diligence in registering with the department and making payment prior to receipt of returns. Taxpayer further states that this is their first contract in Indiana and that they had personnel changes, which delayed the registration and payment process. This letter of finding is based on the contents of the file, because after April 1, 2005, the taxpayer failed to respond to telephone calls or correspondence. Taxpayer requests an abatement of penalty due to the above unusual circumstances.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests the penalty be abated because it has established reasonable cause. Taxpayer states that it did not wait until it received form to pay the tax, but sent the entire amount collected with the BT-1 application. Further, the taxpayer stated that there were changes in personnel and that this is their first business in Indiana. The taxpayer alleges that this constitutes reasonable cause. The Department does not view these reasons as establishing reasonable cause. The taxpayer did not register or attempt to register and review the laws in Indiana prior to commencing doing business in Indiana. It is not apparent that the taxpayer did reasonable due diligence prior to commencing business in Indiana, and did not register to do business until three months after it had commenced doing business in Indiana.

Taxpayer has not shown reasonable cause.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050051.LOF

LETTER OF FINDINGS NUMBER 05-0051

RESPONSIBLE OFFICER

SALES TAX and WITHHOLDING TAX

For Tax Period 1999-2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUE

Sales and Withholding Tax -Responsible Officer Liability

Authority: IC 6-2.5-9-3, IC 6-3-4-8 (f), IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of responsible officer liability for unpaid corporate sales and withholding taxes.

STATEMENT OF FACTS

The taxpayer was a director, incorporator and officer of a corporation that did not remit the proper amount of sales and withholding taxes to Indiana for the tax period 1999-2003. The Indiana Department of Revenue (department) assessed the outstanding corporate withholding and sales taxes, interest and penalty against the taxpayer personally. The taxpayer protested the assessment and a telephone hearing was held. This Letter of Findings results.

Sales and Withholding Tax-Responsible Officer Liability

DISCUSSION

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

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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.”

Indiana Department of Revenue assessments are prima facie evidence that the tax assessment is correct. The taxpayer bears the burden of proving that the assessment is incorrect. IC 6-8.1-5-1 (b).

The taxpayer contended that he left his involvement with the corporation prior to June 18, 1998. The taxpayer offered substantial documentation that he was no longer affiliated with the corporation prior to the tax period, 1999-2003. He sustained his burden of proving that he is not personally responsible for corporate trust taxes that were not paid to the state during the tax period.

FINDING

The taxpayer’s protest is sustained.

DEPARTMENT OF STATE REVENUE

0120050131.LOF

LETTER OF FINDINGS: 05-0131 Individual Adjusted Gross Income Tax For 1999 through 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUE

I. Unapportioned State Income Tax.

Authority: Ind. Const. art. X, § 8; IC 6-3-1-3.5 et seq.; IC 6-8.1-5-1(b).

Taxpayer maintains that Indiana is without authority to impose a state income tax.

STATEMENT OF FACTS

The Department of Revenue (Department) sent taxpayer notices of “Proposed Assessment” stating that taxpayer owed unpaid state income tax. Taxpayer responded with a letter stating that he was not subject to the Indiana income tax, that he was not required to submit state tax returns, that he was not a “taxpayer,” and that his letter did not constitute a “protest.” Nonetheless, the Department chose to treat his letter as a “protest.” The “protest” was assigned to a hearing officer, and taxpayer was offered the opportunity to explain his challenge of the proposed assessments during an administrative hearing. Taxpayer declined the opportunity on the ground he was not subject to the Indiana state tax laws.

DISCUSSION

I. Unapportioned State Income Tax.

Taxpayer argues that Indiana is without authority to levy an unapportioned state income tax. Taxpayer maintains that the Department has not proven he owes income tax and that the “department has long ago defaulted on its opportunity to offer any complete and accurate written rebuttal.”

Taxpayer’s apportionment argument has been previously addressed by the Department in Letter of Findings 01-20050055 issued April 14, 2005. The Indiana Constitution states that, “The general assembly may levy and collect a tax upon income from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.” Ind. Const. art. X, § 8. The Indiana General Assembly has exercised its constitutional prerogative by imposing a state adjusted gross income tax on individuals and corporations. IC 6-3-1-3.5 et seq. Taxpayer’s apportionment argument is patently frivolous and will not be readdressed here.

Taxpayer further maintains that the Department has not proven he owes income tax. Taxpayer has it backwards. IC 6-8.1-5-1(b) provides that “[t]he notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

Taxpayer makes reference to the Uniform Commercial Code, Black’s Law Dictionary, and the United States Constitution in support of his contention that he is not a person required to report his income or to pay state income tax on that income. Taxpayer’s arguments are vague, insubstantial, and totally without merit. Taxpayer has failed to meet his burden of proving that the proposed assessments are incorrect.

FINDING

Taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

0120050144P.LOF

LETTER OF FINDINGS NUMBER: 05-0144P

Income Tax

For the Calendar Years 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.

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, and, underpayment of estimated tax penalty.

II. Tax Administration - Interest

Authority: IC 6-8.1-10-1

The taxpayer protests the interest assessment.

STATEMENT OF FACTS

The late penalty and underpayment penalty were assessed on the late filing of calendar year individual income tax returns for the years 2001 and 2002.

The taxpayer is an individual residing in Indiana.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer requests the penalty be abated as the error was the fault of the taxpayer's accountant.

The Department points out the accountant is an agent of the taxpayer, and therefore the taxpayer is liable for the actions of the accountant. "Generally, a principal who controls or has the right to control the physical conduct of his agent in the performance of a service is an employer upon whom liability for the torts of the agent may be imposed." Dague v. Fort Wayne Newspapers, 647 NE 2nd 1138 (Ind. Ct. App.) (1995).

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.

II. Tax Administration – Interest

Interest may not be waived according to statute. IC 6-8.1-10-1.

DEPARTMENT OF STATE REVENUE

0320050152.LOF

LETTER OF FINDINGS NUMBER: 05-0152

Withholding Tax

Responsible Officer

For the Tax Period April, 1999-2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. Withholding Tax-Responsible Officer Liability

Authority: IC 6-8.1-5-1(b), IC 6-3-4-8(f).

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The taxpayer protests the assessment of responsible officer liability for unpaid corporate withholding taxes.

STATEMENT OF FACTS

The taxpayer was an incorporator, member of the board of directors and officer of a corporation that did not remit the proper amount of withholding taxes during the tax period of April, 1999- 2003. The Indiana Department of Revenue assessed the unpaid withholding taxes, interest, and penalty against the taxpayer as a responsible officer of that corporation. The taxpayer protested the assessment of tax and requested that the decision be reached based upon the documentation he submitted.

I. 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 assessments are incorrect. IC 6-8-1-5-1(b).

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."

The taxpayer produced substantial documentation that he ended his relationship with the corporation on February 14, 1999, prior to the tax period. Therefore, he had no duty to collect and remit withholding taxes to the state. He is not personally responsible for the payment of the corporate withholding taxes.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

02-20050156P.LOF

LETTER OF FINDINGS NUMBER: 05-0156P

Income Tax

For the Short Period ended June 30, 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2;

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The negligence penalty was assessed on a calculation error resulting from the filing of an income tax return for the short period ended June 30, 2003.

The taxpayer is an out-of-state company.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer argues that since the Federal regulations allow for waiver of penalty when a taxpayer relies on a tax preparer, the Department should allow waiver as Indiana regulations are closely tied to the Federal regulations.

First of all, the Department points out the accountant is an agent of the taxpayer, and therefore the taxpayer is liable for the actions of the accountant. "Generally, a principal who controls or has the right to control the physical conduct of his agent in the performance of a service is an employer upon whom liability for the torts of the agent may be imposed." Dague v. Fort Wayne Newspapers, 647 NE 2nd 1138 (Ind. Ct. App.) (1995).

With regard to the regulations, the wording between the Federal and Indiana is different. For one thing, the Federal regulations allow the IRS to directly penalize the tax preparer while Indiana regulations have no such wording. Indiana's regulations only assess penalty on the taxpayer.

The regulation which controls penalty is 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 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 negligent of tax duties as the taxpayer's tax preparer (agent) was inattentive. 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

0320050161.LOF

LETTER OF FINDINGS NUMBER: 05-0161

**Withholding Tax
Responsible Officer**

For the Tax Period December, 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

1. Withholding Tax-Responsible Officer Liability

Authority: IC 6-8.1-5-1(b), IC 6-3-4-8(f).

The taxpayer protests the assessment of responsible officer liability for unpaid corporate withholding taxes.

STATEMENT OF FACTS

The taxpayer was a shareholder and employee of a corporation that did not remit the proper amount of withholding taxes during the tax period of December, 1998. The Indiana Department of Revenue assessed the unpaid withholding taxes, interest, and penalty against the taxpayer as a responsible officer of that corporation. The taxpayer protested the assessment of tax. Pursuant to the taxpayer's request, this Letter of Findings is based upon the documentation in the file.

1. 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 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."

The taxpayer argued that she was not involved with the corporation as a shareholder or employee after her December 21, 1996 divorce from her husband who was the other shareholder and an employee. Pursuant to the Property Settlement, provided by the taxpayer, the taxpayer assigned all of her rights and interests in the corporation to her ex-husband. Since this liability is for a period after the time she left all association with the corporation, the taxpayer had no duty to collect and remit the December, 1998 withholding taxes to the state. She is not personally responsible for the payment of these corporate withholding taxes.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0320050189.LOF

LETTER OF FINDINGS NUMBER: 05-0189

**Withholding Tax
Responsible Officer**

For the Tax Period 1997-2001

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. Withholding Tax-Responsible Officer Liability

Authority: IC 6-8.1-5-1(b), IC 6-3-4-8(f).

The taxpayer protests the assessment of responsible officer liability for unpaid corporate withholding taxes.

STATEMENT OF FACTS

The taxpayer was an incorporator and officer of a corporation that did not remit the proper amount of withholding taxes during the tax period of 1997-2001. The Indiana Department of Revenue assessed the unpaid withholding taxes, interest, and penalty against the taxpayer as a responsible officer of that corporation. The taxpayer protested the assessment of tax and a hearing was held.

1. 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 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.”

The taxpayer produced substantial documentation that he ended his relationship with the corporation in 1996, prior to the tax period. Therefore, he had no duty to collect and remit withholding taxes to the state for later periods. He is not personally responsible for the payment of the corporate withholding tax liabilities.

FINDING

The taxpayer’s protest is sustained.

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2005-03IT

July 15, 2005

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 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

Community Revitalization Enhancement District Tax Credit – Entitlement to CReED Tax Credit

Authority: IC 6-3.1-19-2, IC 6-3.1-19-3, IC 6-3.1-19-1.5, IC 6-3.1-19-5, IC 6-3-1-11

Taxpayer #1 requests the Department to rule on the following issues:

1. As the sole member of taxpayer #2, taxpayer #1 will be entitled to any CReED tax credit attributable to the Qualified Investment made by taxpayer #2 pursuant to the Equipment Installation Agreement in accordance with the Redevelopment Plan and in an amount approved by the IEDC.
2. Members of taxpayer #1, a “pass through entity” without a state or local tax liability against which the CReED tax credit may be applied, are entitled to the CReED tax credit determined for taxpayer #1.
3. Each member of taxpayer #1 will be entitled to a CReED tax credit equal to the CReED tax credit determined for taxpayer #2 during taxpayer #1’s taxable year multiplied by the percentage of taxpayer #1’s distribution income to which the member is entitled for such taxable year in which the Qualified Investment is made.

STATEMENT OF FACTS

1. Taxpayer #1 is a limited liability company (“LLC”) and currently has, and will continue to have at least two (2) members. Taxpayer #1 will not make an election to be treated as a corporation pursuant to Section 301.7701 of the Treasury Regulations. Therefore, taxpayer #1 will continue to be taxed as a partnership.
2. Taxpayer #1 will not have any state or local tax liability against which a CReED tax credit may be applied for its taxable year ending December 31, 2005.
3. Taxpayer #2 is a single member LLC, wholly owned by taxpayer #2. Taxpayer #2 will not make an election to be treated as a corporation pursuant to Section 301.7701 of the Treasury Regulations. Therefore, as a wholly owned single member LLC of taxpayer #1, taxpayer #2 will be treated as a “disregarded entity” for federal income tax purposes.
4. The contractor is an Indiana LLC that is taxed as a partnership.
5. On or about June 10, 2005, taxpayer #2 and the contractor will enter into an Equipment Installation and Purchase Agreement (“Equipment Installation Agreement”), whereby the contractor will buy and install equipment with respect to the redevelopment and rehabilitation of a building as part of a plan adopted by the Commission on Industrial Development of an Indiana city to redevelop and rehabilitate the vacant building to serve as a manufacturing plant (“Redevelopment Plan”).
6. In accordance with the Equipment Installation Agreement, the contractor will buy and install equipment (which will take

approximately two (2) months) at the building. After the equipment is installed and tested to meet the specifications set forth in the Equipment Installation Agreement, taxpayer #2 will purchase the installed equipment from the contractor (the "Closing"). It is anticipated that the Closing will occur on or about August 1, 2005.

7. On May 13, 2005, the Indiana city's CReED Industrial Development Commission approved as a part of its CReED Area Redevelopment Plan the equipment expenditure to be made by taxpayer #2 pursuant to the Equipment Installation Agreement as a Qualified Investment as required by IC 6-3.1-19-2(2).

8. The Indiana Economic Development Corporation approved the equipment expenditure made by taxpayer #2 pursuant to the Equipment Installation Agreement as a Qualified Investment as required by IC 6-3.1-19-2(3).

9. Taxpayer #2 and taxpayer #1 will not be ceasing or reducing its operation to relocate within the CReED District.

10. The contractor will not claim as a Qualified Investment any portion of its expenditures for the equipment purchased and installed at the building pursuant to the Equipment Installation Agreement.

DISCUSSION

IC 6-3.1-19-3(A) PROVIDES THAT "Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year."

A qualified investment is defined in IC 6-3.1-19-2 as follows:

"[Q]ualified investment" means the amount of a taxpayer's expenditure that is:

(1) for redevelopment or rehabilitation of property located within a community revitalization enhancement district designated under IC 36-7-13;

(2) made under a plan adopted by an advisory commission on industrial development under IC 36-7-13; and

(3) approved by the Indiana Economic Development Corporation before the expenditure is made.

IC 6-6-3.1-19-3 states that "If a pass through entity is entitled to credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a ... member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year: multiplied by

(2) the percentage of the pass through entity's distributive income to which the ... member is entitled."

A pass through entity is defined in IC 6-3.1-19-1.5 to include a limited liability company and under Tax Policy Directive #2, interpreting IC 6-3-1-11, a single member LLC is a disregarded entity.

IC 6-3.1-19-5 generally provides that a taxpayer is not entitled to claim the CReED credit to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within a CReED district.

Based upon the aforementioned, as of the date of the Closing, the purchase of the installed equipment by taxpayer #2 from the contractor pursuant to the Equipment Installation Agreement will constitute a Qualified Investment pursuant to IC 6-3.1-19-2.

Further, since taxpayer #2 is a "disregarded entity", taxpayer #1 will be entitled to the CReED tax credits generated by the Qualified Investment made by taxpayer #2, and, as members of a pass through entity without a state or local tax liability against which the CReED tax credit may be applied, CReED tax credits derived from taxpayer #2 will pass through to the members of taxpayer #1.

RULING

The Department rules:

1. As the sole member of taxpayer #2, taxpayer #1 will be entitled to any CReED tax credit attributable to the Qualified Investment made by taxpayer #2 pursuant to the Equipment Installation Agreement in accordance with the Redevelopment Plan and in an amount approved by the IEDC.

2. Members of taxpayer #1, a "pass through entity" without a state or local tax liability against which the CReED tax credit may be applied, are entitled to the CReED tax credit determined for taxpayer #1.

3. Each member of taxpayer #1 will be entitled to a CReED tax credit equal to the CReED tax credit determined for taxpayer #2 during taxpayer #1's taxable year multiplied by the percentage of taxpayer #1's distributive income to which the member is entitled for such taxable year in which the Qualified Investment is made.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

Indiana Department of State Revenue

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2005-04IT

July 15, 2005

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 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

Community Revitalization Enhancement District Tax Credit – Entitlement to CReED Tax Credit

Authority: IC 6-3.1-19-2, IC 6-3.1-19-3, IC 6-3.1-19-1.5, IC 6-3.1-19-5, IC 6-3-1-11

Taxpayer #1 requests the Department to rule on the following issues:

1. As the sole member of taxpayer #2, taxpayer #1 will be entitled to any CReED tax credit attributable to the Qualified Investment made by taxpayer #2 pursuant to the Real Estate Development Agreement in accordance with the Redevelopment Plan and in an amount approved by the IEDC.
2. Members of taxpayer #1, a "pass through entity" without a state or local tax liability against which the CReED tax credit may be applied, are entitled to the CReED tax credit determined for taxpayer #1.
3. Each member of taxpayer #1 will be entitled to a CReED tax credit equal to the CReED tax credit determined for taxpayer #2 during taxpayer #1's taxable year multiplied by the percentage of taxpayer #1's distribution income to which the member is entitled for such taxable year in which the Qualified Investment is made.

STATEMENT OF FACTS

1. Taxpayer #1 is a limited liability company ("LLC") and currently has, and will continue to have at least two (2) members. Taxpayer #1 will not make an election to be treated as a corporation pursuant to Section 301.7701 of the Treasury Regulations. Therefore, taxpayer #1 will continue to be taxed as a partnership.
2. Taxpayer #1 will not have any state or local tax liability against which a CReED tax credit may be applied for its taxable year ending December 31, 2005.
3. Taxpayer #2 is a single member LLC, wholly owned by taxpayer #2. Taxpayer #2 will not make an election to be treated as a corporation pursuant to Section 301.7701 of the Treasury Regulations. Therefore, as a wholly owned single member LLC of taxpayer #1, taxpayer #2 will be treated as a "disregarded entity" for federal income tax purposes.
4. The contractor is an Indiana LLC that is taxed as a partnership.
5. On or about June 10, 2005, taxpayer #2 and the contractor will enter into a Real Estate Development and Purchase Agreement ("Real Estate Development Agreement"), whereby the contractor will buy and undertake certain redevelopment and rehabilitation actions concerning a building as part of a plan adopted by the Commission on Industrial Development of an Indiana city to redevelop and rehabilitate the vacant building to serve as a manufacturing plant ("Redevelopment Plan").
6. In accordance with the Real Estate Development Agreement, the contractor will buy and undertake certain redevelopment and rehabilitation actions (which will take approximately two (2) months) at the building. After certain redevelopment and rehabilitation actions are taken as set forth in the Real Estate Development Agreement, taxpayer #2 will purchase the real estate from the contractor (the "Closing"). It is anticipated that the Closing will occur on or about August 1, 2005.
7. On May 13, 2005, the Indiana city's CReED Industrial Development Commission approved as a part of its CReED Area Redevelopment Plan the equipment expenditure to be made by taxpayer #2 pursuant to the Real Estate Development Agreement as a Qualified Investment as required by IC 6-3.1-19-2(2).
8. The Indiana Economic Development Corporation approved the real estate expenditure made by taxpayer #2 pursuant to the Real Estate Development Agreement as a Qualified Investment as required by IC 6-3.1-19-2(3).
9. Taxpayer #2 and taxpayer #1 will not be ceasing or reducing its operation to relocate within the CReED District.
10. The contractor will not claim as a Qualified Investment any portion of its expenditures for the real estate acquisition, redevelopment and rehabilitation at the building pursuant to the Real Estate Development Agreement.

DISCUSSION

IC 6-3.1-19-3(A) PROVIDES THAT "Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year."

A qualified investment is defined in IC 6-3.1-19-2 as follows:

"[Q]ualified investment" means the amount of a taxpayer's expenditure that is:

- (1) for redevelopment or rehabilitation of property located within a community revitalization enhancement district designated under IC 36-7-13;
- (2) made under a plan adopted by an advisory commission on industrial development under IC 36-7-13; and
- (3) approved by the Indiana Economic Development Corporation before the expenditure is made.

IC 6-6-3.1-19-3 states that "If a pass through entity is entitled to credit under this chapter but does not have state and local tax

liability against which the tax credit may be applied, a ... member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year: multiplied by
- (2) the percentage of the pass through entity's distributive income to which the ... member is entitled."

A pass through entity is defined in IC 6-3.1-19-1.5 to include a limited liability company and under Tax Policy Directive #2, interpreting IC 6-3-1-11, a single member LLC is a disregarded entity.

IC 6-3.1-19-5 generally provides that a taxpayer is not entitled to claim the CReED credit to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within a CReED district.

Based upon the aforementioned, as of the date of the Closing, the purchase of the installed real estate by taxpayer #2 from the contractor pursuant to the Real Estate Development Agreement will constitute a Qualified Investment pursuant to IC 6-3.1-19-2.

Further, since taxpayer #2 is a "disregarded entity", taxpayer #1 will be entitled to the CReED tax credits generated by the Qualified Investment made by taxpayer #2, and, as members of a pass through entity without a state or local tax liability against which the CReED tax credit may be applied, CReED tax credits derived from taxpayer #2 will pass through to the members of taxpayer #1.

RULING

The Department rules:

1. As the sole member of taxpayer #2, taxpayer #1 will be entitled to any CReED tax credit attributable to the Qualified Investment made by taxpayer #2 pursuant to the Real Estate Development Agreement in accordance with the Redevelopment Plan and in an amount approved by the IEDC.
2. Members of taxpayer #1, a "pass through entity" without a state or local tax liability against which the CReED tax credit may be applied, are entitled to the CReED tax credit determined for taxpayer #1.
3. Each member of taxpayer #1 will be entitled to a CReED tax credit equal to the CReED tax credit determined for taxpayer #2 during taxpayer #1's taxable year multiplied by the percentage of taxpayer #1's distributive income to which the member is entitled for such taxable year in which the Qualified Investment is made.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

Indiana Department of State Revenue

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2005-08ST

July 25, 2005

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 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—Acquisition and use of construction materials in qualified projects and the subsequent leasing of the realty
Authority: IC 6-2.5-5-16; IC 6-2.5-3-4; IC 6-2.5-4-9; IC 6-2.5-3-2; Grand Victoria Casino & Resort v. Indiana Department of Revenue, 789 N.E.2d 1041 (Ind. Tax 2003)

STATEMENT OF FACTS

The taxpayer is authorized by Indiana statute to finance, construct, develop, and improve facilities through the issuance of revenue bonds. The taxpayer is expressly authorized by statute to acquire and dispose of real and personal property in the performance of its duties. The taxpayer is charged to construct and lease any project for promoting economic growth and development, as well as retaining and attracting new employment opportunities within Indiana. The Indiana Supreme Court has ruled that taxpayer is a public corporate entity which is an instrumentality or agency of the state. The taxpayer seeks a ruling concerning Indiana sales and use tax treatment on these issues:

1. The taxpayer's acquisition and use of tangible personal property, public utility commodities, and public utility services in connection with the construction of a qualified project;
2. Whether the taxpayer, contractor, or other person acting on the behalf of the taxpayer has any liability for sales and use tax

in connection with the acquisition or use of tangible personal property which is added to the improvements for a qualified project and becomes part of the real estate on which the improvements are located; and

3. Whether the taxpayer's leasing of the improvements for a qualified project to the lessee or the lessee's acquisition or use of the improvements for a qualified project is subject to sales or use tax.

