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Retain this issue as a
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Indiana Administrative
Code (See p. 2508)

PUBLIC COMMENTS REQUESTED:

*Under **HEA 1135** (P.L.215-2005), after July 1, 2006, the Indiana Register will be published only on the Internet and on a more frequent basis. Written comments and suggestions concerning these changes may be sent to:*

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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) Volumes 28 and 29 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:

April 10, 2006
May 10, 2006
June 9, 2006

Publication Dates:

May 1, 2006
June 1, 2006
July 1, 2006

Closing Dates:

After July 1, 2006, publication dates will be determined on an individual document basis.

Publication Dates:

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	
AGENCY	TITLE NUMBER	AGENCY	TITLE NUMBER
Accountancy, Indiana Board of	872	Hospital Council	414
Accounts, State Board of	20	Housing and Community Development Authority, Indiana	930
Adjutant General	270	†Human Service Programs, Interdepartmental Board for the Coordination of	490
Administration, Indiana Department of	25	†Industrial Board of Indiana	630
†Administrative Building Council of Indiana	660	Inspector General, Office of the	42
†Aeronautics Commission of Indiana	110	Insurance, Department of	760
Aging, Division of	455	Labor, Department of	610
†Aging and Community Services, Department on	450	Land Surveyors, State Board of Registration for	865
†Agricultural Development Corporation, Indiana	770	Law Enforcement Training Board	250
†Agricultural Experiment Station	350	Library and Historical Board, Indiana	590
†Agriculture, Commissioner of	340	†Library Certification Board	595
Agriculture, Department of	375	Local Government Finance, Department of	50
†Air Pollution Control Board	325.1	Lottery Commission, State	65
Air Pollution Control Board	326	Manufactured Home Installer Licensing Board	879
†Air Pollution Control Board of the State of Indiana	325	†Medical and Nursing Distribution Loan Fund Board of	
Alcohol and Tobacco Commission	905	Trustees, Indiana	580
Amusement Device Safety Board, Regulated	685	Medical Licensing Board of Indiana	844
Animal Health, Indiana State Board of	345	Mental Health and Addiction, Division of	440
Architects and Landscape Architects, Board of Registration for	804	Meridian Street Preservation Commission	925
Athletic Trainers Board, Indiana	898	Motor Vehicles, Bureau of	140
Attorney General for the State, Office of	10	†Natural Resources, Department of	310
Auctioneer Commission, Indiana	812	Natural Resources Commission	312
Barber Examiners, Board of	816	Nursing, Indiana State Board of	848
Boiler and Pressure Vessel Rules Board	680	Occupational Safety Standards Commission	620
Boxing Commission, State	808	Office of Technology	28
Budget Agency	85	Optometric Legend Drug Prescription Advisory Committee, Indiana	857
Chemist of the State of Indiana, State	355	Optometry Board, Indiana	852
Children's Health Insurance Program, Office of the	407	Parole Board	220
Child Services, Department of	465	†Personnel Board, State	30
Chiropractic Examiners, Board of	846	Personnel Department, State	31
Civil Rights Commission	910	Pesticide Review Board, Indiana	357
†Clemency Commission, Indiana	230	Pharmacy, Indiana Board of	856
Commerce, Department of	55	Plumbing Commission, Indiana	860
Community Residential Facilities Council	431	Podiatric Medicine, Board of	845
Consumer Protection Division of the Office of the Attorney General	11	Police Department, State	240
Controlled Substances Advisory Committee	858	Political Subdivision Risk Management Commission, Indiana	762
Coroners Training Board	207	Port Commission, Indiana	130
Correction, Department of	210	Preparedness and Training, Division of	280
Cosmetology Examiners, State Board of	820	Private Detectives Licensing Board	862
Creamery Examining Board	365	Professional Standards, Advisory Board of the Division of	515
Criminal Justice Institute, Indiana	205	Proprietary Education, Indiana Commission on	570
Deaf Board, Indiana School for the	514	Psychology Board, State	868
Dentistry, State Board of	828	Public Access Counselor, Office of the	62
†Developmental Disabilities Residential Facilities Council	430	Public Employees' Retirement Fund, Board of Trustees of the	35
Dietitians Certification Board, Indiana	830	Public Records, Oversight Committee on	60
Disability, Aging, and Rehabilitative Services, Division of	460	Real Estate Commission, Indiana	876
†Education, Commission on General	510	†Reciprocity Commission of Indiana	145
Education, Department of	512	Revenue, Department of State	45
Education, Indiana State Board of	511	Safety Review, Board of	615
Education Employment Relations Board, Indiana	560	School Bus Committee, State	575
Education Savings Authority, Indiana	540	Secretary of State	75
Egg Board, State	370	Securities Division	710
†Election Board, State	15	Seed Commissioner, State	360
Election Commission, Indiana	18	