DISCUSSION

1. Acquisition and Use of Property and Services

IC 6-2.5-5-16 states:

Transactions involving tangible personal property, public utility commodities, and public utility service are exempt from the state gross retail tax, if the person acquiring the property, commodities, or service:

- (1) is the state of Indiana, an agency or instrumentality of the state, a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state, including a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal); and
- (2) predominantly uses the property, commodities, or service to perform its governmental functions.

With exceptions that are not relevant to this discussion, IC 6-2.5-3-4 exempts from use tax the storage, use, and consumption of tangible personal property if the property was acquired in a transaction that is exempt from sales tax and the property is being used, stored, or consumed for the purpose for which it was exempted.

The taxpayer's acquisition and use of tangible personal property, public utility commodities, and public utility services in connection with the construction of qualified improvement projects fall within the exemption named in IC 6-2.5-5-16.

2. Construction Materials Incorporated into the Improvements

IC 6-2.5-4-9 states:

(a) A person is a retail merchant making a retail transaction when the person sells tangible personal property which:

- (1) is to be added to a structure or facility by the purchaser; and
- (2) after its addition to the structure or facility, would become a part of the real estate on which the structure or facility is located.

(b) Notwithstanding subsection (a), a transaction described in subsection (a) is not a retail transaction, if the ultimate purchaser or recipient of the property to be added to the structure or facility would be exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

IC 6-2.5-3-2 provides, in relevant part:

(a) [U]se tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

(c) The use tax is imposed on the addition of tangible personal property to a structure or facility, if, after its addition, the property becomes part of the real estate on which the structure or facility is located. However, the use tax does not apply to additions of tangible personal property described in this subsection, if:

- (2) the ultimate purchaser or recipient of that property would have been exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

The taxpayer's acquisition and use of any tangible personal property in connection with a project is exempt from sales and use tax. Accordingly, the acquisition or use of construction materials—tangible personal property incorporated into the realty—is not subject to sales and use tax, regardless of the person acquiring or using the materials.

3. Leasing of the Improvements

With exceptions not relevant to this discussion, neither sales nor use tax applies to the sale or leasing of real property. *See, e.g. Grand Victoria Casino & Resort v. Indiana Department of Revenue*, 789 N.E.2d 1041 (Ind. Tax 2003). In a qualified improvement project, the improvements will be constructed by and owned by the taxpayer during the construction. Neither possession nor control over the improvements will pass to a lessee until the completion of construction. Once completed, possession and control over the improvements—now realty—will be transferred to lessee pursuant to a long-term lease. Thus, no sales or use tax will apply to the taxpayer's lease of the realty to the lessee.

RULING

The Department rules:

1. The taxpayer's acquisition and use of tangible personal property, public utility commodities, and public utility services in connection with the construction of improvements are exempt from sales and use tax.
2. The taxpayer's acquisition and use of any tangible personal property in connection with a project is exempt from sales and use tax. Accordingly, the acquisition or use of construction materials—tangible personal property incorporated into the realty—is not subject to sales and use tax, regardless of the person acquiring or using the materials.
3. Neither sales nor use tax apply to the taxpayer's leasing of realty to a lessee.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

Indiana Department of State Revenue

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2005-09ST

July 26, 2005

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 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

Food and Beverage Tax—Application to single-serving potato chips, pre-made sandwiches, and 20 ounce sealed soft drinks.

Authority: IC 6-9-12-3; Departmental Notice # 21, July 2005.

STATEMENT OF FACTS

The taxpayer is a convenience store that sells ready to eat food, grocery items, and other products. Taxpayer requests a ruling on whether these items are subject to the food and beverage tax: single-serving bags of potato chips, pre-made sandwiches, and 20 ounce sealed soft drinks. Taxpayer states that typically customers select the items they wish to purchase, pick them up from the store's display shelving, and present them to the sales clerk for purchase at the checkout stand. The taxpayer makes available on the sales floor for the customers various eating utensils, such as napkins. The taxpayer allows customers to take without charge the eating utensils they desire, but the taxpayer does not directly give any utensil to the customer.

DISCUSSION

IC 6-9-12-3 names the taxable transactions subject to the food and beverage tax. Tax is imposed on any transaction in which food or beverage is furnished, prepared, or served and then sold with eating utensils provided by the retail merchant. Examples of eating utensils include plates, knives, forks, spoons, glasses, cups, napkins, and straws. The taxpayer has stated that it does make eating utensils available to their customers when they purchase the food and beverage items named above. Departmental Notice # 21, July 2005, restates IC 6-9-12-3. The notice states succinctly: "Food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws will make the food or beverage subject to the food and beverage tax."

RULING

The Department rules that the single-serving potato chips, pre-made sandwiches, and 20 ounce sealed soft drinks sold by the taxpayer are subject to food and beverage tax because the taxpayer makes eating utensils available to its customers with the purchase of these items.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

Indiana Department of State Revenue

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2005-10ST

July 26, 2005

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

Nonrule Policy Documents

publication. It shall remain in effect until the date it is superseded or deleted by 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/Use Tax – Out-of-State Delivery

Authority: IC 6-2.5-13-1, IC 6-2.5-5-24

The taxpayer requests the Department to rule on the application of sales/use tax to sales that are delivered out-of-state.

STATEMENT OF FACTS

The taxpayer sells furniture products, including sales to customers outside the State of Indiana. For some out-of-state sales, the customer will request the furniture be delivered to the customer's out-of-state location. Delivery may occur by the taxpayer's company-owned vehicles or by common carrier.

DISCUSSION

IC 6-2.5-13-1(d) provides:

The retail sale, excluding lease or rental, of a product shall be sourced as follows:

- (2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by purchaser... occurs, including the location indicated by instructions for delivery to the purchaser...

IC 6-2.5-5-24(b) provides:

Transactions are exempt from the state gross retail tax to the extent that the gross retail income from those transactions is derived from gross receipts that are:

- (2) derived from business conducted in commerce between the state and either another state or a foreign country, to the extent the state is prohibited from taxing that gross income by the Constitution of the United States.

It is clear then, by both the above "sourcing" statute and the "interstate commerce statute", the sale of furniture delivered to an out-of-state location is not subject to sales/use tax.

RULING

The Department rules the sale of furniture delivered to an out-of-state location, by either the taxpayer's own conveyance or common carrier, is not subject to sales/use tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

Indiana Department of State Revenue

Rules Affected by Volume 28

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 5-3-2	A	05-25	28 IR 2761	
25 IAC 5-3-5	A	05-25	28 IR 2762	
25 IAC 5-3-6	A	05-25	28 IR 2764	
25 IAC 5-4-1	A	05-25	28 IR 2765	
25 IAC 5-4-2	A	05-25	28 IR 2766	
25 IAC 5-6-2	A	05-25	28 IR 2766	
25 IAC 6	N	04-172	27 IR 3595	*CPH (28 IR 234)
	N	05-123	28 IR 3328	

TITLE 28 STATE INFORMATION TECHNOLOGY OVERSIGHT COMMISSION

28 IAC	N	04-123	28 IR 986	*CPH (28 IR 1498)
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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	*AROC (28 IR 3354)
			28 IR 2160	28 IR 3452
40 IAC 2-1-6	A	04-198	28 IR 987	*AROC (28 IR 3354)
			28 IR 2160	28 IR 3452
40 IAC 2-1-7	A	04-198	28 IR 988	*AROC (28 IR 3354)
			28 IR 2161	28 IR 3453

TITLE 42 OFFICE OF THE INSPECTOR GENERAL

42 IAC	N	05-124	28 IR 3615	
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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
50 IAC 21-1-3	N	05-142	28 IR 3622	
50 IAC 21-2-1.5	N	05-142	28 IR 3622	
50 IAC 21-2-2	A	05-142	28 IR 3622	
50 IAC 21-2-2.5	N	05-142	28 IR 3622	
50 IAC 21-2-3	A	05-142	28 IR 3622	
50 IAC 21-3-3	A	05-142	28 IR 3623	
50 IAC 21-4-1	A	05-142	28 IR 3623	
50 IAC 21-4-2	A	05-142	28 IR 3624	
50 IAC 21-4-3	R	05-142	28 IR 3626	
50 IAC 21-5-2	A	05-142	28 IR 3624	
50 IAC 21-6-1	A	05-142	28 IR 3625	
50 IAC 21-7-1	A	05-142	28 IR 3625	
50 IAC 21-8-1	A	05-142	28 IR 3625	
50 IAC 21-9-1	A	05-142	28 IR 3625	
50 IAC 21-10-1	A	05-142	28 IR 3626	
50 IAC 21-11-1	A	05-142	28 IR 3626	

TITLE 65 STATE LOTTERY COMMISSION

65 IAC 1-4-5.5	A	04-237		*ER (28 IR 217)
65 IAC 4-2-6	A	05-36		*ER (28 IR 2153)
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 4-355	N	05-32		*ER (28 IR 2147)
65 IAC 4-356	N	05-87		*ER (28 IR 2734)
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 5-2-6	A	05-36		*ER (28 IR 2153)
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)
65 IAC 5-16	N	05-28		*ER (28 IR 2142)
65 IAC 5-17	N	05-83		*ER (28 IR 2731)
65 IAC 5-18	N	05-88		*ER (28 IR 2738)
65 IAC 5-18-5	A	05-136		*ER (28 IR 2993)
65 IAC 5-19	N	05-159		*ER (28 IR 3313)
65 IAC 6-2-6	A	05-36		*ER (28 IR 2154)

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	28 IR 2014
68 IAC 15-5-1.5	N	05-107	28 IR 3627	
68 IAC 15-5-2	A	04-179	28 IR 237	28 IR 2014
68 IAC 15-6-2	A	04-179	28 IR 238	28 IR 2015

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68 IAC 15-6-3	A	04-179	28 IR 239	28 IR 2016	170 IAC 5-1-2	N	04-144	27 IR 4065	*CPH (28 IR 620)
68 IAC 15-6-5	A	04-179	28 IR 240	28 IR 2016					*AWR (28 IR 2730)
68 IAC 15-9-4	A	04-102	27 IR 3112	28 IR 530	170 IAC 6-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620)
68 IAC 15-10-4.1	A	04-102	27 IR 3113	28 IR 530					*AWR (28 IR 2730)
68 IAC 15-13-2.5	N	04-102	27 IR 3113	28 IR 531	170 IAC 6-1-16	R	04-144	27 IR 4095	*CPH (28 IR 620)
68 IAC 16-1-16	A	04-102	27 IR 3113	28 IR 531					*AWR (28 IR 2730)
68 IAC 17-1-5	A	04-102	27 IR 3114	28 IR 531	170 IAC 6-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620)
68 IAC 17-2-6	A	04-102	27 IR 3114	28 IR 531					*AWR (28 IR 2730)
68 IAC 18-1-2	A	04-102	27 IR 3114	28 IR 531	170 IAC 6-1.1	N	04-268	28 IR 1518	*CPH (28 IR 1710)
68 IAC 18-1-6	A	04-102	27 IR 3114	28 IR 532	170 IAC 6-1.2	N	04-144	27 IR 4073	*CPH (28 IR 620)
									*AWR (28 IR 2730)
TITLE 71 INDIANA HORSE RACING COMMISSION					170 IAC 7-1.3-2	A	04-144	27 IR 4080	*CPH (28 IR 620)
71 IAC 3-2-9	A	05-115		*ER (28 IR 2745)					*AWR (28 IR 2730)
71 IAC 3-3-11	A	05-115		*ER (28 IR 2746)	170 IAC 7-1.3-3	A	04-144	27 IR 4081	*CPH (28 IR 620)
71 IAC 3-4-1	A	05-115		*ER (28 IR 2746)					*AWR (28 IR 2730)
71 IAC 3-7-3	R	05-115		*ER (28 IR 2751)	170 IAC 7-1.3-8	A	04-144	27 IR 4083	*CPH (28 IR 620)
71 IAC 3-11-1	A	05-115		*ER (28 IR 2746)					*AWR (28 IR 2730)
71 IAC 5-3-1	A	05-115		*ER (28 IR 2746)	170 IAC 7-1.3-9	A	04-144	27 IR 4084	*CPH (28 IR 620)
71 IAC 6-1-3	A	05-115		*ER (28 IR 2747)					*AWR (28 IR 2730)
71 IAC 6-1-4	N	05-115		*ER (28 IR 2748)	170 IAC 7-1.3-10	A	04-144	27 IR 4085	*CPH (28 IR 620)
71 IAC 7-1-29	A	05-115		*ER (28 IR 2748)					*AWR (28 IR 2730)
71 IAC 7-3-7	A	05-115		*ER (28 IR 2749)	170 IAC 7-6	RA	05-22	28 IR 2458	*CPH (28 IR 620)
71 IAC 7-3-13	A	05-115		*ER (28 IR 2750)	170 IAC 8.5-2-1	A	04-144	27 IR 4086	*AWR (28 IR 2730)
71 IAC 7-3-18	A	05-115		*ER (28 IR 2750)					*CPH (28 IR 620)
71 IAC 7-3-29	A	05-115		*ER (28 IR 2751)	170 IAC 8.5-2-3	A	04-144	27 IR 4087	*AWR (28 IR 2730)
71 IAC 7-3-36	N	05-115		*ER (28 IR 2751)					*CPH (28 IR 620)
71 IAC 7-5-1	A	05-115		*ER (28 IR 2751)	170 IAC 8.5-2-4	A	04-144	27 IR 4089	*AWR (28 IR 2730)
71 IAC 7-5-2	A	05-115		*ER (28 IR 2751)					*CPH (28 IR 620)
71 IAC 7.5-6-3	A	05-27		*ER (28 IR 2154)	170 IAC 8.5-2-5	A	04-144	27 IR 4092	*CPH (28 IR 620)
71 IAC 8.5-13	N	05-221		*ER (28 IR 3599)					*AWR (28 IR 2730)
71 IAC 13.5-3-3	A	05-115		*ER (28 IR 2751)					
TITLE 140 BUREAU OF MOTOR VEHICLES					TITLE 203 VICTIM SERVICES DIVISION				
140 IAC 4-4	RA	04-162	28 IR 323	28 IR 1315	203 IAC	N	04-63	27 IR 2526	28 IR 6
140 IAC 8-4	RA	04-162	28 IR 323	28 IR 1315	TITLE 207 CORONERS TRAINING BOARD				
TITLE 170 INDIANA UTILITY REGULATORY COMMISSION					207 IAC 2	N	04-231	28 IR 624	*ARR (28 IR 2392)
170 IAC 1-4	RA	04-163	27 IR 4140	*CPH (28 IR 620)	TITLE 240 STATE POLICE DEPARTMENT				
				28 IR 1315	240 IAC 8	RA	04-164	27 IR 4140	28 IR 677
170 IAC 1-5	RA	04-163	27 IR 4140	*CPH (28 IR 620)	TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS				
				28 IR 1315	305 IAC 1-2	RA	05-60	28 IR 3052	
170 IAC 4-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620)	305 IAC 1-2-6	A	03-212	27 IR 216	*ARR (28 IR 215)
				*AWR (28 IR 2730)					28 IR 12
170 IAC 4-1-16	R	04-144	27 IR 4095	*CPH (28 IR 620)	305 IAC 1-3-4	A	03-212	27 IR 216	*ARR (28 IR 215)
				*AWR (28 IR 2730)					28 IR 12
170 IAC 4-1-16.5	R	04-144	27 IR 4095	*CPH (28 IR 620)	305 IAC 1-4-1	A	03-212	27 IR 217	*ARR (28 IR 215)
				*AWR (28 IR 2730)					28 IR 12
170 IAC 4-1-16.6	R	04-144	27 IR 4095	*CPH (28 IR 620)	305 IAC 1-4-2	A	03-212	27 IR 217	*ARR (28 IR 215)
				*AWR (28 IR 2730)					28 IR 13
170 IAC 4-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620)	305 IAC 1-5	N	03-212	27 IR 217	*ARR (28 IR 215)
				*AWR (28 IR 2730)					28 IR 13
170 IAC 4-1-23	A	04-68	27 IR 2765	28 IR 789	TITLE 312 NATURAL RESOURCES COMMISSION				
170 IAC 4-1.2	N	04-144	27 IR 4057	*CPH (28 IR 620)	312 IAC 2-4-6	A	04-215	28 IR 626	28 IR 2348
				*AWR (28 IR 2730)	312 IAC 2-4-12	A	04-67	27 IR 3604	28 IR 1460
170 IAC 4-4.1-7	A	05-130	28 IR 3331		312 IAC 2-4-14	N	04-215	28 IR 626	28 IR 2348
170 IAC 4-4.2	N	03-305	27 IR 2312	28 IR 786	312 IAC 3-1-7	A	04-263	28 IR 1203	28 IR 2660
170 IAC 4-4.2-5	A	05-130	28 IR 3332		312 IAC 3-1-9	A	05-57	28 IR 3003	
170 IAC 4-4.3	N	05-130	28 IR 3333		312 IAC 4-6-6	A	04-208	28 IR 625	*ARR (28 IR 2140)
170 IAC 5-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620)	312 IAC 5-6-5	A	04-84	28 IR 240	28 IR 1680
				*AWR (28 IR 2730)	312 IAC 5-6-5.5	N	04-210	28 IR 989	28 IR 2944
170 IAC 5-1-16	R	04-144	27 IR 4095	*CPH (28 IR 620)	312 IAC 5-14-1	A	04-155	27 IR 4100	28 IR 1461
				*AWR (28 IR 2730)	312 IAC 5-14-2	A	04-155	27 IR 4100	28 IR 1461
170 IAC 5-1-16.5	R	04-144	27 IR 4095	*CPH (28 IR 620)	312 IAC 5-14-4	A	04-155	27 IR 4101	28 IR 1462
				*AWR (28 IR 2730)	312 IAC 5-14-5	R	04-155	27 IR 4109	28 IR 1470
170 IAC 5-1-16.6	R	04-144	27 IR 4095	*CPH (28 IR 620)	312 IAC 5-14-5.1	N	04-155	27 IR 4101	28 IR 1462
				*AWR (28 IR 2730)	312 IAC 5-14-6	R	04-155	27 IR 4109	28 IR 1470
170 IAC 5-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620)					
				*AWR (28 IR 2730)					

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312 IAC 5-14-6.1	N	04-155	27 IR 4102	28 IR 1463	312 IAC 11-2-11.5	N	04-94	27 IR 4095	28 IR 1681
312 IAC 5-14-7	A	04-155	27 IR 4102	28 IR 1463	312 IAC 11-2-11.8	N	05-38	28 IR 2768	
312 IAC 5-14-8	A	04-155	27 IR 4102	28 IR 1464	312 IAC 11-2-14.5	N	05-38	28 IR 2768	
312 IAC 5-14-9	A	04-155	27 IR 4103	28 IR 1464	312 IAC 11-2-20	A	05-38	28 IR 2768	
312 IAC 5-14-11	A	04-155	27 IR 4103	28 IR 1464	312 IAC 11-2-24	A	05-38	28 IR 2768	
312 IAC 5-14-15	A	04-155	27 IR 4103	28 IR 1465	312 IAC 11-2-25.2	N	05-38	28 IR 2768	
312 IAC 5-14-16	A	04-155	27 IR 4104	28 IR 1465	312 IAC 11-2-27.5	N	05-38	28 IR 2769	
312 IAC 5-14-17	A	04-155	27 IR 4104	28 IR 1465	312 IAC 11-3-1	A	04-94	27 IR 4095	28 IR 1681
312 IAC 5-14-18	A	04-155	27 IR 4105	28 IR 1466	312 IAC 11-3-3	A	05-38	28 IR 2769	
312 IAC 5-14-19	A	04-155	27 IR 4105	28 IR 1467	312 IAC 11-4-2	A	05-38	28 IR 2770	
312 IAC 5-14-20	A	04-155	27 IR 4106	28 IR 1467	312 IAC 11-4-3	A	05-38	28 IR 2770	
312 IAC 5-14-21	A	04-155	27 IR 4106	28 IR 1467	312 IAC 11-4-4	A	05-38	28 IR 2771	
312 IAC 5-14-22	A	04-155	27 IR 4106	28 IR 1468	312 IAC 11-5-3	N	05-38	28 IR 2771	
312 IAC 5-14-24	A	04-155	27 IR 4107	28 IR 1468	312 IAC 12	RA	05-1	28 IR 2203	28 IR 3661
312 IAC 5-14-25	A	04-155	27 IR 4108	28 IR 1469	312 IAC 13	RA	05-1	28 IR 2203	28 IR 3661
312 IAC 5-14-26	R	04-155	27 IR 4109	28 IR 1470	312 IAC 16	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 5-14-27	N	04-155	27 IR 4109	28 IR 1470	312 IAC 16-3-2	A	04-121	27 IR 4097	28 IR 1682
312 IAC 6.2	N	04-66	27 IR 3119	28 IR 1459	312 IAC 16-3-8	A	04-121	27 IR 4099	28 IR 1684
312 IAC 6.5	N	04-3	27 IR 2767	28 IR 15	312 IAC 16-5-14	A	04-23	27 IR 2532	28 IR 556
312 IAC 8	RA	03-315	27 IR 2339	28 IR 1315	312 IAC 16-5-19	A	05-14	28 IR 2410	
312 IAC 8-1-4	A	05-18	28 IR 2412		312 IAC 17	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 8-2-3	A	05-18	28 IR 2413		312 IAC 17-3	R	05-99	28 IR 3632	
312 IAC 8-2-8	A	05-18	28 IR 2414		312 IAC 17-3-1	A	04-23	27 IR 2532	28 IR 557
312 IAC 9-1-9.5	N	03-311	27 IR 1946	28 IR 536	312 IAC 17-3-2	A	04-23	27 IR 2532	28 IR 557
312 IAC 9-1-11.5	N	03-311	27 IR 1946	28 IR 536	312 IAC 17-3-3	A	04-23	27 IR 2532	28 IR 557
312 IAC 9-2-14	N	04-253	28 IR 1522		312 IAC 17-3-4	A	04-23	27 IR 2533	28 IR 558
312 IAC 9-2-15	N	04-253	28 IR 1522		312 IAC 17-3-6	A	04-23	27 IR 2534	28 IR 558
312 IAC 9-3-2	A	03-311	27 IR 1946	28 IR 536	312 IAC 17-3-8	A	04-23	27 IR 2534	28 IR 558
312 IAC 9-3-3	A	03-311	27 IR 1947	28 IR 538	312 IAC 17-3-9	A	04-23	27 IR 2534	28 IR 558
312 IAC 9-3-4	A	03-311	27 IR 1948	28 IR 538	312 IAC 18-3-12	A	04-270	28 IR 1203	*GRAT (28 IR 3053)
	A	04-253	28 IR 1523	28 IR 2945					28 IR 2951
312 IAC 9-3-5	A	04-253	28 IR 1523	28 IR 2945	312 IAC 18-3-18	N	04-177	28 IR 1201	28 IR 2942
312 IAC 9-3-10	A	03-311	27 IR 1949	28 IR 539	312 IAC 18-3-19	N	04-127	28 IR 1521	28 IR 2942
312 IAC 9-3-11	A	03-311	27 IR 1949	28 IR 539	312 IAC 19	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 9-3-12	A	03-311	27 IR 1949	28 IR 539	312 IAC 23	RA	05-1	28 IR 2203	28 IR 3661
312 IAC 9-3-13	A	03-311	27 IR 1950	28 IR 540	312 IAC 25-4-102				*ERR (28 IR 214)
312 IAC 9-3-14	A	03-311	27 IR 1950	28 IR 540	312 IAC 25-4-114				*ERR (28 IR 214)
312 IAC 9-3-15	A	03-311	27 IR 1950	28 IR 540	312 IAC 25-5-16				*ERR (28 IR 214)
312 IAC 9-3-17	A	03-311	27 IR 1950	28 IR 540	312 IAC 25-6-20				*ERR (28 IR 214)
312 IAC 9-4-7	R	03-311	27 IR 1966	28 IR 556	312 IAC 25-7-1				*ERR (28 IR 214)
312 IAC 9-4-10	A	03-311	27 IR 1951		312 IAC 26	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 9-4-11	A	03-311	27 IR 1951	28 IR 541					
	A	04-253	28 IR 1524	28 IR 2946	TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION				
312 IAC 9-4-14	A	03-311	27 IR 1952	28 IR 542	315 IAC 1	RA	04-71	27 IR 2879	28 IR 323
312 IAC 9-5-4	A	03-311	27 IR 1953	28 IR 542	315 IAC 1-2-1	A	04-70	28 IR 990	*CPH (28 IR 1498)
	A	04-253	28 IR 1526	28 IR 2947					*SPE
312 IAC 9-5-6	A	03-311	27 IR 1953	28 IR 543		A	05-73	28 IR 2772	
312 IAC 9-5-7	A	03-311	27 IR 1953	28 IR 543	315 IAC 1-3-1	A	04-70	28 IR 991	*CPH (28 IR 1498)
	A	04-253	28 IR 1526	28 IR 2948					*SPE
312 IAC 9-5-9	A	03-311	27 IR 1955	28 IR 545	315 IAC 1-3-2	A	05-73	28 IR 2773	*CPH (28 IR 1498)
	A	04-253	28 IR 1528	28 IR 2950		A	04-70	28 IR 991	*SPE
312 IAC 9-5-11	N	03-311	27 IR 1956	28 IR 546		A	05-73	28 IR 2774	
312 IAC 9-6-9	A	03-311	27 IR 1957	28 IR 547	315 IAC 1-3-2.1	N	04-70	28 IR 992	*CPH (28 IR 1498)
312 IAC 9-7-2	A	03-311	27 IR 1957	28 IR 547					*SPE
312 IAC 9-7-6	A	03-311	27 IR 1959	28 IR 549		N	05-73	28 IR 2775	
312 IAC 9-7-13	A	03-311	27 IR 1960	28 IR 550	315 IAC 1-3-3	A	04-70	28 IR 992	*CPH (28 IR 1498)
312 IAC 9-10-9	A	03-311	27 IR 1960	28 IR 550					*SPE
312 IAC 9-10-9.5	N	03-311	27 IR 1961	28 IR 551		A	05-73	28 IR 2775	
312 IAC 9-10-10	A	03-311	27 IR 1962	28 IR 552	315 IAC 1-3-4	A	04-70	28 IR 993	*CPH (28 IR 1498)
312 IAC 9-10-13.5	N	03-311	27 IR 1963	28 IR 553					*SPE
312 IAC 9-10-17	A	03-311	27 IR 1964	28 IR 554		A	05-73	28 IR 2776	
312 IAC 9-11-1	A	03-311	27 IR 1964	28 IR 554	315 IAC 1-3-5	A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 9-11-2	A	03-311	27 IR 1965	28 IR 555					*SPE
312 IAC 9-11-14	A	03-311	27 IR 1965	28 IR 555	315 IAC 1-3-7	A	05-73	28 IR 2776	*CPH (28 IR 1498)
312 IAC 11	RA	05-1	28 IR 2203	28 IR 3661		A	04-70	28 IR 994	*SPE
312 IAC 11-2-2	A	05-38	28 IR 2767			A	05-73	28 IR 2777	
312 IAC 11-2-5	A	04-157	28 IR 1521	28 IR 2660	315 IAC 1-3-8	A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 11-2-7	A	05-38	28 IR 2767						*SPE
312 IAC 11-2-11	A	05-38	28 IR 2768			A	05-73	28 IR 2777	

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315 IAC 1-3-9	A	04-70	28 IR 995	*CPH (28 IR 1498) *SPE	326 IAC 2-7-18	A	02-337	26 IR 2007	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 21
	A	05-73	28 IR 2778						
315 IAC 1-3-10	A	04-70	28 IR 995	*CPH (28 IR 1498) *SPE	326 IAC 2-8-3	A	02-337	26 IR 2008	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 22
	A	05-73	28 IR 2778						
315 IAC 1-3-12	A	04-70	28 IR 996	*CPH (28 IR 1498) *SPE	326 IAC 2-9-1	RA	04-44	27 IR 3155	28 IR 801
	A	05-73	28 IR 2778		326 IAC 2-9-2.5	RA	04-44	27 IR 3156	28 IR 802
315 IAC 1-3-14	A	04-70	28 IR 996	*CPH (28 IR 1498) *SPE	326 IAC 2-9-3	RA	04-44	27 IR 3156	28 IR 803
	A	05-73	28 IR 2778		326 IAC 2-9-4	RA	04-44	27 IR 3157	28 IR 803
315 IAC 1-3-15	A	05-73	28 IR 2779		326 IAC 2-9-5	RA	04-44	27 IR 3158	28 IR 805
	N	04-70	28 IR 996	*CPH (28 IR 1498) *SPE	326 IAC 2-9-6	RA	04-44	27 IR 3159	28 IR 805
	N	05-73	28 IR 2779		326 IAC 2-9-7	A	02-337	26 IR 2009	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 23
						RA	04-44	27 IR 3159	28 IR 805
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326 IAC 1-1-3	A	02-337	26 IR 1997	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 17		RA	04-44	27 IR 3160	28 IR 806
	A	04-299	28 IR 1815	*CPH (28 IR 2406)	326 IAC 2-9-9	A	02-337	26 IR 2012	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 26
326 IAC 1-1-3.5	A	02-337	26 IR 1997	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 18		RA	04-44	27 IR 3162	28 IR 808
	A	04-299	28 IR 1815	*CPH (28 IR 2406)	326 IAC 2-9-10	A	02-337	26 IR 2013	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 27
326 IAC 1-1-6	N	04-180	28 IR 248	*GRAT (28 IR 2205) 28 IR 2046					
326 IAC 1-2-33.5	A	05-79	28 IR 3005			RA	04-44	27 IR 3163	28 IR 809
326 IAC 1-2-48	A	05-79	28 IR 3005		326 IAC 2-9-11	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 2-9-12	RA	04-44	27 IR 3165	28 IR 811
326 IAC 1-2-52.2	N	03-228	27 IR 3121	28 IR 1471	326 IAC 2-9-13	A	02-337	26 IR 2014	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 28
326 IAC 1-2-52.4	N	03-228	27 IR 3121	28 IR 1471					
326 IAC 1-2-65	A	02-337	26 IR 1997	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 18	326 IAC 2-9-14	RA	04-44	27 IR 3165	28 IR 811
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326 IAC 1-2-82.5	N	03-228	27 IR 3121	28 IR 1471	326 IAC 3-4-3	A	02-337	26 IR 2016	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 30
326 IAC 1-2-90	A	02-337	26 IR 1998	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 18					
	A	05-79	28 IR 3006		326 IAC 3-4-3	A	02-337	26 IR 2016	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 31
326 IAC 1-3-4	A	03-228	27 IR 3121	28 IR 1471					
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) *CPH (27 IR 2521) 28 IR 32
326 IAC 2-2-13	A	02-337	26 IR 1998	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 19	326 IAC 3-5-3	A	02-337	26 IR 2019	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 33
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326 IAC 2-2-16	A	02-337	26 IR 1999	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 20	326 IAC 3-5-4	A	02-337	26 IR 2019	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 34
					326 IAC 3-5-4	A	02-337	26 IR 2019	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 34
326 IAC 2-5-1-1	RA	04-44	27 IR 3144	28 IR 791	326 IAC 3-5-5	A	02-337	26 IR 2020	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 34
326 IAC 2-5-1-2	RA	04-44	27 IR 3145	28 IR 791					
326 IAC 2-5-5-1	RA	04-44	27 IR 3146	28 IR 792	326 IAC 3-6-1	A	02-337	26 IR 2022	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 36
326 IAC 2-5-5-2	RA	04-44	27 IR 3146	28 IR 793					
326 IAC 2-5-5-3	RA	04-44	27 IR 3146	28 IR 793	326 IAC 3-6-3	A	02-337	26 IR 2022	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 37
326 IAC 2-5-5-4	RA	04-44	27 IR 3147	28 IR 793					
326 IAC 2-5-5-5	RA	04-44	27 IR 3147	28 IR 794	326 IAC 3-6-5	A	02-337	26 IR 2023	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 37
326 IAC 2-5-5-6	RA	04-44	27 IR 3147	28 IR 794					
326 IAC 2-6-1-1	RA	04-44	27 IR 3149	28 IR 795	326 IAC 3-7-2	A	02-337	26 IR 2024	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 38
326 IAC 2-6-1-2	RA	04-44	27 IR 3149	28 IR 795					
326 IAC 2-6-1-3	RA	04-44	27 IR 3149	28 IR 795	326 IAC 3-7-4	A	02-337	26 IR 2025	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 40
326 IAC 2-6-1-4	RA	04-44	27 IR 3150	28 IR 796					
326 IAC 2-6-1-5	RA	04-44	27 IR 3150	28 IR 796	326 IAC 5-1-2	A	02-337	26 IR 2026	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 40
326 IAC 2-6-1-6	RA	04-44	27 IR 3151	28 IR 797					
326 IAC 2-6-1-7	RA	04-44	27 IR 3154	28 IR 801					
326 IAC 2-7-3	A	02-337	26 IR 2006	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 20					
326 IAC 2-7-8	A	02-337	26 IR 2006	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 20					

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326 IAC 5-1-4	A	02-337	26 IR 2026	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 41	326 IAC 8-7-7	A	02-337	26 IR 2036	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 51
326 IAC 5-1-5	A	02-337	26 IR 2027	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 41	326 IAC 8-9-2	A	02-337	26 IR 2037	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 51
326 IAC 6-1-1	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-9-3	A	02-337	26 IR 2037	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 51
326 IAC 6-1-1.5	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-9-4	A	02-337	26 IR 2038	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 52
326 IAC 6-1-2	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-9-5	A	02-337	26 IR 2040	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 54
326 IAC 6-1-3	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-9-6	A	02-337	26 IR 2042	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 56
326 IAC 6-1-4	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-10-7	A	02-337	26 IR 2044	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 58
326 IAC 6-1-5	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-11-2	A	02-337	26 IR 2044	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 59
326 IAC 6-1-6	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-11-6	A	02-337	26 IR 2046	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 61
326 IAC 6-1-7	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-11-7	A	02-337	26 IR 2050	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 64
326 IAC 6-1-8.1	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-12-3	A	02-337	26 IR 2050	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 65
326 IAC 6-1-9	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-12-5	A	02-337	26 IR 2052	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 67
326 IAC 6-1-10.1	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-12-6	A	02-337	26 IR 2053	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 68
326 IAC 6-1-10.2	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-12-7	A	02-337	26 IR 2054	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 68
326 IAC 6-1-11.1	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-13-5	A	02-337	26 IR 2055	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 69
326 IAC 6-1-11.2	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-1-2	A	02-337	26 IR 2056	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 70
326 IAC 6-1-12	A	04-43	28 IR 242	*GRAT (28 IR 2204) 28 IR 2037 *ERR (28 IR 2137) 28 IR 3550	326 IAC 10-1-4	A	02-337	26 IR 2057	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 71
	R	02-335	28 IR 1813	28 IR 115	326 IAC 10-1-5	A	02-337	26 IR 2059	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 73
326 IAC 6-1-13	A	03-195	27 IR 2318	28 IR 3550	326 IAC 10-1-6	A	02-337	26 IR 2059	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 74
	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-3-3	A	04-200	28 IR 2781	
326 IAC 6-1-14	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-4-1	A	04-200	28 IR 2782	
326 IAC 6-1-15	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-4-2	A	04-200	28 IR 2783	
326 IAC 6-1-16	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-4-3	A	04-200	28 IR 2790	
326 IAC 6-1-17	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-4-9	A	04-200	28 IR 2791	
326 IAC 6-1-18	R	02-335	28 IR 1813	28 IR 3550	326 IAC 10-4-13	A	04-200	28 IR 2797	
326 IAC 6.5	N	02-335	28 IR 1714	28 IR 3454	326 IAC 10-4-14	A	04-200	28 IR 2801	
326 IAC 6.5-7-13	A	04-234	28 IR 1814	*CPH (28 IR 2406) 28 IR 3503	326 IAC 10-4-15	A	04-200	28 IR 2801	
326 IAC 6.8	N	02-335	28 IR 1766		326 IAC 10-5	N	04-200	28 IR 2803	
326 IAC 6.8-2-4	A	04-278	28 IR 3004		326 IAC 11-3-4	A	02-337	26 IR 2060	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 74
326 IAC 7-1.1-1	A	00-236	28 IR 632	*CPH (28 IR 982) *CPH (28 IR 1710) 28 IR 2953					
326 IAC 7-1.1-2	A	00-236	28 IR 632	*CPH (28 IR 982) *CPH (28 IR 1710) 28 IR 2953					
326 IAC 7-2-1	A	02-337	26 IR 2028	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 42					
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326 IAC 7-4-1.1	R	00-236	28 IR 644	*CPH (28 IR 982) *CPH (28 IR 1710) 28 IR 2966					
326 IAC 7-4-3	A	03-195	27 IR 2319	28 IR 117					
326 IAC 7-4-10	A	02-337	26 IR 2029	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 43					
326 IAC 7-4-13	A	03-282	27 IR 2768	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2021					
326 IAC 7-4.1	N	00-236	28 IR 633	*CPH (28 IR 982) *CPH (28 IR 1710) 28 IR 2954					
326 IAC 8-1-4	A	02-337	26 IR 2030	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 44					
326 IAC 8-4-6	A	02-337	26 IR 2032	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 47					
326 IAC 8-4-9	A	02-337	26 IR 2035	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 49					

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326 IAC 13-1.1-1	A	02-337	26 IR 2062	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 76	326 IAC 14-10-4	A	02-337	26 IR 2078	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 93
326 IAC 13-1.1-8	A	02-337	26 IR 2063	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 77	326 IAC 15-1-2	A	02-337	26 IR 2080	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 95
326 IAC 13-1.1-10	A	02-337	26 IR 2063	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 78	326 IAC 15-1-4	A	02-337	26 IR 2083	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98
326 IAC 13-1.1-13	A	02-337	26 IR 2064	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 79	326 IAC 16-3-1	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98
326 IAC 13-1.1-14	A	02-337	26 IR 2065	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 80	326 IAC 18-1-1	A	03-283	27 IR 3128	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2022
326 IAC 13-1.1-16	A	02-337	26 IR 2066	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 81	326 IAC 18-1-2	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 99
326 IAC 14-1-1	A	02-337	26 IR 2066	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 81		A	03-283	27 IR 3128	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2022
326 IAC 14-1-2	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 81	326 IAC 18-1-3	A	03-283	27 IR 3130	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2024
326 IAC 14-1-4	R	02-337	26 IR 2099	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 114	326 IAC 18-1-4	A	03-283	27 IR 3131	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2025
326 IAC 14-3-1	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82	326 IAC 18-1-5	A	02-337	26 IR 2086	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 101
326 IAC 14-4-1	A	02-337	26 IR 2067	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82		A	03-283	27 IR 3132	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2026
326 IAC 14-5-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 82	326 IAC 18-1-6	A	03-283	27 IR 3133	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2027
326 IAC 14-7-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83	326 IAC 18-1-7	A	02-337	26 IR 2087	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 102
326 IAC 14-8-1	A	02-337	26 IR 2068	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83	326 IAC 18-1-8	A	02-337	26 IR 2088	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 103
326 IAC 14-8-3	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 83	326 IAC 18-1-9	A	03-283	27 IR 3134	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2028
326 IAC 14-8-4	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 18-2-2	A	02-337	26 IR 2088	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 103
326 IAC 14-8-5	A	02-337	26 IR 2069	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84		A	03-283	27 IR 3134	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2028
326 IAC 14-9-5	A	02-337	26 IR 2070	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 84	326 IAC 18-2-3	A	02-337	26 IR 2090	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 104
326 IAC 14-9-8	A	02-337	26 IR 2071	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 85		A	03-283	27 IR 3136	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2030
326 IAC 14-9-9	A	02-337	26 IR 2071	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 86	326 IAC 18-2-6	A	02-337	26 IR 2096	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 111
326 IAC 14-10-1	A	02-337	26 IR 2072	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 87	326 IAC 18-2-7	A	02-337	26 IR 2097	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 112
326 IAC 14-10-2	A	02-337	26 IR 2074	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 88	326 IAC 19-2-1	A	05-80	28 IR 3007	*CPH (27 IR 3590)
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326 IAC 20-56	N	03-264	27 IR 3126	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2020	326 IAC 20-91	N	04-300	28 IR 1816	28 IR 3550
					326 IAC 20-92	N	04-300	28 IR 1817	28 IR 3550
326 IAC 20-57	N	03-284	27 IR 1618	*CPH (27 IR 1937) 28 IR 119	326 IAC 20-93	N	04-300	28 IR 1817	28 IR 3551
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326 IAC 20-58	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119	326 IAC 22-1-1	A	02-337	26 IR 2098	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 113
326 IAC 20-59	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119	326 IAC 23-1-31	A	02-337	26 IR 2099	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 114
326 IAC 20-60	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119	TITLE 327 WATER POLLUTION CONTROL BOARD				
326 IAC 20-61	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120	327 IAC 1-1-1	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046
326 IAC 20-62	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120	327 IAC 1-1-2	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046
326 IAC 20-63	N	03-285	27 IR 2322	28 IR 121	327 IAC 1-1-3	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046
326 IAC 20-64	N	03-285	27 IR 2322	28 IR 121	327 IAC 2-1-5	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2047
326 IAC 20-65	N	03-285	27 IR 2322	28 IR 121	327 IAC 2-1-6	A	03-129	27 IR 3609	*GRAT (28 IR 2205) 28 IR 2047
326 IAC 20-66	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-8	A	03-129	27 IR 3617	*GRAT (28 IR 2205) 28 IR 2055
326 IAC 20-67	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-8.1	A	03-129	27 IR 3617	*GRAT (28 IR 2205) 28 IR 2055
326 IAC 20-68	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-8.2	A	03-129	27 IR 3618	*GRAT (28 IR 2205) 28 IR 2056
326 IAC 20-69	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-8.3	A	03-129	27 IR 3620	*GRAT (28 IR 2205) 28 IR 2057
326 IAC 20-70	N	03-284	27 IR 1620	*CPH (27 IR 1937) 28 IR 120	327 IAC 2-1-8.9	N	03-129	27 IR 3621	*GRAT (28 IR 2205) 28 IR 2058 *ERR (28 IR 3582)
326 IAC 20-71	N	04-107	27 IR 3168	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2043	327 IAC 2-1-9	A	03-129	27 IR 3622	*GRAT (28 IR 2205) 28 IR 2060
326 IAC 20-72	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2043	327 IAC 2-1-12	A	03-129	27 IR 3627	*GRAT (28 IR 2205) 28 IR 2064
326 IAC 20-73	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044	327 IAC 2-1-13	N	03-129	27 IR 3627	*GRAT (28 IR 2205) 28 IR 2065
326 IAC 20-74	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044	327 IAC 2-1.5-2	A	03-129	27 IR 3631	*GRAT (28 IR 2205) 28 IR 2068
326 IAC 20-75	N	04-107	27 IR 3169	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044	327 IAC 2-1.5-6	A	03-129	27 IR 3637	*GRAT (28 IR 2205) 28 IR 2074
326 IAC 20-76	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2044	327 IAC 2-1.5-8	A	03-129	27 IR 3638	*GRAT (28 IR 2205) 28 IR 2074
326 IAC 20-77	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2045	327 IAC 2-1.5-10	A	03-129	27 IR 3650	*GRAT (28 IR 2205) 28 IR 2084
326 IAC 20-78	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2045	327 IAC 2-1.5-11	A	03-129	27 IR 3651	*GRAT (28 IR 2205) 28 IR 2084
326 IAC 20-79	N	04-107	27 IR 3170	*CPH (27 IR 3592) *CPH (28 IR 234) *GRAT (28 IR 2205) 28 IR 2045	327 IAC 2-1.5-16	A	03-129	27 IR 3660	*GRAT (28 IR 2205) 28 IR 2093 *ERR (28 IR 3582)
326 IAC 20-82	N	04-235	28 IR 997	28 IR 2966	327 IAC 2-1.5-20	A	03-129	27 IR 3662	*GRAT (28 IR 2205) 28 IR 2096
326 IAC 20-83	N	04-236	28 IR 998	28 IR 2967	327 IAC 2-4-3	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 20-84	N	04-236	28 IR 998	28 IR 2967	327 IAC 3-2-1.5	N	04-320	28 IR 2192	28 IR 3551
326 IAC 20-85	N	04-236	28 IR 999	28 IR 2967	327 IAC 3-2-3.5	N	04-320	28 IR 2192	28 IR 3552
326 IAC 20-86	N	04-236	28 IR 999	28 IR 2967	327 IAC 3-2-5.5	N	04-320	28 IR 2193	28 IR 3552
326 IAC 20-87	N	04-236	28 IR 999	28 IR 2968	327 IAC 5-1.5-72	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
					327 IAC 5-2-1.5	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
					327 IAC 5-2-11.1	A	03-129	27 IR 3664	*GRAT (28 IR 2205) 28 IR 2097
					327 IAC 5-2-11.2	A	03-129	27 IR 3668	*GRAT (28 IR 2205) 28 IR 2101

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327 IAC 5-2-11.4	A	03-129	27 IR 3669	*GRAT (28 IR 2205) 28 IR 2102	327 IAC 8-3.2-1	A	04-106	28 IR 2170	
				*ERR (28 IR 3582)	327 IAC 8-3.2-2	A	04-106	28 IR 2170	
327 IAC 5-2-11.5	A	03-129	27 IR 3679	*GRAT (28 IR 2205) 28 IR 2112	327 IAC 8-3.2-4	A	04-106	28 IR 2171	
327 IAC 5-2-11.6	A	03-129	27 IR 3689	*GRAT (28 IR 2205) 28 IR 2120	327 IAC 8-3.2-8	A	04-106	28 IR 2171	
327 IAC 5-2-13	A	03-129	27 IR 3694	*GRAT (28 IR 2205) 28 IR 2125	327 IAC 8-3.2-11	A	04-106	28 IR 2173	
327 IAC 5-2-15	A	03-129	27 IR 3694	*GRAT (28 IR 2205) 28 IR 2126	327 IAC 8-3.2-17	A	04-106	28 IR 2173	
327 IAC 5-3.5	N	03-130	28 IR 650	*CPH (28 IR 1197) 28 IR 2349	327 IAC 8-3.2-18	A	04-106	28 IR 2174	
				*ERR (28 IR 3582)	327 IAC 8-3.2-20	A	04-106	28 IR 2175	
327 IAC 8-1-1	A	04-106	28 IR 2163		327 IAC 8-3.3-4	A	04-106	28 IR 2175	
327 IAC 8-1-2	A	04-106	28 IR 2164	28 IR 3184	327 IAC 8-3.3-5	A	04-106	28 IR 2176	
327 IAC 8-1-3	A	04-106	28 IR 2164	28 IR 3188	327 IAC 8-3.3-6	A	04-106	28 IR 2176	
327 IAC 8-1-4	A	04-106	28 IR 2165	28 IR 3190	327 IAC 8-3.4-1	A	04-106	28 IR 2176	
327 IAC 8-2-1	A	04-13	28 IR 1206	28 IR 3196	327 IAC 8-3.4-2	A	04-106	28 IR 2178	
327 IAC 8-2-4	A	04-13	28 IR 1210	*ERR (28 IR 3582)	327 IAC 8-3.4-3	A	04-106	28 IR 2178	
327 IAC 8-2-4.1	A	04-13	28 IR 1212	28 IR 3198	327 IAC 8-3.4-4	A	04-106	28 IR 2179	
327 IAC 8-2-4.2	A	04-13	28 IR 1217	28 IR 3200	327 IAC 8-3.4-8	A	04-106	28 IR 2180	
				*ERR (28 IR 3582)	327 IAC 8-3.4-9	A	04-106	28 IR 2180	
327 IAC 8-2-5.1	A	04-13	28 IR 1220	28 IR 3203	327 IAC 8-3.4-9.1	N	04-106	28 IR 2182	
327 IAC 8-2-5.2	A	04-13	28 IR 1222	*ERR (28 IR 3582)	327 IAC 8-3.4-12	A	04-106	28 IR 2183	
				28 IR 3206	327 IAC 8-3.4-13	A	04-106	28 IR 2183	
327 IAC 8-2-5.5	A	04-13	28 IR 1225	28 IR 3207	327 IAC 8-3.4-14	A	04-106	28 IR 2183	
				*ERR (28 IR 3582)	327 IAC 8-3.4-16	A	04-106	28 IR 2184	
327 IAC 8-2-8.5	A	04-13	28 IR 1228	28 IR 3209	327 IAC 8-3.4-17	A	04-106	28 IR 2185	
327 IAC 8-2-8.7	A	04-13	28 IR 1229	*ERR (28 IR 3582)	327 IAC 8-3.4-23	A	04-106	28 IR 2185	
				28 IR 3212	327 IAC 8-3.4-24	A	04-106	28 IR 2186	
327 IAC 8-2-9	A	04-13	28 IR 1230	28 IR 3215	327 IAC 8-3.4-25	A	04-106	28 IR 2187	
327 IAC 8-2-10.1	A	04-13	28 IR 1230	28 IR 3217	327 IAC 8-3.4-27	A	04-106	28 IR 2188	
				*ERR (28 IR 3582)	327 IAC 8-3.5-1	A	04-106	28 IR 2188	
327 IAC 8-2-10.2	A	04-13	28 IR 1233	28 IR 3218	327 IAC 8-3.5-2	A	04-106	28 IR 2189	
				*ERR (28 IR 3582)	327 IAC 8-3.5-5	A	04-106	28 IR 2189	
327 IAC 8-2-10.3	N	04-13	28 IR 1237	28 IR 3220	327 IAC 8-4-1	A	04-106	28 IR 2190	
327 IAC 8-2-13	A	04-13	28 IR 1239	28 IR 3222	327 IAC 8-4-2	N	04-106	28 IR 2191	
327 IAC 8-2-34	A	04-13	28 IR 1239	28 IR 3223	327 IAC 8-6-1	A	04-106	28 IR 2191	
327 IAC 8-2-34.1	N	04-13	28 IR 1240	*ERR (28 IR 3583)	327 IAC 15-14				*ERR (28 IR 214)
327 IAC 8-2-45	A	04-13	28 IR 1240	28 IR 3226	327 IAC 17	N	04-228	28 IR 1288	28 IR 2968
				*ERR (28 IR 3583)					
327 IAC 8-2-46	A	04-13	28 IR 1242	28 IR 3227	TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD				
327 IAC 8-2-1-3	A	04-13	28 IR 1244	28 IR 3233	328 IAC 1-1-2	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 123
				*ERR (28 IR 3583)	328 IAC 1-1-3	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 123
327 IAC 8-2-1-4	A	04-13	28 IR 1247	28 IR 3234	328 IAC 1-1-4	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2-1-6	A	04-13	28 IR 1248	28 IR 3235	328 IAC 1-1-5.1	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2-1-8	A	04-13	28 IR 1255	28 IR 3236	328 IAC 1-1-7.5	N	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2-1-9	A	04-13	28 IR 1256	*ERR (28 IR 3583)	328 IAC 1-1-8	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
327 IAC 8-2-1-14	A	04-13	28 IR 1257	28 IR 3240	328 IAC 1-1-8.3	N	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 124
327 IAC 8-2-1-16	A	04-13	28 IR 1257	28 IR 3247	328 IAC 1-1-8.5	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
				*ERR (28 IR 3583)	328 IAC 1-1-9	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-2-1-17	A	04-13	28 IR 1261	28 IR 3248	328 IAC 1-1-10	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-2-6-1	A	04-13	28 IR 1268	*ERR (28 IR 3583)	328 IAC 1-2-1	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-2-6-2	A	04-13	28 IR 1269	28 IR 3250	328 IAC 1-2-3	A	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 125
				*ERR (28 IR 3583)	328 IAC 1-3-1	A	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 126
327 IAC 8-2-6-2.1	N	04-13	28 IR 1271	28 IR 3252	328 IAC 1-3-1.3	N	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 126
				*ERR (28 IR 3583)	328 IAC 1-3-1.6	N	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-2-6-3	A	04-13	28 IR 1273	28 IR 3253	328 IAC 1-3-2	A	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-2-6-4	A	04-13	28 IR 1274	28 IR 3253					
327 IAC 8-2-6-5	A	04-13	28 IR 1274						
327 IAC 8-3-1	A	04-106	28 IR 2165						
327 IAC 8-3-1.1	A	04-106	28 IR 2166						
327 IAC 8-3-2	A	04-106	28 IR 2166						
327 IAC 8-3-2.1	N	04-106	28 IR 2167						
327 IAC 8-3-3	A	04-106	28 IR 2168						
327 IAC 8-3-8	A	04-106	28 IR 2168						
327 IAC 8-3-1-1	A	04-106	28 IR 2169						
327 IAC 8-3-1-2	A	04-106	28 IR 2169						

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328 IAC 1-3-3	A	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127				*CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
328 IAC 1-3-4	A	02-204	27 IR 2783	*ERR (28 IR 608) *CPH (27 IR 3095) 28 IR 129	329 IAC 9-1-10.2	R	01-161	27 IR 3209 26 IR 1239 28 IR 177
328 IAC 1-3-5	A	02-204	27 IR 2784	*CPH (27 IR 3095) 28 IR 129				*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)
328 IAC 1-3-6	A	02-204	27 IR 2791	*CPH (27 IR 3095) 28 IR 137				*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)
328 IAC 1-4-1	A	02-204	27 IR 2791	*CPH (27 IR 3095) 28 IR 137				*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)
328 IAC 1-4-1.5	N	02-204		*ERR (28 IR 608) †† 28 IR 140				*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)
328 IAC 1-4-3	A	02-204	27 IR 2794	*CPH (27 IR 3095) 28 IR 141	329 IAC 9-1-10.4	N	01-161	27 IR 3209 26 IR 1209 28 IR 177
328 IAC 1-4-4	N	02-204	27 IR 2795	*ERR (28 IR 608) *CPH (27 IR 3095) 28 IR 141				*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)
328 IAC 1-4-5	N	02-204		*ERR (28 IR 608) †† 28 IR 141				*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)
328 IAC 1-5-1	A	02-204	27 IR 2795	*CPH (27 IR 3095) 28 IR 142				*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)
328 IAC 1-5-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 142				*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)
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	27 IR 3177 26 IR 1209 28 IR 146
328 IAC 1-6-1	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143				*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)
328 IAC 1-6-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143				*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)
328 IAC 1-7-2	A	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144				*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)
328 IAC 1-7-3	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144				*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)
TITLE 329 SOLID WASTE MANAGEMENT BOARD								
329 IAC 3.1-1-7	A	03-312	27 IR 4110	28 IR 2661				*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
329 IAC 3.1-6-2	A	03-312	27 IR 4111	28 IR 2662				*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
329 IAC 3.1-6-3	A	03-312	27 IR 4112	28 IR 2663				*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
329 IAC 3.1-6-6	A	04-318	28 IR 2194	28 IR 3553				*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
329 IAC 3.1-7.5	N	03-312	27 IR 4112	28 IR 2663				*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
329 IAC 3.1-12-2	A	03-312	27 IR 4113	28 IR 2665				*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
329 IAC 3.1-13-2	A	03-312	27 IR 4114	28 IR 2665				*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
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 (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 145	329 IAC 9-1-14	A	01-161	27 IR 3178 26 IR 1210 28 IR 146
329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 145	329 IAC 9-1-14.1	R	01-161	27 IR 3178 26 IR 1239 28 IR 146
329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 145	329 IAC 9-1-14.3	N	01-161	27 IR 3209 26 IR 1210 28 IR 177

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				*CPH (27 IR 2299)				*CPH (26 IR 3367)
				*CPH (27 IR 2300)				*CPH (26 IR 3671)
				*ARR (27 IR 2500)				*CPH (27 IR 2299)
				*CPH (27 IR 2521)				*CPH (27 IR 2300)
				28 IR 146				*ARR (27 IR 2500)
329 IAC 9-1-14.5	N	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962)			27 IR 3179	*CPH (27 IR 2521)
				*CPH (26 IR 2646)			28 IR 147	
				*CPH (26 IR 3073)	329 IAC 9-1-41	R	01-161	26 IR 1239
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 146				*CPH (27 IR 2300)
329 IAC 9-1-14.7	N	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962)			27 IR 3209	*ARR (27 IR 2500)
				*CPH (26 IR 2646)			28 IR 177	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-1-41.1	R	01-161	26 IR 1239
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 146				*CPH (27 IR 2300)
329 IAC 9-1-25	A	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962)			27 IR 3209	*ARR (27 IR 2500)
				*CPH (26 IR 2646)			28 IR 177	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-1-41.5	N	01-161	26 IR 1211
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 146				*CPH (27 IR 2300)
329 IAC 9-1-27	A	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962)			27 IR 3209	*ARR (27 IR 2500)
				*CPH (26 IR 2646)			28 IR 177	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-1-42.1	R	01-161	26 IR 1239
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 146				*CPH (27 IR 2300)
329 IAC 9-1-29.1	R	01-161	27 IR 3178 26 IR 1239	*CPH (26 IR 1962)			27 IR 3179	*ARR (27 IR 2500)
				*CPH (26 IR 2646)			28 IR 147	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-1-47	A	01-161	26 IR 1211
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 147				*CPH (27 IR 2300)
329 IAC 9-1-29.1	R	01-161	27 IR 3178 26 IR 1239	*CPH (26 IR 1962)			27 IR 3209	*ARR (27 IR 2500)
				*CPH (26 IR 2646)			28 IR 177	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-1-47	A	01-161	26 IR 1211
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 147				*CPH (27 IR 2300)
329 IAC 9-1-36	A	01-161	27 IR 3209 26 IR 1210	*CPH (26 IR 1962)			27 IR 3179	*ARR (27 IR 2500)
				*CPH (26 IR 2646)			28 IR 147	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-1-47.1	A	01-161	26 IR 1211
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				*CPH (26 IR 3073)
				*CPH (27 IR 2300)				*CPH (26 IR 3367)
				*ARR (27 IR 2500)				*CPH (26 IR 3671)
				*CPH (27 IR 2521)				*CPH (27 IR 2299)
				28 IR 177				*CPH (27 IR 2300)
329 IAC 9-1-36.5	N	01-161	27 IR 3179	*CPH (26 IR 1962)			27 IR 3179	*ARR (27 IR 2500)
329 IAC 9-1-39.5	N	01-161	27 IR 3179 26 IR 1211	*CPH (26 IR 2646)			28 IR 147	*CPH (27 IR 2521)
				*CPH (26 IR 3073)	329 IAC 9-2-1	A	01-161	26 IR 1211
				*CPH (26 IR 3367)				*CPH (26 IR 1962)
				*CPH (26 IR 3671)				*CPH (26 IR 2646)
				*CPH (27 IR 2299)				
				*CPH (27 IR 2300)				
				*ARR (27 IR 2500)				
				*CPH (27 IR 2521)				
				28 IR 147				
				28 IR 147				

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			*CPH (26 IR 3073)	329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962)
			*CPH (26 IR 3367)					*CPH (26 IR 2646)
			*CPH (26 IR 3671)					*CPH (26 IR 3073)
			*CPH (27 IR 2299)					*CPH (26 IR 3367)
			*CPH (27 IR 2300)					*CPH (26 IR 3671)
			*ARR (27 IR 2500)					*CPH (27 IR 2299)
			*CPH (27 IR 2521)					*CPH (27 IR 2300)
		27 IR 3179	28 IR 148					*ARR (27 IR 2500)
329 IAC 9-2-2	A	01-161	26 IR 1214					*CPH (27 IR 2521)
			*CPH (26 IR 1962)					28 IR 156
			*CPH (26 IR 2646)	329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962)
			*CPH (26 IR 3073)					*CPH (26 IR 2646)
			*CPH (26 IR 3367)					*CPH (26 IR 3073)
			*CPH (26 IR 3671)					*CPH (26 IR 3367)
			*CPH (27 IR 2299)					*CPH (26 IR 3671)
			*CPH (27 IR 2300)					*CPH (27 IR 2299)
			*ARR (27 IR 2500)					*CPH (27 IR 2300)
			*CPH (27 IR 2521)					*ARR (27 IR 2500)
		27 IR 3182	28 IR 150					*CPH (27 IR 2521)
			*ERR (28 IR 608)					28 IR 156
329 IAC 9-2.1-1	A	01-161	26 IR 1215					*CPH (26 IR 1962)
			*CPH (26 IR 1962)	329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 2646)
			*CPH (26 IR 2646)					*CPH (26 IR 3073)
			*CPH (26 IR 3073)					*CPH (26 IR 3367)
			*CPH (26 IR 3367)					*CPH (26 IR 3671)
			*CPH (26 IR 3671)					*CPH (27 IR 2299)
			*CPH (27 IR 2299)					*CPH (26 IR 3671)
			*CPH (27 IR 2300)					*CPH (27 IR 2299)
			*ARR (27 IR 2500)					*CPH (27 IR 2300)
			*CPH (27 IR 2521)					*ARR (27 IR 2500)
		27 IR 3183	28 IR 151					*CPH (27 IR 2521)
329 IAC 9-3-1	A	01-161	26 IR 1216					28 IR 157
			*CPH (26 IR 1962)	329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962)
			*CPH (26 IR 2646)					*CPH (26 IR 2646)
			*CPH (26 IR 3073)					*CPH (26 IR 3073)
			*CPH (26 IR 3367)					*CPH (26 IR 3367)
			*CPH (26 IR 3671)					*CPH (26 IR 3671)
			*CPH (27 IR 2299)					*CPH (27 IR 2299)
			*CPH (27 IR 2300)					*CPH (27 IR 2300)
			*ARR (27 IR 2500)					*ARR (27 IR 2500)
			*CPH (27 IR 2521)					*CPH (27 IR 2521)
		27 IR 3184	28 IR 152					28 IR 158
329 IAC 9-3-2	N	01-161	26 IR 1218					*CPH (26 IR 1962)
			*CPH (26 IR 1962)	329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 2646)
			*CPH (26 IR 2646)					*CPH (26 IR 3073)
			*CPH (26 IR 3073)					*CPH (26 IR 3367)
			*CPH (26 IR 3367)					*CPH (26 IR 3671)
			*CPH (26 IR 3671)					*CPH (27 IR 2299)
			*CPH (27 IR 2299)					*CPH (27 IR 2300)
			*CPH (27 IR 2300)					*ARR (27 IR 2500)
			*ARR (27 IR 2500)					*CPH (27 IR 2521)
			*CPH (27 IR 2521)					28 IR 158
		27 IR 3187	28 IR 155					*CPH (26 IR 1962)
329 IAC 9-3.1-1	A	01-161	26 IR 1218					*CPH (26 IR 2646)
			*CPH (26 IR 1962)	329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 3073)
			*CPH (26 IR 2646)					*CPH (26 IR 3367)
			*CPH (26 IR 3073)					*CPH (26 IR 3671)
			*CPH (26 IR 3367)					*CPH (27 IR 2299)
			*CPH (26 IR 3671)					*CPH (27 IR 2300)
			*CPH (27 IR 2299)					*ARR (27 IR 2500)
			*CPH (27 IR 2300)					*CPH (27 IR 2521)
			*ARR (27 IR 2500)					28 IR 158
			*CPH (27 IR 2521)					*CPH (26 IR 1962)
		27 IR 3187	28 IR 155					*CPH (26 IR 2646)
329 IAC 9-3.1-2	A	01-161	26 IR 1219					*CPH (26 IR 3073)
			*CPH (26 IR 1962)	329 IAC 9-5-3.1	R	01-161	26 IR 1239	*CPH (26 IR 3367)
			*CPH (26 IR 2646)					*CPH (26 IR 3671)
			*CPH (26 IR 3073)					*CPH (27 IR 2299)
			*CPH (26 IR 3367)					*CPH (27 IR 2300)
			*CPH (26 IR 3671)					*ARR (27 IR 2500)
			*CPH (27 IR 2299)					*CPH (27 IR 2521)
			*CPH (27 IR 2300)					28 IR 160
			*ARR (27 IR 2500)					*CPH (26 IR 1962)
			*CPH (27 IR 2521)					*CPH (26 IR 2646)
		27 IR 3187	28 IR 155					*CPH (26 IR 3073)
			*CPH (26 IR 1962)					*CPH (26 IR 3367)
			*CPH (26 IR 2646)					*CPH (26 IR 3671)
			*CPH (26 IR 3073)					*CPH (27 IR 2299)
			*CPH (26 IR 3367)					*CPH (27 IR 2300)
			*CPH (26 IR 3671)					*ARR (27 IR 2500)
			*CPH (27 IR 2299)					*CPH (27 IR 2521)
			*CPH (27 IR 2300)					28 IR 177
			*ARR (27 IR 2500)					
			*CPH (27 IR 2521)					
		27 IR 3187	28 IR 155					

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329 IAC 9-5-3.2	N	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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)
			27 IR 3192	28 IR 160				27 IR 3209	28 IR 177
329 IAC 9-5-4.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	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)
			27 IR 3209	28 IR 177				27 IR 3200	28 IR 168
329 IAC 9-5-4.2	N	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *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)
			27 IR 3192	28 IR 160				27 IR 3204	28 IR 172
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

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329 IAC 9-7-4	A	01-161	26 IR 1237	*CPH (26 IR 1962)	345 IAC 7-5-22	A	04-16	27 IR 2798	28 IR 559
				*CPH (26 IR 2646)	345 IAC 8-2-1.1	A	04-286	28 IR 1821	28 IR 3557
				*CPH (26 IR 3073)	345 IAC 8-2-1.5	A	04-286	28 IR 1823	28 IR 3560
				*CPH (26 IR 3367)	345 IAC 8-2-1.6	N	04-286	28 IR 1824	28 IR 3560
				*CPH (26 IR 3671)	345 IAC 8-2-1.7	A	04-286	28 IR 1824	28 IR 3560
				*CPH (27 IR 2299)	345 IAC 8-2-1.9	A	04-286	28 IR 1825	28 IR 3561
				*CPH (27 IR 2300)	345 IAC 8-2-4	A	04-286	28 IR 1826	28 IR 3562
				*ARR (27 IR 2500)	345 IAC 8-3-1	A	04-286	28 IR 1828	28 IR 3564
				*CPH (27 IR 2521)	345 IAC 8-3-2	A	04-286	28 IR 1829	28 IR 3565
			27 IR 3207	28 IR 175	345 IAC 8-3-12	N	04-286	28 IR 1829	28 IR 3565
329 IAC 9-7-5	A	01-161	27 IR 3209	28 IR 177	345 IAC 8-4-1	A	04-286	28 IR 1830	28 IR 3566
329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962)	345 IAC 9-2.1-1	A	05-70	28 IR 3648	
				*CPH (26 IR 2646)	345 IAC 9-12-2	A	05-70	28 IR 3649	
				*CPH (26 IR 3073)	345 IAC 9-20-2	A	05-70	28 IR 3650	
				*CPH (26 IR 3367)	345 IAC 9-21.5	N	05-70	28 IR 3650	
				*CPH (26 IR 3671)	345 IAC 10-2-5	N	04-135	27 IR 4119	28 IR 1473
				*CPH (27 IR 2299)	345 IAC 10-2.1-1	A	04-135	27 IR 4119	28 IR 1474
				*CPH (27 IR 2300)		A	05-70	28 IR 3650	
				*ARR (27 IR 2500)					
				*CPH (27 IR 2521)					
			27 IR 3209	28 IR 177	TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA				
329 IAC 9-8-13				*ERR (28 IR 2391)	355 IAC 2-1-1	A	04-312	28 IR 1838	28 IR 3570
329 IAC 10-2-112	A	04-256	28 IR 1301	28 IR 2670	355 IAC 2-1-6	A	04-312	28 IR 1838	28 IR 3571
329 IAC 10-8-2				*ERR (28 IR 608)	355 IAC 2-2-1	A	04-312	28 IR 1839	28 IR 3571
329 IAC 10-9-2				*ERR (28 IR 608)	355 IAC 2-2-1.5	N	04-312	28 IR 1839	28 IR 3571
329 IAC 10-9-4				*ERR (28 IR 608)	355 IAC 2-2-6	A	04-312	28 IR 1839	28 IR 3571
				*ERR (28 IR 608)	355 IAC 2-2-9	A	04-312	28 IR 1839	28 IR 3571
				*ERR (28 IR 1485)	355 IAC 2-2-10	A	04-312	28 IR 1839	28 IR 3571
329 IAC 10-11-6.5	N	04-256	28 IR 1301	28 IR 2670	355 IAC 2-2-13	A	04-312	28 IR 1840	28 IR 3572
329 IAC 10-20-14.1				*ERR (28 IR 608)	355 IAC 2-2-14	A	04-312	28 IR 1840	28 IR 3572
329 IAC 10-36-19				*ERR (28 IR 608)	355 IAC 2-2-15	A	04-312	28 IR 1840	28 IR 3572
329 IAC 11-3-2				*ERR (28 IR 608)	355 IAC 2-2-17	A	04-312	28 IR 1840	28 IR 3572
329 IAC 11-8-2.5				*ERR (28 IR 608)	355 IAC 2-3-4	A	04-312	28 IR 1840	28 IR 3572
329 IAC 11-19-3				*ERR (28 IR 608)	355 IAC 2-3-6	A	04-312	28 IR 1841	28 IR 3573
329 IAC 11-20-1				*ERR (27 IR 4023)	355 IAC 2-3-8	A	04-312	28 IR 1841	28 IR 3573
329 IAC 12-8-4	A	03-286	27 IR 3696	*GRAT (28 IR 2204)	355 IAC 2-3-11	A	04-312	28 IR 1841	28 IR 3573
				28 IR 2127	355 IAC 2-3-12	A	04-312	28 IR 1841	28 IR 3573
329 IAC 12-8-5	A	03-286	27 IR 3697	*GRAT (28 IR 2204)	355 IAC 2-4-1	A	04-312	28 IR 1842	28 IR 3574
				28 IR 2128	355 IAC 2-4-4	R	04-312	28 IR 1846	28 IR 3578
329 IAC 12-9-2	A	03-286	27 IR 3698	*GRAT (28 IR 2204)	355 IAC 2-5-1	A	04-312	28 IR 1842	28 IR 3575
				28 IR 2128	355 IAC 2-5-2	A	04-312	28 IR 1843	28 IR 3575
329 IAC 13-3-1	A	03-312	27 IR 4115	28 IR 2666	355 IAC 2-5-3	A	04-312	28 IR 1844	28 IR 3576
329 IAC 13-3-4	N	03-312	27 IR 4116	28 IR 2668	355 IAC 2-5-4	A	04-312	28 IR 1844	28 IR 3576
329 IAC 13-9-5	A	03-312	27 IR 4117	28 IR 2669	355 IAC 2-5-6	A	04-312	28 IR 1844	28 IR 3576
329 IAC 15-1-1				*ER (28 IR 214)	355 IAC 2-5-8	A	04-312	28 IR 1844	28 IR 3576
					355 IAC 2-5-12	A	04-312	28 IR 1845	28 IR 3577
					355 IAC 2-5-12.5	A	04-312	28 IR 1845	28 IR 3577
					355 IAC 2-5-13	A	04-312	28 IR 1846	28 IR 3578
					355 IAC 2-5-14	R	04-312	28 IR 1846	28 IR 3578
					355 IAC 2-6-1.5	A	04-312	28 IR 1846	28 IR 3578
					355 IAC 2-6-2	R	04-312	28 IR 1846	28 IR 3578
					355 IAC 2-8	R	04-312	28 IR 1846	28 IR 3578
					355 IAC 2-9-1	A	04-312	28 IR 1846	28 IR 3578
					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	
				28 IR 2353	355 IAC 4-6-3	A	04-311	28 IR 1837	
				28 IR 3556	355 IAC 4-6-4	R	04-311	28 IR 1838	
				28 IR 2687	355 IAC 4-6-6	R	04-311	28 IR 1838	
				28 IR 559	355 IAC 4-6-10	R	04-311	28 IR 1838	

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345 IAC 1-2-5	N	04-248	28 IR 1818	28 IR 3554
345 IAC 1-3-6.5	R	04-147	27 IR 4136	28 IR 2687
345 IAC 1-3-7	A	04-147	27 IR 4120	28 IR 2671
345 IAC 1-3-9	R	04-147	27 IR 4136	28 IR 2687
345 IAC 1-3-10	A	04-147	27 IR 4121	28 IR 2672
345 IAC 1-3-20	R	05-41	28 IR 3648	
345 IAC 1-3-31	A	04-287	28 IR 1833	28 IR 3569
345 IAC 1-5-3	A	05-90	28 IR 3652	
345 IAC 2-4.1	R	04-147	27 IR 4136	28 IR 2687
345 IAC 2.5	N	04-147	27 IR 4121	28 IR 2672
345 IAC 4-4-1	A	04-135	27 IR 4118	28 IR 1473
345 IAC 5-1-1	R	05-41	28 IR 3648	
345 IAC 5-1-2	R	05-41	28 IR 3648	
345 IAC 5-2	N	05-41	28 IR 3633	
345 IAC 5-3	N	05-41	28 IR 3641	
345 IAC 5-4	N	05-41	28 IR 3642	
345 IAC 5-5	N	05-41	28 IR 3644	
345 IAC 5-6	N	05-41	28 IR 3645	
345 IAC 5-7	N	05-41	28 IR 3646	
345 IAC 6-2	N	04-158	28 IR 1000	28 IR 2353
345 IAC 7-4.5	N	04-248	28 IR 1820	28 IR 3556
345 IAC 7-5-12	A	04-147	27 IR 4135	28 IR 2687
345 IAC 7-5-15.1	A	04-16	27 IR 2797	28 IR 559

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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 1-1-3.1	N	04-321	28 IR 2196	*NRA (28 IR 3321) 28 IR 3579
405 IAC 1-1-5	A	04-178	28 IR 258	*NRA (28 IR 1497) 28 IR 2129
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) 28 IR 2131
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) 28 IR 2134
405 IAC 1-12-27	N	05-113	28 IR 3654	
405 IAC 1-14.5-27	N	05-114	28 IR 3655	
405 IAC 1-14.6-23	N	05-114	28 IR 3655	
405 IAC 2-2-3	A	04-319	28 IR 1847	*NRA (28 IR 2752)
405 IAC 2-3-10	A	03-263	27 IR 1210	*ARR (27 IR 4024) *NRA (27 IR 4044) 28 IR 178
	A	04-321	28 IR 2196	*NRA (28 IR 3321) 28 IR 3579
405 IAC 2-9-5	A	04-319	28 IR 1848	*NRA (28 IR 2752)
405 IAC 5-1-5	A	04-178	28 IR 260	*NRA (28 IR 1497) 28 IR 2131
405 IAC 5-3-13	A	04-178	28 IR 260	*NRA (28 IR 1497) 28 IR 2132
405 IAC 5-9-1	A	04-178	28 IR 261	*NRA (28 IR 1497) 28 IR 2132
405 IAC 5-19-1	A	04-178	28 IR 261	*NRA (28 IR 1497) 28 IR 2133
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) 28 IR 2134
405 IAC 5-24-4	A	05-76	28 IR 3653	
405 IAC 5-24-5	A	05-76	28 IR 3653	
405 IAC 5-26-5	A	04-178	28 IR 262	*NRA (28 IR 1497) 28 IR 2134
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
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 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

407 IAC 2-2-3	A	05-155	28 IR 3656
407 IAC 2-3-1	A	05-156	28 IR 3657

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 1-2.4	N	04-100	28 IR 2806	
410 IAC 1-6	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 6-7.2-28				*ERR (28 IR 1695)
410 IAC 6-7.2-29				*ERR (28 IR 2391)
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)
410 IAC 15-2.1	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 15-2.2	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 15-2.3	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 15-2.4	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 15-2.5	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 15-2.6	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 15-2.6-1				*ERR (28 IR 1695)
410 IAC 15-2.7	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 16.2-1.1-19.3	N	04-7	27 IR 2542	28 IR 189
410 IAC 16.2-3.1-2	A	03-297	27 IR 2536	28 IR 182
	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	28 IR 2356
410 IAC 21-3-8	A	04-161	28 IR 656	28 IR 2355
410 IAC 21-3-9	A	04-161	28 IR 656	28 IR 2355

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2-1-2.1	A	05-35	28 IR 3341
412 IAC 2-1-10	A	05-35	28 IR 3341
412 IAC 2-1-13	R	05-35	28 IR 3342
412 IAC 2-1-14	A	05-35	28 IR 3342

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TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 7.5-1-1	A	04-229	28 IR 657	*NRA (28 IR 1497) 28 IR 2356
440 IAC 7.5-2-1	A	04-229	28 IR 660	*NRA (28 IR 1497) 28 IR 2359
440 IAC 7.5-2-8	A	04-229	28 IR 661	*NRA (28 IR 1497) 28 IR 2359
440 IAC 7.5-2-12	A	04-229	28 IR 661	*NRA (28 IR 1497) 28 IR 2360
440 IAC 7.5-2-13	A	04-229	28 IR 662	*NRA (28 IR 1497) 28 IR 2361
440 IAC 7.5-3-3	A	04-229	28 IR 663	*NRA (28 IR 1497) 28 IR 2362
440 IAC 7.5-3-4	A	04-229	28 IR 664	*NRA (28 IR 1497) 28 IR 2363
440 IAC 7.5-3-7	A	04-229	28 IR 664	*NRA (28 IR 1497) 28 IR 2363
440 IAC 7.5-4-4	A	04-229		*NRA (28 IR 1497) ††28 IR 2363
440 IAC 7.5-4-7	A	04-229	28 IR 664	*NRA (28 IR 1497) 28 IR 2364
440 IAC 7.5-4-8	A	04-229	28 IR 665	*NRA (28 IR 1497) 28 IR 2364
440 IAC 7.5-5-1	A	04-229	28 IR 665	*NRA (28 IR 1497) 28 IR 2364
440 IAC 7.5-8-1	A	04-229	28 IR 666	*NRA (28 IR 1497) 28 IR 2365
440 IAC 7.5-8-2	A	04-229	28 IR 666	*NRA (28 IR 1497) 28 IR 2365
440 IAC 7.5-8-3	A	04-229	28 IR 666	*NRA (28 IR 1497) 28 IR 2365
440 IAC 7.5-9-1	A	04-229	28 IR 666	*NRA (28 IR 1497) 28 IR 2365
440 IAC 7.5-9-2	A	04-229	28 IR 666	*NRA (28 IR 1497) 28 IR 2366
440 IAC 7.5-9-3	A	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2366
440 IAC 7.5-10-1	A	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2366
440 IAC 7.5-10-2	A	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2366
440 IAC 7.5-10-3	N	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2367
440 IAC 7.5-11	N	04-229	28 IR 667	*NRA (28 IR 1497) 28 IR 2367

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-3-4	N	04-75	28 IR 1002	*NRA (28 IR 1497) *AROC (28 IR 2461)
460 IAC 1-8-3	A	04-199	28 IR 1007	*NRA (28 IR 1497) 28 IR 2690
460 IAC 1-8-11	N	04-199	28 IR 1007	*NRA (28 IR 1497) 28 IR 2691
460 IAC 1-8-12	N	04-199	28 IR 1008	*NRA (28 IR 1497) 28 IR 2691
460 IAC 1-8-13	N	04-199	28 IR 1008	*NRA (28 IR 1497) 28 IR 2691
460 IAC 1-10	N	03-231	27 IR 3303	*NRA (28 IR 233) 28 IR 910
460 IAC 1-11	N	04-136	28 IR 1004	*NRA (28 IR 1497) 28 IR 2687
460 IAC 1.1	N	03-245	27 IR 2799	*AROC (27 IR 3344) *NRA (28 IR 233) *GRAT (28 IR 2204) 28 IR 912
460 IAC 2-2.1	N	04-76	27 IR 3701	*NRA (28 IR 233) 28 IR 2368
460 IAC 3.5-2-3	N	04-269	28 IR 1303	*AWR (28 IR 1697)

TITLE 470 DIVISION OF FAMILY RESOURCES

470 IAC 3-1.1-0.5	A	04-77	27 IR 2837	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-1	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-2	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-4	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-6	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-7.2	A	04-77	27 IR 2838	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-7.4	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-8	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-9	R	04-77	27 IR 2857	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-10	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-12	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-12.5	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-13	A	04-77	27 IR 2839	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-14	A	04-77	27 IR 2840	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)

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470 IAC 3-1.1-44.5	N	04-77	27 IR 2850	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.2-7	A	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-45	A	04-77	27 IR 2850	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.2-8	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-45.5	N	04-77	27 IR 2850	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-1	A	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-46	A	04-77	27 IR 2851	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-2	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-47	A	04-77	27 IR 2852	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-3	N	04-77	27 IR 2855	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-48	A	04-77	27 IR 2852	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-4	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-50	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-5	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.1-51	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-6	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.2-2	A	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-1.3-7	N	04-77	27 IR 2856	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)
470 IAC 3-1.2-3	A	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-4.8	N	03-232	27 IR 1626	*AROC (27 IR 2882) *NRA (27 IR 4044) 28 IR 196
470 IAC 3-1.2-3.2	N	04-77	27 IR 2853	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	470 IAC 3-18	N	03-233	27 IR 1627	*AROC (27 IR 3345) *NRA (28 IR 233) 28 IR 950
470 IAC 3-1.2-4	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	TITLE 511 INDIANA STATE BOARD OF EDUCATION				
470 IAC 3-1.2-5	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	511 IAC 1-2.5-1				*ERR (28 IR 3306)
470 IAC 3-1.2-6	A	04-77	27 IR 2854	*NRA (28 IR 1196) *AROC (28 IR 1317) *ARR (28 IR 2140) *GRAT (28 IR 2205) *AWR (28 IR 2393)	511 IAC 1-3-1	A	04-101	27 IR 3305	28 IR 965 *ERR (28 IR 3306)
					511 IAC 1-3-2				*ERR (28 IR 3306)
					511 IAC 1-6-1				*ERR (28 IR 3306)
					511 IAC 1-6-2				*ERR (28 IR 3306)
					511 IAC 1-6-3				*ERR (28 IR 3306)
					511 IAC 1-6-4				*ERR (28 IR 3306)
					511 IAC 1-6-5				*ERR (28 IR 3306)
					511 IAC 1-7-1				*ERR (28 IR 3306)
					511 IAC 1-8-2				*ERR (28 IR 3306)
					511 IAC 1-8-7				*ERR (28 IR 3306)
					511 IAC 1-8-11				*ERR (28 IR 3306)
					511 IAC 1-9	RA	04-47	27 IR 2879	28 IR 323 *ERR (28 IR 3306)
					511 IAC 4-4-3				*ERR (28 IR 3306)
					511 IAC 5-1-1				*ERR (28 IR 3306)

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511 IAC 5-2-4				*ERR (28 IR 3306)	511 IAC 7-17-16			*ERR (28 IR 3307)
511 IAC 5-2-4.5	N	04-214	28 IR 668	28 IR 2692	511 IAC 7-18-1			*ERR (28 IR 3307)
511 IAC 5-3-2				*ERR (28 IR 3306)	511 IAC 7-18-2			*ERR (28 IR 3307)
511 IAC 6-7-1	RA	04-47	27 IR 2879	28 IR 323	511 IAC 7-27-4			*ERR (28 IR 3308)
511 IAC 6-7-2				*ERR (28 IR 3306)	511 IAC 8	RA	04-47	27 IR 2879
511 IAC 6-7-6	RA	04-47	27 IR 2879	28 IR 323	511 IAC 8-1-1			28 IR 323
				*ERR (28 IR 3306)	511 IAC 8-1-1			*ERR (28 IR 3308)
				*ERR (28 IR 3306)	511 IAC 9-1-0.5			*ERR (28 IR 3308)
511 IAC 6-7-6.1				*ERR (28 IR 3306)	511 IAC 9-1-1			*ERR (28 IR 3308)
511 IAC 6-7-6.5	A	04-36	27 IR 2552	28 IR 959	511 IAC 9-1-2			*ERR (28 IR 3308)
511 IAC 6-7-1	N	04-277	28 IR 1303		511 IAC 9-2-2			*ERR (28 IR 3308)
511 IAC 6-7-1-4.5	N	04-276	28 IR 1849	*AWR (28 IR 2992)	511 IAC 9-5-2			*ERR (28 IR 3308)
511 IAC 6-9-1	RA	05-15	28 IR 2459	28 IR 3052	511 IAC 9-5-4			*ERR (28 IR 3308)
511 IAC 6-10-1				*ERR (28 IR 3306)	511 IAC 9-6-1			*ERR (28 IR 3308)
511 IAC 6.1-1-1				*ERR (28 IR 3306)	511 IAC 10-6-1			*ERR (28 IR 3308)
511 IAC 6.1-1-2				*ERR (28 IR 3306)	511 IAC 10-6-3			*ERR (28 IR 3308)
511 IAC 6.1-1-4				*ERR (28 IR 3306)	511 IAC 10-6-5			*ERR (28 IR 3308)
511 IAC 6.1-1-9				*ERR (28 IR 3306)	511 IAC 11-7-3			*ERR (28 IR 3308)
511 IAC 6.1-1-13.5				*ERR (28 IR 3306)	511 IAC 12-2-4			*ERR (28 IR 3308)
511 IAC 6.1-2-2.5	RA	04-47	27 IR 2879	28 IR 323				
511 IAC 6.1-2-4				*ERR (28 IR 3306)	TITLE 514 INDIANA SCHOOL FOR THE DEAF BOARD			
511 IAC 6.1-2-5				*ERR (28 IR 3306)	514 IAC	N	03-298	27 IR 1634
511 IAC 6.1-5-1				*ERR (28 IR 3306)				28 IR 197
511 IAC 6.1-5-2.5				*ERR (28 IR 3306)	TITLE 515 PROFESSIONAL STANDARDS, ADVISORY BOARD			
511 IAC 6.1-5-3				*ERR (28 IR 3306)	OF THE DIVISION OF			
511 IAC 6.1-5-4	RA	04-47	27 IR 2879	28 IR 323	515 IAC 1-1-89			*ERR (28 IR 3308)
				*ERR (28 IR 3306)	515 IAC 1-1-93			*ERR (28 IR 3308)
				*ERR (28 IR 3307)	515 IAC 1-2-17			*ERR (28 IR 3308)
511 IAC 6.1-5-5					515 IAC 1-2-18			*ERR (28 IR 3308)
511 IAC 6.1-5.1-1	A	04-317	28 IR 2198	28 IR 960	515 IAC 1-4-1	A	03-320	27 IR 2558
511 IAC 6.1-5.1-2	A	04-36	27 IR 2553	28 IR 960				*ARR (28 IR 610)
511 IAC 6.1-5.1-3	A	04-36	27 IR 2553	28 IR 961				28 IR 1475
511 IAC 6.1-5.1-4	A	04-36	27 IR 2554	28 IR 962	515 IAC 1-4-2	A	03-320	27 IR 2558
511 IAC 6.1-5.1-5	A	04-36	27 IR 2555	28 IR 962				*ARR (28 IR 610)
511 IAC 6.1-5.1-6	A	04-36	27 IR 2555	28 IR 962				28 IR 1475
511 IAC 6.1-5.1-8	A	04-36	27 IR 2556	28 IR 963	515 IAC 1-6-1			*ERR (28 IR 3308)
511 IAC 6.1-5.1-9	A	04-36	27 IR 2557	28 IR 964	515 IAC 1-6-4			*ERR (28 IR 3308)
	A	04-317	28 IR 2199		515 IAC 1-6-6			*ERR (28 IR 3308)
511 IAC 6.1-5.1-10.1	A	04-22	27 IR 2550	28 IR 957	515 IAC 1-7-13			*ERR (28 IR 3308)
	A	04-317	28 IR 2200		515 IAC 1-7-16			*ERR (28 IR 3308)
511 IAC 6.1-5.1-11	A	04-317	28 IR 2202		515 IAC 2-1-3			*ERR (28 IR 3308)
511 IAC 6.1-6-1				*ERR (28 IR 3307)	515 IAC 2-1-4			*ERR (28 IR 3308)
511 IAC 6.1-6-2				*ERR (28 IR 3307)	515 IAC 4-1-2			*ERR (28 IR 3308)
511 IAC 6.1-8-1				*ERR (28 IR 3307)	515 IAC 4-1-3			*ERR (28 IR 3308)
511 IAC 6.1-8-4				*ERR (28 IR 3307)	515 IAC 4-2-6			*ERR (28 IR 3308)
511 IAC 6.1-9-4				*ERR (28 IR 3307)	515 IAC 4-2-7			*ERR (28 IR 3308)
511 IAC 6.1-10-1				*ERR (28 IR 3307)	515 IAC 5-1-4			*ERR (28 IR 3308)
511 IAC 6.1-10-3				*ERR (28 IR 3307)	515 IAC 8-1-1			*ERR (28 IR 3308)
511 IAC 6.1-10-5				*ERR (28 IR 3307)	515 IAC 8-1-23	A	03-321	27 IR 2330
511 IAC 6.2-1-1				*ERR (28 IR 3307)				28 IR 1477
511 IAC 6.2-2-2				*ERR (28 IR 3307)	515 IAC 8-1-42	A	03-321	27 IR 2330
511 IAC 6.2-2-4				*ERR (28 IR 3307)				*ARR (28 IR 610)
511 IAC 6.2-2-5				*ERR (28 IR 3307)				28 IR 1478
511 IAC 6.2-2-6				*ERR (28 IR 3307)	515 IAC 9-1-1			*ERR (28 IR 3308)
511 IAC 6.2-2-7				*ERR (28 IR 3307)	515 IAC 9-1-18			*ERR (28 IR 3309)
511 IAC 6.2-2-8				*ERR (28 IR 3307)	515 IAC 9-1-19			*ERR (28 IR 3309)
511 IAC 6.2-2-9				*ERR (28 IR 3307)	515 IAC 9-1-22	A	03-322	27 IR 2331
511 IAC 6.2-2-11				*ERR (28 IR 3307)				28 IR 1479
511 IAC 6.2-2-12				*ERR (28 IR 3307)	515 IAC 10	N	04-197	28 IR 263
511 IAC 6.2-2.5-4				*ERR (28 IR 3307)	515 IAC 12	N	04-141	27 IR 3703
511 IAC 6.2-2.5-9				*ERR (28 IR 3307)				28 IR 2135
511 IAC 6.2-3-1				*ERR (28 IR 3307)	TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY			
511 IAC 6.2-3-3				*ERR (28 IR 3307)	540 IAC 1-1-11	RA	04-54	27 IR 2880
511 IAC 6.2-4-1				*ERR (28 IR 3307)				*CPH (27 IR 3096)
511 IAC 6.2-4-2				*ERR (28 IR 3307)				28 IR 324
511 IAC 6.2-4-4				*ERR (28 IR 3307)	540 IAC 1-1-17	RA	04-54	27 IR 2880
511 IAC 6.2-6-2				*ERR (28 IR 3307)				*CPH (27 IR 3096)
511 IAC 6.2-6-3				*ERR (28 IR 3307)				28 IR 324
511 IAC 6.2-6-7				*ERR (28 IR 3307)	TITLE 575 STATE SCHOOL BUS COMMITTEE			
511 IAC 6.2-6-10				*ERR (28 IR 3307)	575 IAC 1-1-1			*ERR (28 IR 3583)
511 IAC 6.2-7-2				*ERR (28 IR 3307)	575 IAC 1-1-5			*ERR (28 IR 3583)
					575 IAC 1-5.5-1			*ERR (28 IR 3583)

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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
646 IAC 3-10-9	A	05-128	28 IR 3343	
646 IAC 3-10-13	A	05-128	28 IR 3343	

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) 28 IR 2693
	A	04-297	28 IR 2415	*AROC (28 IR 3354)
655 IAC 1-2.1-3	A	04-138	28 IR 1012	*AROC (28 IR 1073) 28 IR 2696
655 IAC 1-2.1-4	A	04-138	28 IR 1012	*AROC (28 IR 1073) 28 IR 2696
655 IAC 1-2.1-5	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2696
655 IAC 1-2.1-6	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697
655 IAC 1-2.1-6.1	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697
655 IAC 1-2.1-6.2	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697
655 IAC 1-2.1-6.3	A	04-138	28 IR 1014	*AROC (28 IR 1073) 28 IR 2697
655 IAC 1-2.1-6.4	A	04-138	28 IR 1014	*AROC (28 IR 1073) 28 IR 2698
655 IAC 1-2.1-7.1	N	04-138	28 IR 1014	*AROC (28 IR 1073) 28 IR 2698
655 IAC 1-2.1-8	A	04-138	28 IR 1016	*AROC (28 IR 1073) 28 IR 2700
655 IAC 1-2.1-9	A	04-138	28 IR 1016	*AROC (28 IR 1073) 28 IR 2700
655 IAC 1-2.1-10	A	04-138	28 IR 1016	*AROC (28 IR 1073) 28 IR 2700
655 IAC 1-2.1-11	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
655 IAC 1-2.1-12	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
655 IAC 1-2.1-13	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
655 IAC 1-2.1-14	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
655 IAC 1-2.1-15	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
655 IAC 1-2.1-20	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
655 IAC 1-2.1-22	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
655 IAC 1-2.1-23	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
655 IAC 1-2.1-23.1	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2702
655 IAC 1-2.1-24	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
655 IAC 1-2.1-24.1	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
655 IAC 1-2.1-24.2	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
655 IAC 1-2.1-24.3	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
655 IAC 1-2.1-75	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
655 IAC 1-2.1-75.2	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
655 IAC 1-2.1-75.3	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704

655 IAC 1-2.1-75.4	A	04-138	28 IR 1021	*AROC (28 IR 1073) 28 IR 2705
655 IAC 1-2.1-75.5	A	04-138	28 IR 1021	*AROC (28 IR 1073) 28 IR 2705
655 IAC 1-2.1-76.1	A	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-2.1-76.2	R	04-138	28 IR 1029	*AROC (28 IR 1073) 28 IR 2712
655 IAC 1-2.1-76.3	R	04-138	28 IR 1029	*AROC (28 IR 1073) 28 IR 2712
655 IAC 1-2.1-96	N	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-2.1-97	N	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-2.1-98	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-2.1-99	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2707
655 IAC 1-2.1-100	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2707
655 IAC 1-2.1-101	N	04-138	28 IR 1024	*AROC (28 IR 1073) 28 IR 2708
655 IAC 1-2.1-102	N	04-138	28 IR 1024	*AROC (28 IR 1073) 28 IR 2708
655 IAC 1-2.1-103	N	04-138	28 IR 1025	*AROC (28 IR 1073) 28 IR 2709
655 IAC 1-2.1-104	N	04-138	28 IR 1025	*AROC (28 IR 1073) 28 IR 2709
655 IAC 1-2.1-105	N	04-138	28 IR 1026	*AROC (28 IR 1073) 28 IR 2710
655 IAC 1-2.1-106	N	04-138	28 IR 1026	*AROC (28 IR 1073) 28 IR 2710
655 IAC 1-2.1-107	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2710
655 IAC 1-2.1-108	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711
655 IAC 1-2.1-109	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711
655 IAC 1-2.1-110	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711
655 IAC 1-2.1-111	N	04-297	28 IR 2419	*AROC (28 IR 3354)
655 IAC 1-2.1-112	N	04-297	28 IR 2423	*AROC (28 IR 3354)
655 IAC 1-2.1-113	N	04-297	28 IR 2423	*AROC (28 IR 3354)
655 IAC 1-2.1-114	N	04-297	28 IR 2424	*AROC (28 IR 3354)
655 IAC 1-2.1-115	N	04-297	28 IR 2425	*AROC (28 IR 3354)
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) 28 IR 2712

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	

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675 IAC 13-2.4-68	02-115				*ERR (28 IR 1695)	675 IAC 14-4.3-228.5	N	04-273	28 IR 1852	
675 IAC 13-2.4-96.5	N	04-216	28 IR 1533			675 IAC 14-4.3-230	A	04-273	28 IR 1853	
675 IAC 13-2.4-105.6	N	04-216	28 IR 1533			675 IAC 14-4.3-232	A	04-273	28 IR 1853	
675 IAC 13-2.4-107.3	N	04-216	28 IR 1534			675 IAC 14-4.3-232.5	N	04-273	28 IR 1853	
675 IAC 13-2.4-107.5	N	04-216	28 IR 1534			675 IAC 14-4.3-233	A	04-273	28 IR 1853	
675 IAC 13-2.4-107.6	N	04-216	28 IR 1534			675 IAC 14-4.3-234	A	04-273	28 IR 1854	
675 IAC 13-2.4-118	A	04-216	28 IR 1534			675 IAC 14-4.3-238.5	N	04-273	28 IR 1854	
675 IAC 13-2.4-118.4	N	04-216	28 IR 1534			675 IAC 14-4.3-240	A	04-273	28 IR 1854	
675 IAC 13-2.4-121.5	N	04-216	28 IR 1534			675 IAC 14-4.3-240.5	N	04-273	28 IR 1854	
675 IAC 13-2.4-122	A	04-216	28 IR 1534			675 IAC 14-4.3-241	A	04-273	28 IR 1854	
675 IAC 13-2.4-122.5	N	04-216	28 IR 1535			675 IAC 14-4.3-243.5	N	04-273	28 IR 1854	
675 IAC 13-2.4-131		02-115			*ERR (28 IR 1695)	675 IAC 14-4.3-244	R	04-273	28 IR 1859	
675 IAC 13-2.4-132	A	04-216	28 IR 1535			675 IAC 14-4.3-246	A	04-273	28 IR 1855	
675 IAC 13-2.4-132.3	N	04-216	28 IR 1535			675 IAC 14-4.3-246.5	N	04-273	28 IR 1855	
675 IAC 13-2.4-132.5	N	04-216	28 IR 1535			675 IAC 14-4.3-247.5	N	04-273	28 IR 1855	
675 IAC 13-2.4-133.5	N	04-216	28 IR 1535			675 IAC 14-4.3-248.5	N	04-273	28 IR 1855	
675 IAC 13-2.4-134.5	N	04-216	28 IR 1535			675 IAC 14-4.3-250	R	04-273	28 IR 1859	
675 IAC 13-2.4-143	A	04-216	28 IR 1535			675 IAC 14-4.3-251	R	04-273	28 IR 1859	
675 IAC 13-2.4-174		02-115			*ERR (28 IR 1695)	675 IAC 14-4.3-252	R	04-273	28 IR 1859	
675 IAC 13-2.4-180.5	N	04-216	28 IR 1536			675 IAC 14-4.3-253.5	N	04-273	28 IR 1855	
675 IAC 13-2.4-201.5	N	04-216	28 IR 1536			675 IAC 14-4.3-253.7	N	04-273	28 IR 1855	
675 IAC 13-2.4-201.7	N	04-216	28 IR 1536			675 IAC 15-1-1	R	04-227	28 IR 1053	
675 IAC 13-2.4-210.3	N	04-216	28 IR 1536			675 IAC 15-1-2	R	04-227	28 IR 1053	
675 IAC 13-2.4-210.5	N	04-216	28 IR 1536			675 IAC 15-1-3	R	04-227	28 IR 1053	
675 IAC 13-2.4-213.3	N	04-216	28 IR 1536			675 IAC 15-1-5	R	04-227	28 IR 1053	
675 IAC 13-2.4-213.5	N	04-216	28 IR 1536			675 IAC 15-1-6	R	04-227	28 IR 1054	
675 IAC 13-2.4-213.7	N	04-216	28 IR 1536			675 IAC 15-1-7	R	04-227	28 IR 1054	
675 IAC 13-2.4-214.2	N	04-216	28 IR 1537			675 IAC 15-1-8.1	R	04-227	28 IR 1054	
675 IAC 13-2.4-214.4	N	04-216	28 IR 1537			675 IAC 15-1-10	R	04-227	28 IR 1054	
675 IAC 13-2.4-214.6	N	04-216	28 IR 1537			675 IAC 15-1-11	R	04-227	28 IR 1054	
675 IAC 13-2.4-214.7	N	04-216	28 IR 1537			675 IAC 15-1-12	R	04-227	28 IR 1054	
675 IAC 13-2.4-222		02-115			*ERR (28 IR 1695)	675 IAC 15-1-13	R	04-227	28 IR 1054	
675 IAC 13-2.4-228.5	N	04-216	28 IR 1538			675 IAC 15-1-14	R	04-227	28 IR 1054	
675 IAC 14-4.2	R	04-194	28 IR 312			675 IAC 15-1-16	R	04-227	28 IR 1054	
675 IAC 14-4.2-3					28 IR 3304	675 IAC 15-1-17	R	04-227	28 IR 1054	
675 IAC 14-4.2-19.5					*ERR (28 IR 970)	675 IAC 15-1-19	R	04-227	28 IR 1054	
675 IAC 14-4.2-20.5					*ERR (28 IR 970)	675 IAC 15-1-20	R	04-227	28 IR 1054	
675 IAC 14-4.2-21					*ERR (28 IR 970)	675 IAC 15-1-21	R	04-227	28 IR 1054	
675 IAC 14-4.2-26.5					*ERR (28 IR 970)	675 IAC 15-1-22	R	04-227	28 IR 1054	
675 IAC 14-4.2-29					*ERR (28 IR 970)	675 IAC 15-1.1	N	04-227	28 IR 1037	
675 IAC 14-4.2-30	A	04-8	27 IR 2333		28 IR 562	675 IAC 15-1.2	N	04-227	28 IR 1039	
675 IAC 14-4.2-53.7					*ERR (28 IR 970)	675 IAC 15-1.3	N	04-227	28 IR 1046	
675 IAC 14-4.2-69.5					*ERR (28 IR 970)	675 IAC 15-1.4	N	04-227	28 IR 1048	
675 IAC 14-4.2-69.6					*ERR (28 IR 970)	675 IAC 15-1.5	N	04-227	28 IR 1049	
675 IAC 14-4.2-73.5					*ERR (28 IR 970)	675 IAC 15-1.6	N	04-227	28 IR 1051	
675 IAC 14-4.2-81.2					*ERR (28 IR 970)	675 IAC 15-1.7	N	04-227	28 IR 1052	
675 IAC 14-4.2-89.2	A	04-8	27 IR 2333		28 IR 562	675 IAC 16-1.3	RA	05-3	28 IR 3052	
675 IAC 14-4.2-89.6					*ERR (28 IR 970)	675 IAC 16-2	RA	05-3	28 IR 3052	
675 IAC 14-4.2-89.8					*ERR (28 IR 970)	675 IAC 17-1.6	R	04-273	28 IR 1859	
675 IAC 14-4.2-107					*ERR (28 IR 970)	675 IAC 17-1.7	N	04-273	28 IR 1855	
675 IAC 14-4.3	N	04-194	28 IR 268		28 IR 3256	675 IAC 18-1.4-3		02-116		*ERR (28 IR 1696)
675 IAC 14-4.3-136.5	N	04-273	28 IR 1850			675 IAC 18-1.4-10.5	N	04-217	28 IR 1309	
675 IAC 14-4.3-155.5	N	04-273	28 IR 1850			675 IAC 18-1.4-11.5	N	04-217	28 IR 1309	
675 IAC 14-4.3-212	A	04-273	28 IR 1850			675 IAC 18-1.4-12		02-116		*ERR (28 IR 1696)
675 IAC 14-4.3-213	R	04-273	28 IR 1859			675 IAC 18-1.4-27		02-116		*ERR (28 IR 1696)
675 IAC 14-4.3-213.5	N	04-273	28 IR 1850			675 IAC 18-1.4-32.3	N	04-217	28 IR 1309	
675 IAC 14-4.3-214	A	04-273	28 IR 1850			675 IAC 18-1.4-32.5	N	04-217	28 IR 1309	
675 IAC 14-4.3-215	A	04-273	28 IR 1851			675 IAC 18-1.4-49.5	N	04-217	28 IR 1309	
675 IAC 14-4.3-216	R	04-273	28 IR 1859			675 IAC 22-2.2-3	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.3	N	04-273	28 IR 1851			675 IAC 22-2.2-4	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.5	N	04-273	28 IR 1851			675 IAC 22-2.2-5	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.6	N	04-273	28 IR 1851			675 IAC 22-2.2-6	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.7	N	04-273	28 IR 1851			675 IAC 22-2.2-7	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-219.8	N	04-273	28 IR 1852			675 IAC 22-2.2-8	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-225.2	N	04-273	28 IR 1852			675 IAC 22-2.2-9	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-226.1	N	04-273	28 IR 1852			675 IAC 22-2.2-10	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-226.5	N	04-273	28 IR 1852			675 IAC 22-2.2-11	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-226.6	N	04-273	28 IR 1852			675 IAC 22-2.2-12	RA	04-19	27 IR 2339	28 IR 324
675 IAC 14-4.3-227	A	04-273	28 IR 1852			675 IAC 22-2.2-13	RA	04-19	27 IR 2339	28 IR 324

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675 IAC 22-2.2-15	RA	04-19	27 IR 2340	28 IR 324	675 IAC 22-2.3-148	A	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-16	RA	04-19	27 IR 2340	28 IR 324					28 IR 2374
675 IAC 22-2.2-17	RA	04-19	27 IR 2340	28 IR 324	675 IAC 22-2.3-148.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-18	RA	04-19	27 IR 2340	28 IR 324					28 IR 2374
675 IAC 22-2.2-21	RA	04-19	27 IR 2340	28 IR 324	675 IAC 22-2.3-237.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-22	RA	04-19	27 IR 2340	28 IR 324					28 IR 2374
675 IAC 22-2.2-23	RA	04-19	27 IR 2340	28 IR 324	675 IAC 22-2.3-298.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-24	RA	04-19	27 IR 2340	28 IR 324					28 IR 2374
675 IAC 22-2.2-25	RA	04-19	27 IR 2340	28 IR 324	675 IAC 22-2.3-304.5	N	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-26	N	04-196	28 IR 1029	*CPH (28 IR 1498)					28 IR 2374
				*AROC (28 IR 2461)	675 IAC 25-1-3		02-118		*ERR (28 IR 1696)
675 IAC 22-2.2-49.5	R	04-56	27 IR 2864	*CPH (28 IR 982)	675 IAC 25-1-7.2	N	04-218	28 IR 1310	
				28 IR 2374	675 IAC 25-1-7.4	N	04-218	28 IR 1310	
675 IAC 22-2.2-107.1	R	04-56	27 IR 2864	*CPH (28 IR 982)	675 IAC 25-1-7.6	N	04-218	28 IR 1310	
675 IAC 22-2.2-134.5	R	04-56	27 IR 2864	*CPH (28 IR 982)	675 IAC 25-1-9.1	N	04-218	28 IR 1310	
				28 IR 2374	675 IAC 25-1-9.3	N	04-218	28 IR 1310	
675 IAC 22-2.2-183	RA	04-19	27 IR 2340	28 IR 324	675 IAC 25-1-9.5	N	04-218	28 IR 1310	
	R	04-56	27 IR 2864	*CPH (28 IR 982)	675 IAC 25-1-9.7	N	04-218	28 IR 1310	
				28 IR 2374	675 IAC 25-1-9.9	N	04-218	28 IR 1310	
675 IAC 22-2.2-221.5	R	04-56	27 IR 2864	*CPH (28 IR 982)	675 IAC 26	N	04-196	28 IR 1031	*CPH (28 IR 1498)
				28 IR 2374					*AROC (28 IR 2461)
675 IAC 22-2.2-240.1	R	04-56	27 IR 2864	*CPH (28 IR 982)	675 IAC 27	N	04-275	28 IR 1538	
675 IAC 22-2.2-241.1	R	04-56	27 IR 2864	*CPH (28 IR 982)					
675 IAC 22-2.2-243.1	R	04-56	27 IR 2864	*CPH (28 IR 982)					
675 IAC 22-2.2-245.2	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-245.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-365.2	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-365.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-368.1	R	04-56	27 IR 2864	*CPH (28 IR 982)					
675 IAC 22-2.2-369.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-378.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-412.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-437.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-437.7	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-443.5	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.2-511.1	R	04-56	27 IR 2864	*CPH (28 IR 982)					
675 IAC 22-2.2-515.1	R	04-56	27 IR 2864	*CPH (28 IR 982)					
675 IAC 22-2.2-540	R	04-56	27 IR 2864	*CPH (28 IR 982)					
				28 IR 2374					
675 IAC 22-2.3-29.5	N	04-56	27 IR 2860	*CPH (28 IR 982)	675 IAC 1-71	N	05-26	28 IR 2456	*AROC (28 IR 2814)
				28 IR 2369				28 IR 3044	
675 IAC 22-2.3-35.5	N	04-56	27 IR 2860	*CPH (28 IR 982)	675 IAC 2-1-1	A	03-303	27 IR 3306	28 IR 563
				28 IR 2370	675 IAC 2-2-1.5	N	03-303	27 IR 3306	28 IR 563
675 IAC 22-2.3-36	A	04-56	27 IR 2860	*CPH (28 IR 982)	675 IAC 2-2-3.1	N	03-303	27 IR 3307	28 IR 563
				28 IR 2370	675 IAC 2-2-3.2	N	03-303	27 IR 3307	28 IR 563
675 IAC 22-2.3-36.3	N	04-56	27 IR 2861	*CPH (28 IR 982)	675 IAC 2-2-3.3	N	03-303	27 IR 3307	28 IR 564
				28 IR 2371	675 IAC 2-2-3.4	N	03-303	27 IR 3307	28 IR 564
675 IAC 22-2.3-36.4	N	04-56	27 IR 2861	*CPH (28 IR 982)	675 IAC 2-2-3.5	N	03-303	27 IR 3307	28 IR 564
				28 IR 2372	675 IAC 2-2-3.6	N	03-303	27 IR 3307	28 IR 564
675 IAC 22-2.3-36.6	N	04-56	27 IR 2863	*CPH (28 IR 982)	675 IAC 2-2-3.7	N	03-303	27 IR 3307	28 IR 564
				28 IR 2373	675 IAC 2-2-3.8	N	03-303	27 IR 3308	28 IR 565
675 IAC 22-2.3-36.8	N	04-56	27 IR 2863	*CPH (28 IR 982)	675 IAC 2-2-8	A	03-303	27 IR 3308	28 IR 565
				28 IR 2373	675 IAC 2-3-1	A	03-303	27 IR 3308	28 IR 565
675 IAC 22-2.3-140.5	N	04-56	27 IR 2863	*CPH (28 IR 982)	675 IAC 2-3-2	A	03-303	27 IR 3308	28 IR 565
				28 IR 2373	675 IAC 2-3-4	A	03-303	27 IR 3309	28 IR 566
675 IAC 22-2.3-147.5	N	04-56	27 IR 2863	*CPH (28 IR 982)	675 IAC 2-3-6	A	03-303	27 IR 3310	28 IR 567
				28 IR 2373	675 IAC 2-3-7	N	03-303	27 IR 3310	28 IR 567
675 IAC 22-2.3-147.6	N	04-56	27 IR 2863	*CPH (28 IR 982)	675 IAC 2-3-8	N	03-303	27 IR 3311	28 IR 567
				28 IR 2373	675 IAC 2-4-1	A	03-303	27 IR 3311	28 IR 568
				28 IR 2373	675 IAC 2-4-2	N	03-303	27 IR 3312	28 IR 569
				28 IR 2373	675 IAC 2-7-1	A	03-303	27 IR 3313	*ERR (28 IR 609)
				28 IR 2373					28 IR 570

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760 IAC 2-8-2	A	03-303	27 IR 3314	28 IR 571	808 IAC 1-5-2	A	03-226	27 IR 2563	28 IR 198
760 IAC 2-8-3	A	03-303	27 IR 3314	28 IR 571	808 IAC 2-1-5	A	03-226	27 IR 2564	28 IR 198
760 IAC 2-8-4	A	03-303	27 IR 3315	28 IR 572	808 IAC 2-1-12	A	03-226	27 IR 2564	28 IR 199
760 IAC 2-8-6	N	03-303	27 IR 3316	28 IR 572	808 IAC 2-7-14	A	03-226	27 IR 2564	28 IR 199
760 IAC 2-9-1	A	03-303	27 IR 3316	28 IR 572	808 IAC 2-8-7	R	03-226	27 IR 2566	28 IR 200
760 IAC 2-10-1	A	03-303	27 IR 3316	28 IR 573	808 IAC 2-9-5	A	03-226	27 IR 2564	28 IR 199
760 IAC 2-13-1	A	03-303	27 IR 3317	28 IR 573	808 IAC 2-12-0.5	N	03-227	27 IR 2566	*ARR (28 IR 215)
760 IAC 2-15-1	A	03-303	27 IR 3317	28 IR 574					28 IR 201
				*ERR (28 IR 609)	808 IAC 2-12-2	N	03-227	27 IR 2567	*ARR (28 IR 215)
760 IAC 2-15.5	N	03-303	27 IR 3319	28 IR 575					28 IR 201
760 IAC 2-16-1	A	03-303	27 IR 3320	28 IR 576	808 IAC 2-12-3	N	03-227	27 IR 2567	*ARR (28 IR 215)
760 IAC 2-16.1	N	03-303	27 IR 3320	28 IR 576					28 IR 201
760 IAC 2-17-1	A	03-303	27 IR 3323	28 IR 580	808 IAC 2-12-4	N	03-227	27 IR 2567	*ARR (28 IR 215)
760 IAC 2-18-1	A	03-303	27 IR 3325	28 IR 582					28 IR 202
760 IAC 2-19-2	A	03-303	27 IR 3325	28 IR 582	808 IAC 2-12-5	N	03-227	27 IR 2567	*ARR (28 IR 215)
760 IAC 2-19.5	N	03-303	27 IR 3325	28 IR 582					28 IR 202
760 IAC 2-20-10	A	03-303	27 IR 3329	28 IR 585	808 IAC 2-12-6	N	03-227	27 IR 2567	*ARR (28 IR 215)
760 IAC 2-20-31.1	A	03-303	27 IR 3329	28 IR 586					28 IR 202
760 IAC 2-20-34	A	03-303	27 IR 3329	28 IR 586	808 IAC 2-12-7	N	03-227	27 IR 2568	*ARR (28 IR 215)
760 IAC 2-20-35	A	03-303	27 IR 3332	28 IR 589					28 IR 202
760 IAC 2-20-36.1	A	03-303	27 IR 3332	28 IR 589	808 IAC 2-12-8	N	03-227	27 IR 2568	*ARR (28 IR 215)
760 IAC 2-20-36.2	A	03-303	27 IR 3333	28 IR 590	808 IAC 2-18-1	A	03-226	27 IR 2565	28 IR 199
760 IAC 2-20-37.2	A	03-303	27 IR 3334	28 IR 590	808 IAC 2-22-1	A	03-226	27 IR 2565	28 IR 199
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	TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS				
760 IAC 2-20-42	A	03-303	27 IR 3335	28 IR 591	820 IAC 4-1-7	A	05-68	28 IR 3045	*AWR (28 IR 3584)
760 IAC 3-1-1	A	05-5	28 IR 2426		820 IAC 4-1-9	A	05-68	28 IR 3045	*AWR (28 IR 3584)
					820 IAC 4-1-11	A	05-68	28 IR 3045	*AWR (28 IR 3584)
760 IAC 3-2-2.5	A	05-5	28 IR 2426		820 IAC 4-1-12	A	05-68	28 IR 3045	*AWR (28 IR 3584)
					820 IAC 4-3-1	A	04-254	28 IR 1059	28 IR 2382
760 IAC 3-2-6.1	A	05-5	28 IR 2426		820 IAC 4-4-8	A	05-68	28 IR 3046	*AWR (28 IR 3584)
					820 IAC 4-4-8.1	N	05-68	28 IR 3046	*AWR (28 IR 3584)
760 IAC 3-2-6.2	A	05-5	28 IR 2426		TITLE 828 STATE BOARD OF DENTISTRY				
					828 IAC 0.5-2-3	A	04-233	28 IR 670	*AROC (28 IR 1073)
760 IAC 3-2-7	A	05-5	28 IR 2426						28 IR 2713
					828 IAC 1-5-6	N	04-189	28 IR 669	28 IR 2383
760 IAC 3-4-1	A	05-5	28 IR 2427		828 IAC 5	N	04-233	28 IR 671	*AROC (28 IR 1073)
									28 IR 2713
760 IAC 3-5-1	A	05-5	28 IR 2427		TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD				
					830 IAC 1-1	RA	04-6	27 IR 2340	28 IR 325
760 IAC 3-6-1	A	05-5	28 IR 2428		830 IAC 1-2-6	RA	05-11	28 IR 2813	28 IR 3662
760 IAC 3-7-1	A	05-5	28 IR 2432		TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS				
					840 IAC 2-1	RA	05-12	28 IR 2459	28 IR 3353
760 IAC 3-8-1	A	05-5	28 IR 2434						
					TITLE 844 MEDICAL LICENSING BOARD OF INDIANA				
760 IAC 3-9-1	A	05-5	28 IR 2437		844 IAC 5-5	N	05-91	28 IR 3344	
					844 IAC 6-1-2	A	03-262	27 IR 1284	28 IR 209
760 IAC 3-9-2	A	05-5	28 IR 2437		844 IAC 6-1-4	A	03-261	27 IR 1635	*CPH (27 IR 2300)
									28 IR 203
760 IAC 3-11-1	A	05-5	28 IR 2439		844 IAC 6-3-1	A	03-261	27 IR 1636	*CPH (27 IR 2300)
									28 IR 203
760 IAC 3-12-1	A	05-5	28 IR 2444		844 IAC 6-3-2	A	03-261	27 IR 1636	*CPH (27 IR 2300)
									28 IR 204
760 IAC 3-14-1	A	05-5	28 IR 2445		844 IAC 6-3-4	A	03-261	27 IR 1637	*CPH (27 IR 2300)
									28 IR 204
760 IAC 3-15-1	A	05-5	28 IR 2453		844 IAC 6-3-5	A	03-261	27 IR 1637	*CPH (27 IR 2300)
									28 IR 205
760 IAC 3-18-1	A	05-5	28 IR 2455		844 IAC 6-3-6	N	03-261	27 IR 1638	*CPH (27 IR 2300)
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804 IAC 1.1-1-1	A	04-156	28 IR 1054	28 IR 2377					28 IR 209
804 IAC 1.1-8	N	04-156	28 IR 1055	28 IR 2378					28 IR 209
TITLE 808 STATE BOXING COMMISSION					844 IAC 6-6-2	R	03-261	27 IR 1642	*CPH (27 IR 2300)
808 IAC 1-3-6	A	03-226	27 IR 2563	28 IR 198					28 IR 209

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844 IAC 6-6-3	A	03-261	27 IR 1638	*CPH (27 IR 2300) 28 IR 206	TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE				
844 IAC 6-6-4	A	03-261	27 IR 1639	*CPH (27 IR 2300) 28 IR 206	857 IAC 1-2-3	A	05-43	28 IR 3048	
844 IAC 6-7-2	A	03-261	27 IR 1639	*CPH (27 IR 2300) 28 IR 207	857 IAC 1-3-2	A	05-43	28 IR 3049	
844 IAC 10-4-1	A	03-329	27 IR 2568	28 IR 211	857 IAC 1-3-3	A	05-43	28 IR 3049	
844 IAC 12-5-4	A	04-17	28 IR 316	28 IR 1693	TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS				
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845 IAC 1-5-3	A	04-134	28 IR 317	28 IR 2716	864 IAC 1.1-4.1-9	A	03-301		†† 28 IR 603
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848 IAC 1-1-6	A	04-97	28 IR 674	28 IR 2383	864 IAC 1.1-12-2	N	03-301	27 IR 2570	28 IR 604
848 IAC 1-1-7	A	04-97	28 IR 675	28 IR 2384	TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS				
848 IAC 1-1-2.1	A	04-65	27 IR 2865	28 IR 593	865 IAC 1-11-1	A	03-300	27 IR 2570	28 IR 605
848 IAC 1-2-1	A	04-65	27 IR 2866	28 IR 594		A	04-175	28 IR 1059	28 IR 2390
848 IAC 1-2-5	A	04-65	27 IR 2866	28 IR 594	TITLE 872 INDIANA BOARD OF ACCOUNTANCY				
848 IAC 1-2-6	A	04-65	27 IR 2867	28 IR 595	872 IAC 1-1-6.1	A	04-41	27 IR 2574	28 IR 212
848 IAC 1-2-7	A	04-65	27 IR 2868	28 IR 596		A	04-171	27 IR 4138	28 IR 1182
848 IAC 1-2-8	A	04-65	27 IR 2868	28 IR 596	872 IAC 1-2-1	A	04-290	28 IR 3349	
848 IAC 1-2-8.5	N	04-65	27 IR 2868	28 IR 596	872 IAC 1-3-3.3	A	04-98	27 IR 3336	28 IR 605
848 IAC 1-2-9	A	04-65	27 IR 2869	28 IR 597	872 IAC 1-3-16	A	04-5	27 IR 2335	28 IR 211
848 IAC 1-2-10	A	04-65	27 IR 2869	28 IR 597	872 IAC 1-6	N	03-270	27 IR 2571	*AROC (27 IR 4141) 28 IR 966
848 IAC 1-2-12	A	04-65	27 IR 2870	28 IR 598	TITLE 876 INDIANA REAL ESTATE COMMISSION				
848 IAC 1-2-13	A	04-65	27 IR 2870	28 IR 598	876 IAC 1-1-23	A	05-47	28 IR 2807	*CPH (28 IR 3609)
848 IAC 1-2-14	A	04-65	27 IR 2870	28 IR 599	876 IAC 1-4-2	A	05-101	28 IR 3658	
848 IAC 1-2-16	A	04-65	27 IR 2871	28 IR 599	876 IAC 2-18	N	03-256	27 IR 2575	28 IR 213
848 IAC 1-2-17	A	04-65	27 IR 2872	28 IR 600	876 IAC 3-2-7	A	03-255	27 IR 2574	28 IR 212
848 IAC 1-2-18	A	04-65	27 IR 2872	28 IR 600	876 IAC 3-6-2	A	04-225	28 IR 1547	28 IR 2717
848 IAC 1-2-19	A	04-65	27 IR 2873	28 IR 601	876 IAC 3-6-3	A	04-225	28 IR 1548	28 IR 2717
848 IAC 1-2-20	A	04-65	27 IR 2873	28 IR 601	876 IAC 4-1-6	A	05-49	28 IR 2808	*CPH (28 IR 3609)
848 IAC 1-2-21	A	04-65	27 IR 2873	28 IR 602	876 IAC 4-2-1	A	05-49	28 IR 2809	*CPH (28 IR 3609)
848 IAC 1-2-22	A	04-65	27 IR 2874	28 IR 602	876 IAC 4-3	N	05-49	28 IR 2809	*CPH (28 IR 3609)
848 IAC 1-2-23	A	04-65	27 IR 2874	28 IR 602	TITLE 878 HOME INSPECTORS LICENSING BOARD				
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856 IAC 1-30-4.1	N	04-173	28 IR 318	28 IR 2385		A	04-137	27 IR 3704	28 IR 607
856 IAC 1-30-4.2	N	04-173	28 IR 318	28 IR 2386	888 IAC 1.1-8-3	A	04-295	28 IR 1859	28 IR 3581
856 IAC 1-30-4.3	N	04-173	28 IR 318	28 IR 2386	TITLE 898 INDIANA ATHLETIC TRAINERS BOARD				
856 IAC 1-30-4.4	N	04-173	28 IR 318	28 IR 2386	898 IAC 1-1-2.4	RA	05-13	28 IR 2460	
856 IAC 1-30-4.5	N	04-173	28 IR 318	28 IR 2386	898 IAC 1-1-4.5	RA	05-13	28 IR 2460	
856 IAC 1-30-4.6	N	04-173	28 IR 318	28 IR 2386	898 IAC 1-1-10	RA	05-13	28 IR 2460	
856 IAC 1-30-6	A	04-173	28 IR 319	28 IR 2386	TITLE 905 ALCOHOL AND TOBACCO COMMISSION				
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856 IAC 1-30-8	A	04-173	28 IR 319	28 IR 2387	905 IAC 1-15.2-3	A	04-110	27 IR 3337	*AWR (28 IR 1486)
856 IAC 1-30-9	A	04-173	28 IR 320	28 IR 2388	905 IAC 1-26-3	N	04-112	27 IR 3338	*AROC (28 IR 1562)
856 IAC 1-30-14	A	04-173	28 IR 320	28 IR 2388	905 IAC 1-43	RA	04-14	27 IR 2579	*CPH (27 IR 3096) 28 IR 1316
856 IAC 1-30-17	A	04-173	28 IR 321	28 IR 2389	905 IAC 1-44	RA	04-109	27 IR 3343	28 IR 1316
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856 IAC 1-33-1	A	03-326	27 IR 2073	27 IR 3073	905 IAC 1-45-3	A	03-319	27 IR 2576	*CPH (27 IR 3096) *AROC (28 IR 1317) 28 IR 1484
856 IAC 1-37	N	05-42	28 IR 3047						
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28 IR 969
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*Key:

A: Amended Text
 AGA: Attorney General's Action
 AROC: Administrative Rules Oversight Committee Notice
 ARR: Agency Recalls Rule
 AWR: Agency Withdrew Rule
 CPH: Change in Public Hearing
 DAG: Disapproved by Attorney General
 DG: Disapproved by Governor
 ER: Emergency Rule
 ERR: Errata
 ETR: Emergency Temporary Rule
 ETS: Emergency Temporary Standard
 GRAT: Governor Requires Additional Time
 N: New Text
 NRA: Notice of Rule Adoption
 OAC: Objection to Errata
 ON: Other Notices of Administrative Action
 R: Repealed Text
 RA: Readopted Rule
 SAC: Solicitation of Advance Comment
 SPE: Statutory Period for Promulgation Expired
 SPE-SE: Statutory Period for Promulgation Expired; Signed After
 Expiration
 ††: Renumbered or Added in Final Rule

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*The index is cumulative for all proposed and final rulemaking actions published after September 1, 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.

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Trade Practices; Permissible Activity Between Primary Sources of Supply, Wholesalers, and Retailers					
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905 IAC 1-5.2-9.2	27 IR 3337				
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905 IAC 1-48	27 IR 3339				
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345 IAC 8-4-1	28 IR 1830				
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345 IAC 8-2-1.6	28 IR 1824				
	28 IR 3560				
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345 IAC 8-2-4	28 IR 1826				
	28 IR 3562				
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345 IAC 8-2-1.1	28 IR 1821				
	28 IR 3557				
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345 IAC 8-2-1.9	28 IR 1825				
	28 IR 3561				
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345 IAC 8-2-1.5	28 IR 1823				
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345 IAC 8-2-1.7	28 IR 1824				
	28 IR 3560				
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345 IAC 8-3-12	28 IR 1829				
	28 IR 3565				
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345 IAC 8-3-2	28 IR 1829				
	28 IR 3565				
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345 IAC 8-3-1	28 IR 1828				
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345 IAC 1-3-10	27 IR 4121				
	28 IR 2672				
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345 IAC 1-3-7	27 IR 4120				
	28 IR 2671				
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345 IAC 1-3-31	28 IR 1833				
	28 IR 3569				
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345 IAC 1-2.5	28 IR 1818				
	28 IR 3554				
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Animal rabies control program					
345 IAC 1-5-3	28 IR 3652				
EQUINE					
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345 IAC 6-2	28 IR 1000				
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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				
	28 IR 2687				
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345 IAC 7-5-22	27 IR 2798				
	28 IR 559				
EXHIBITIONS					
345 IAC 7-4.5	28 IR 1820				
	28 IR 3556				
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Federal-state programs					
345 IAC 9-20-2	28 IR 3649				
Incorporation by Reference					
Incorporation by reference					
345 IAC 9-2-1-1	28 IR 3648				
Inspection of Rabbits and Rabbit Products					
345 IAC 9-21.5	28 IR 3650				
Officials Marks, Devices, and Certificates					
Inspected and passed products; official marks					
345 IAC 9-12-2	28 IR 3649				
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National Poultry Improvement Plan					
National Poultry Improvement Plan; adoption by reference					
345 IAC 4-4-1	27 IR 4118				
	28 IR 1473				
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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				
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Incorporation by reference; poultry products inspection					
345 IAC 10-2-1-1	27 IR 4119				
	28 IR 1474				
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345 IAC 5-2	28 IR 3633				
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345 IAC 5-3	28 IR 3641				
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345 IAC 5-4	28 IR 3642				
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345 IAC 5-5	28 IR 3644				
Scrapie Affected Animals and Herds					
345 IAC 5-6	28 IR 3645				
Scrapie Flock Certification Program					
345 IAC 5-7	28 IR 3646				
TUBERCULOSIS CONTROL					
345 IAC 2.5	27 IR 4121				
	28 IR 2672				
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Continuing education					
804 IAC 1.1-8	28 IR 1055				
	28 IR 2378				
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804 IAC 1.1-1-1	28 IR 1054				
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(See Cumulative Table of Executive Orders and Attorney General's Opinions at 28 IR 2301)					
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BOXING AND OTHER RING EXHIBITIONS					
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808 IAC 2-1-5	27 IR 2564				
	28 IR 198				
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808 IAC 2-1-12	27 IR 2564				
	28 IR 199				
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Gloves; mouthpiece; inspection; specifications					
808 IAC 2-22-1	27 IR 2565				
	28 IR 199				
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808 IAC 2-12-8	27 IR 2568				
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808 IAC 2-12-7	27 IR 2568				
	28 IR 202				
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808 IAC 2-12-0.5	27 IR 2566				
	28 IR 201				
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808 IAC 2-12-6	27 IR 2567				
	28 IR 202				
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808 IAC 2-12-5	27 IR 2567				
	28 IR 202				
Test for prohibited drugs					
808 IAC 2-12-3	27 IR 2567				
	28 IR 201				
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808 IAC 2-12-4	27 IR 2567				
	28 IR 202				
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808 IAC 2-12-2	27 IR 2567				
	28 IR 201				
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808 IAC 2-7-14	27 IR 2564				
	28 IR 199				
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808 IAC 2-9-5	27 IR 2564				
	28 IR 199				
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808 IAC 2-18-1	27 IR 2565				
	28 IR 199				

CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

GENERAL PROVISIONS								
Licenses and Permits			Lining; general			Training Requirements for Licensed Applicators and Registered Technicians; Category 3b		
Security for the purse; forms			355 IAC 2-5-3	28 IR 1843		Definitions		
808 IAC 1-3-6	27 IR 2563			28 IR 3576		355 IAC 4-6-1	28 IR 1837	
	28 IR 198		Synthetic liners			Requirements for category 3b applicator license for hire		
Seats for Commission and Officials			355 IAC 2-5-6	28 IR 1844		355 IAC 4-6-3	28 IR 1837	
Bond of promoter license applicant				28 IR 3576				
808 IAC 1-5-2	27 IR 2563		Walls					
	28 IR 198		355 IAC 2-5-2	28 IR 1843				
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Seats for commission, judges, timekeepers, and other officials			General Provisions			CHILDREN'S HEALTH INSURANCE PROGRAM, OFFICE OF THE		
808 IAC 1-5-1	27 IR 2563		Boron-containing fertilizers; warning requirements			APPLICANTS AND MEMBERS; ELIGIBILITY AND ENROLLMENT; APPEAL PROCEDURES		
	28 IR 198		355 IAC 2-1-6	28 IR 1838		Eligibility Requirements		
				28 IR 3571		Agreement to pay cost sharing		
			Degree of fineness of unacidulated phosphate materials; registration and labeling			407 IAC 2-2-3	28 IR 3656	
			355 IAC 2-1-1	28 IR 1838		Premiums		
				28 IR 3570		Responsibility for premium payment		
			Operational Area Containment for Fluid Fertilizers			407 IAC 2-3-1	28 IR 3657	
			Loadout and unloading pads					
			355 IAC 2-4-1	28 IR 1842		CORONERS TRAINING BOARD		
				28 IR 3574		CONTINUING EDUCATION		
			Primary Containment of Fluid Bulk Fertilizer at Storage Facilities			207 IAC 2	28 IR 624	
			Compliance with effective date of rule					
			355 IAC 2-3-12	28 IR 1841		COSMETOLOGY EXAMINERS, STATE BOARD OF		
				28 IR 3573		COSMETOLOGY SCHOOLS		
			Inspection and maintenance			Curriculum		
			355 IAC 2-3-11	28 IR 1841		Content of final practical demonstration examination		
				28 IR 3573		820 IAC 4-4-8.1	28 IR 3046	
			Pipes and fittings			School examinations		
			355 IAC 2-3-8	28 IR 1841		820 IAC 4-4-8	28 IR 3045	
				28 IR 3573		General Requirements		
			Prohibited materials			Completion of application by cosmetology school; cosmetology student required to attend cosmetology school after graduation prohibited		
			355 IAC 2-3-4	28 IR 1840		820 IAC 4-1-12	28 IR 3045	
				28 IR 3572		Graduation defined		
			Security			820 IAC 4-1-11	28 IR 3045	
			355 IAC 2-3-6	28 IR 1841		Record retention		
				28 IR 3573		820 IAC 4-1-9	28 IR 3045	
			Storage and Handling of Dry Bulk Fertilizers			Records		
			Storage and handling			820 IAC 4-1-7	28 IR 3045	
			355 IAC 2-6-1.5	28 IR 1846		Instructors		
				28 IR 3578		License		
			Storage Facility Location Registry			820 IAC 4-3-1	28 IR 1059	
			Facility registry				28 IR 2382	
			355 IAC 2-9-1	28 IR 1846				
				28 IR 3578				
			PESTICIDE USE AND APPLICATION					
			Licensed Applicators (for Hire) and Registered Technicians; Qualifications, Training, and Supervision			DEAF BOARD, INDIANA SCHOOL FOR THE		
			Definitions			514 IAC	27 IR 1634	
			355 IAC 4-5-1	28 IR 1835			28 IR 197	
			Record keeping and supervision requirements for licensed applicators for hire					
			355 IAC 4-5-2	28 IR 1836		DENTISTRY, STATE BOARD OF		
			Requirements for category 7b applicator license for hire			GENERAL PROVISIONS		
			355 IAC 4-5-3	28 IR 1836		Fees		
			Site Awareness and Direct Supervision of Noncertified Applicators			Dental fees		
			Pesticide use by noncertified persons			828 IAC 0.5-2-3	28 IR 670	
			355 IAC 4-2-2	28 IR 1834			28 IR 2713	
			Technician registration requirements			INSTRUCTOR'S LICENSES		
			355 IAC 4-2-8	28 IR 1834		General Requirements		
						828 IAC 5	28 IR 671	
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<p>LICENSURE OF DENTISTS AND DENTAL HYGIENISTS Continuing Education for Renewal of License Continuing education course requirement 828 IAC 1-5-6 28 IR 669 28 IR 2382</p>	<p>DRIVER EDUCATION; GRADUATION REQUIREMENTS; NONSTANDARD PROGRAMS; HIGH ABILITY STUDENTS; POSTSECONDARY ENROLLMENT Graduation Requirements Academic honors diploma; additional course requirements 511 IAC 6-7-6.5 27 IR 2552 28 IR 959</p>	<p>Limited Liability Company Practice 864 IAC 1.1-14 26 IR 3739 27 IR 875</p>
<p>DISABILITY, AGING, AND REHABILITATIVE SERVICES, DIVISION OF AGING Caretaker Support Program 460 IAC 1-10 27 IR 3303 28 IR 910</p>	<p>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</p>	<p>Qualifications for Examination Engineering intern; education and work experience 864 IAC 1.1-2-4 27 IR 2569 28 IR 603</p>
<p>Personal Services Attendant for Individuals in Need of Self-Directed In-Home Care Attendant care service provider registration requirement; preclusion 460 IAC 1-8-3 28 IR 1007 28 IR 2690</p>	<p>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</p>	<p>ENVIRONMENTAL ADJUDICATION, OFFICE OF ADJUDICATORY PROCEEDINGS BEFORE ENVIRONMENTAL LAW JUDGES General Provisions Definitions 315 IAC 1-2-1 28 IR 990 28 IR 2772</p>
<p>Method of payment to a fiscal agent 460 IAC 1-8-12 28 IR 1008 28 IR 2691</p>	<p>SCHOOL ACCREDITATION Approved High School Courses Business technology education; technology education 511 IAC 6.1-5.1-9 27 IR 2557 28 IR 964</p>	<p>Rules of Practice Conduct of hearing; separation of witnesses 315 IAC 1-3-10 28 IR 995 28 IR 2778</p>
<p>Method of payment to a personal services attendant 460 IAC 1-8-11 28 IR 1007 28 IR 2691</p>	<p>Fine arts courses 511 IAC 6.1-5.1-8 27 IR 2556 28 IR 963</p>	<p>Conduct of prehearing conference 315 IAC 1-3-9 28 IR 995 28 IR 2778</p>
<p>Record keeping requirements 460 IAC 1-8-13 28 IR 1008 28 IR 2691</p>	<p>Language arts courses 511 IAC 6.1-5.1-2 27 IR 2553 28 IR 960</p>	<p>Continuances of prehearing conference, status conference, stay hearing, and hearing 315 IAC 1-3-12 28 IR 996 28 IR 2778</p>
<p>Posting of Notices 460 IAC 1-11 28 IR 1004 28 IR 2687</p>	<p>Mathematics 511 IAC 6.1-5.1-5 27 IR 2555 28 IR 962</p>	<p>Defaults and dismissals 315 IAC 1-3-7 28 IR 994 28 IR 2777</p>
<p>Processing of Applications 460 IAC 1-3.4 28 IR 1002</p>	<p>Multidisciplinary courses 511 IAC 6.1-5.1-1 28 IR 2198</p>	<p>Filing and service of pleadings and documents 315 IAC 1-3-3 28 IR 992 28 IR 2775</p>
<p>DIVISION OF REHABILITATION SERVICES Board of Interpreter Standards 460 IAC 2-2.1 27 IR 3701 28 IR 2368</p>	<p>Other acceptable courses 511 IAC 6.1-5.1-11 28 IR 2202</p>	<p>Form of pleadings and documents 315 IAC 1-3-4 28 IR 993 28 IR 2776</p>
<p>HOME AND COMMUNITY BASED SERVICES 460 IAC 1.1 27 IR 2799 28 IR 912</p>	<p>Science courses 511 IAC 6.1-5.1-6 27 IR 2555 28 IR 962</p>	<p>Informal settlement; alternative dispute resolution 315 IAC 1-3-8 28 IR 994 28 IR 2777</p>
<p>RATES FOR ADULT DAY SERVICES PROVIDED BY COMMUNITY MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES CENTERS Unit of Service Reimbursement Rates Annual review of adult day service reimbursement rates 460 IAC 3.5-2-3 28 IR 1303</p>	<p>Social studies courses 511 IAC 6.1-5.1-3 27 IR 2553 28 IR 960</p>	<p>Initiation of a proceeding for administrative review 315 IAC 1-3-2 28 IR 991 28 IR 2774</p>
<p>EDUCATION, INDIANA STATE BOARD OF ACHIEVEMENT TESTS Indiana Statewide Testing for Educational Progress (ISTEP) Program Alternate assessment based on alternate achievement standards in lieu of ISTEP+ 511 IAC 5-2-4.5 28 IR 668 28 IR 2691</p>	<p>Vocational-technical courses 511 IAC 6.1-5.1-10.1 27 IR 2550 28 IR 957</p>	<p>Petition for judicial review 315 IAC 1-3-14 28 IR 996 28 IR 2779</p>
<p>ADMINISTRATION; INFORMATION COLLECTION PROCESSING; SCHOOL FINANCE; GENERAL PROVISIONS Determining and Reporting Attendance and Membership for State Support Definitions 511 IAC 1-3-1 27 IR 3305 28 IR 965</p>	<p>World language courses 511 IAC 6.1-5.1-4 27 IR 2554 28 IR 961</p>	<p>Powers and duties of the director, presiding environmental law judge, and office of environmental adjudication 315 IAC 1-3-1 28 IR 991 28 IR 2773</p>
<p>ENGINEERS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL ADMINISTRATION; GENERAL REQUIREMENTS Examinations Examination attempts for certification as an EI 864 IAC 1.1-4.1-9 28 IR 603</p>	<p>Fees Fee for examination administration 864 IAC 1.1-12-2 27 IR 2570 28 IR 604</p>	<p>Representatives and attorneys; eligibility to practice 315 IAC 1-3-15 28 IR 996 28 IR 2779</p>
<p>Fees charged by board 864 IAC 1.1-12-1 27 IR 2569 28 IR 604</p>	<p>Stay 315 IAC 1-3-2.1 28 IR 992 28 IR 2775</p>	<p>Request for extension of time for filing pleading, document, or motion 315 IAC 1-3-5 28 IR 994 28 IR 2776</p>

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ETHICS COMMISSION, STATE

STATE OFFICERS AND EMPLOYEES
 Indiana Code of Ethics for the Conduct of State Business
 Acceptable gifts, favors, services, entertainment, food, drink, and honoraria
 40 IAC 2-1-6 28 IR 987
 28 IR 2160
28 IR 3452
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 40 IAC 2-1-7 28 IR 988
 28 IR 2161
28 IR 3453
 Ethics education
 40 IAC 2-1-5.5 28 IR 987
 28 IR 2160
28 IR 3452

EXECUTIVE ORDERS

(See Cumulative Table of Executive Orders and Attorney General's Opinions at 28 IR 2301)

FAMILY RESOURCES, DIVISION OF

CHILD WELFARE SERVICES
 Child care development fund voucher program; provider eligibility
 470 IAC 3-18 27 IR 1627
28 IR 950
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 470 IAC 3-1.1-38 27 IR 2847
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 470 IAC 3-1.1-28.5 27 IR 2842
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 470 IAC 3-1.1-1 27 IR 2837
 "Assistant caregiver" defined
 470 IAC 3-1.1-2 27 IR 2838
 "Caregiver" defined
 470 IAC 3-1.1-4 27 IR 2838
 Child abuse and neglect
 470 IAC 3-1.1-35 27 IR 2846
 "Child care" defined
 470 IAC 3-1.1-6 27 IR 2838
 Child care home capacity
 470 IAC 3-1.1-24 27 IR 2841
 "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
 "Design professional" defined
 470 IAC 3-1.1-7.4 27 IR 2839
 Discipline policy
 470 IAC 3-1.1-41 27 IR 2848
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 470 IAC 3-1.1-51 27 IR 2853
 Fire prevention
 470 IAC 3-1.1-46 27 IR 2851
 General environment
 470 IAC 3-1.1-45 27 IR 2850
 Health
 470 IAC 3-1.1-44 27 IR 2849
 Inappropriate discipline
 470 IAC 3-1.1-41.2 27 IR 2848

"Infant" defined
 470 IAC 3-1.1-10 27 IR 2839
 Initial licensure
 470 IAC 3-1.1-28 27 IR 2841
 "Licensee" defined
 470 IAC 3-1.1-12 27 IR 2839
 License provisions
 470 IAC 3-1.1-29.5 27 IR 2842
 Medical requirements
 470 IAC 3-1.1-34 27 IR 2845
 Medication
 470 IAC 3-1.1-44.5 27 IR 2850
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 470 IAC 3-1.1-0.5 27 IR 2837
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 470 IAC 3-1.1-42 27 IR 2849
 Outdoor environment
 470 IAC 3-1.1-38.5 27 IR 2847
 Pets
 470 IAC 3-1.1-45.5 27 IR 2850
 Positive discipline
 470 IAC 3-1.1-41.1 27 IR 2848
 "Probationary license" defined
 470 IAC 3-1.1-12.5 27 IR 2839
 "Protected outdoor play area" defined
 470 IAC 3-1.1-13 27 IR 2839
 "Provisional license" defined
 470 IAC 3-1.1-14 27 IR 2840
 Record requirements
 470 IAC 3-1.1-32.1 27 IR 2843
 "Relatives" defined
 470 IAC 3-1.1-15 27 IR 2840
 Relicensure
 470 IAC 3-1.1-29 27 IR 2842
 Requirements for admission to the home
 470 IAC 3-1.1-37 27 IR 2846
 "Residential structure" defined
 470 IAC 3-1.1-16 27 IR 2840
 Safety
 470 IAC 3-1.1-48 27 IR 2852
 Sanitation
 470 IAC 3-1.1-47 27 IR 2852
 School age child care services
 470 IAC 3-1.1-50 27 IR 2853
 Staff orientation, training, and development
 470 IAC 3-1.1-33.5 27 IR 2845
 Staff requirements
 470 IAC 3-1.1-33 27 IR 2845
 "Student assistant" defined
 470 IAC 3-1.1-20 27 IR 2840
 Supervision
 470 IAC 3-1.1-36.6 27 IR 2846
 "Supervision" defined
 470 IAC 3-1.1-20.1 27 IR 2840
 Swimming
 470 IAC 3-1.1-39 27 IR 2848
 Transportation and activities away from the child care home
 470 IAC 3-1.1-40 27 IR 2848
 "Volunteer caregiver" defined
 470 IAC 3-1.1-22.5 27 IR 2840
 Class II Child Care Homes
 Application for Class II child care home license
 470 IAC 3-1.3-3 27 IR 2855

Class II child care home capacity
 470 IAC 3-1.3-6 27 IR 2856
 "Class II child care home" defined
 470 IAC 3-1.3-2 27 IR 2855
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 470 IAC 3-1.3-1 27 IR 2855
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 470 IAC 3-1.3-7 27 IR 2856
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 470 IAC 3-1.3-4 27 IR 2856
 Staff orientation, training, and development
 470 IAC 3-1.3-5 27 IR 2856
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 470 IAC 3-4.8 27 IR 1626
28 IR 196
 Infant and Toddler Services
 Activities for healthy development
 470 IAC 3-1.2-4 27 IR 2854
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 470 IAC 3-1.2-3.2 27 IR 2853
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 470 IAC 3-1.2-6 27 IR 2854
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 470 IAC 3-1.2-7 27 IR 2855
 "Full-sized crib" defined
 470 IAC 3-1.2-2 27 IR 2853
 Naps
 470 IAC 3-1.2-5 27 IR 2854
 "Portacrib" defined
 470 IAC 3-1.2-3 27 IR 2853
 Sanitizing
 470 IAC 3-1.2-8 27 IR 2855

FAMILY AND SOCIAL SERVICES, OFFICE OF THE SECRETARY OF

INDIANA PRESCRIPTION DRUG PROGRAM
 Application and Enrollment; General Requirements
 Date of availability
 LSA Document #04-246(E) **28 IR 230**
 405 IAC 6-3-3 27 IR 3210
28 IR 180
 Benefits
 Benefit defined by family income level
 LSA Document #04-246(E) **28 IR 230**
 405 IAC 6-5-2 27 IR 3211
28 IR 181
 Benefit duration
 LSA Document #04-246(E) **28 IR 230**
 405 IAC 6-5-4 27 IR 3212
28 IR 181
 Benefit period
 LSA Document #04-246(E) **28 IR 230**
 405 IAC 6-5-3 27 IR 3211
28 IR 181
 Benefits; program appropriations
 LSA Document #04-246(E) **28 IR 230**
 405 IAC 6-5-6 27 IR 3212
28 IR 182
 Prescription drug coverage
 LSA Document #04-246(E) **28 IR 230**
 405 IAC 6-5-1 27 IR 3211
28 IR 181

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Definitions					
“Complete application” defined					
LSA Document #04-246(E)	28 IR 230				
405 IAC 6-2-5	27 IR 3210				
	28 IR 179				
Eligibility Requirements					
Income					
LSA Document #04-246(E)	28 IR 230				
405 IAC 6-4-2	27 IR 3210				
	28 IR 180				
Ineligibility					
LSA Document #04-246(E)	28 IR 230				
405 IAC 6-4-3	27 IR 3210				
	28 IR 180				
MEDICAID PROVIDERS AND SERVICES					
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Overpayments made to providers; recovery					
405 IAC 1-1-5	28 IR 258				
	28 IR 2129				
Providing services to members enrolled under the Medicaid spend-down provision					
405 IAC 1-1-3.1	28 IR 2196				
	28 IR 3579				
Managed Care Provider Reimbursement Dispute Resolution					
405 IAC 1-1-6	27 IR 3699				
	28 IR 816				
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Medical records; contents and retention					
405 IAC 1-5-1	28 IR 655				
	28 IR 2134				
Provider Reimbursement Appeal Procedures					
Appeal requests					
405 IAC 1-1-5-2	28 IR 259				
	28 IR 2131				
Scope					
405 IAC 1-1-5-1	27 IR 3699				
	28 IR 815				
Rate-Setting Criteria for HIV Nursing Facilities					
Limitation on Medicaid rate increases for HIV nursing facilities					
405 IAC 1-14.5-27	28 IR 3655				
Rate-Setting Criteria for Nonstate-Owned Intermediate Care Facilities for the Mentally Retarded and Community Residential Facilities for the Developmentally Disabled					
Limitation to Medicaid rate increases for nonstate-owned intermediate care facilities for the mentally retarded and community residential facilities for the developmentally disabled					
405 IAC 1-12-27	28 IR 3654				
Rate-Setting Criteria for Nursing Facilities					
Limitation to Medicaid rate increases for nursing facilities					
405 IAC 1-14.6-23	28 IR 3655				
MEDICAID RECIPIENTS; ELIGIBILITY					
Eligibility Requirements Based on Need; Aged, Blind, and Disabled Program					
Spend-down eligibility					
405 IAC 2-3-10	27 IR 1210				
	28 IR 178				
	28 IR 2196				
	28 IR 3579				
Eligibility Requirements Other than Need					
Disability determination					
405 IAC 2-2-3	28 IR 1847				
Medicaid for Employees with Disabilities					
Employment requirements; continuing eligibility when employment ends					
405 IAC 2-9-5	28 IR 1848				
MEDICAID SERVICES					
Evaluation and Management Services					
Limitations					
405 IAC 5-9-1	28 IR 261				
	28 IR 2132				
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Global fee billing; codes					
405 IAC 5-1-5	28 IR 260				
	28 IR 2131				
Medical Supplies and Equipment					
Braces and orthopedic shoes					
405 IAC 5-19-10	28 IR 262				
	28 IR 2134				
Medical supplies					
405 IAC 5-19-1	28 IR 261				
	28 IR 2133				
Pharmacy Services					
Reimbursement for legend drugs					
405 IAC 5-24-4	28 IR 3653				
Reimbursement for nonlegend drugs					
405 IAC 5-24-5	28 IR 3653				
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CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

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Special purpose educational permit					
312 IAC 9-10-9.5	27 IR 1961				
	28 IR 551				
Special purpose salvage permit					
312 IAC 9-10-13.5	27 IR 1963				
	28 IR 553				
Wild animal rehabilitation permit					
312 IAC 9-10-9	27 IR 1960				
	28 IR 550				
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312 IAC 9-7-6	27 IR 1959				
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312 IAC 9-11-14	27 IR 1965				
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	28 IR 2660				
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312 IAC 11-2-25.2	28 IR 2768				
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312 IAC 11-5-3	28 IR 2771				
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312 IAC 11-4-2	28 IR 2769				
Seawall refacing					
312 IAC 11-4-3	28 IR 2770				
Underwater beaches					
312 IAC 11-4-4	28 IR 2771				
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	28 IR 1681				
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312 IAC 11-3-3	28 IR 2769				
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CITATIONS TO FINAL RULES ARE IN **BOLD TYPE**

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312 IAC 5-14-11	27 IR 4103			28 IR 595
	28 IR 1464		Transfer of program to another controlling organization	
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312 IAC 5-14-21	27 IR 4106	Accreditation		28 IR 596
	28 IR 1467	Accreditation status	Definitions; Administration	
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312 IAC 5-14-19	27 IR 4105		848 IAC 1-1-2.1	27 IR 2865
	28 IR 1467	Change of ownership		28 IR 593
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312 IAC 5-14-6.1	27 IR 4102		848 IAC 1-1-7	28 IR 675
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312 IAC 5-14-9	27 IR 4103		848 IAC 1-1-6	28 IR 674
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312 IAC 5-14-17	27 IR 4104		Application and Renewal of the Indiana Optometric Legend Drug Certificate	
	28 IR 1465	Curriculum; licensed practical nurse program	Original certification	
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312 IAC 5-14-18	27 IR 4105		Renewal of the certificate	
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312 IAC 5-14-2	27 IR 4100		Hours and Leave	
	28 IR 1461	Faculty	Sick leave	
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	28 IR 1462	Faculty qualifications; licensed practical nurse programs	Hours and Leaves	
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312 IAC 5-14-15	27 IR 4103		31 IAC 1-9-4	27 IR 4049
	28 IR 1465	Faculty qualifications; registered nurse programs	PESTICIDE REVIEW BOARD, INDIANA	
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312 IAC 5-14-16	27 IR 4104		Civil Penalty Assessment Schedule; Pesticide Registration	
	28 IR 1465	Opening a program	Definitions	
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329 IAC 9-4-4	26 IR 1221		28 IR 124	328 IAC 1-2-1	27 IR 2779
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	28 IR 155	“Site characterization” defined		328 IAC 1-6-1	27 IR 2796
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170 IAC 4-4.1-7			
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170 IAC 4-4.3		327 IAC 5-3.5	28 IR 2349
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170 IAC 4-1.2	Examination scores		
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170 IAC 4-4.2			
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170 IAC 4-4.2-5			
28 IR 3332			
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170 IAC 4-1-23			
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Gas Customer Service Rights and Responsibilities	203 IAC	Approval of Public Water Supply Plans	
170 IAC 5-1.2		Construction requirements at noncommunity public water systems serving 250 or fewer individuals	
27 IR 4065		327 IAC 8-4-2	28 IR 2191
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170 IAC 5-1-15		Consumer Confidence Reports	
28 IR 3627		Content of the reports	
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28 IR 3630		Drinking water violations; other situations requiring public notice	
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170 IAC 8.5-2-1	References to Federal Act	327 IAC 8-2.1-17	28 IR 1261
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170 IAC 8.5-2-5		327 IAC 8-2.1-6	28 IR 1248
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170 IAC 8.5-2-3	327 IAC 1-1-2	327 IAC 8-2.1-4	28 IR 1247
27 IR 4087			28 IR 3226
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170 IAC 8.5-2-4	327 IAC 1-1-3	327 IAC 8-2.1-14	28 IR 1257
27 IR 4089			28 IR 3235
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170 IAC 7-1.3-3	327 IAC 5-2-11.1	Tier 2 notice; form, manner, and frequency of notice	
27 IR 4081		327 IAC 8-2.1-9	28 IR 1256
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170 IAC 7-1.3-9	327 IAC 5-2-11.5		
27 IR 4084			
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170 IAC 7-1.3-8	327 IAC 5-2-11.6		
27 IR 4083			
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170 IAC 7-1.3-10	327 IAC 5-2-11.4		
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170 IAC 6-1.1			
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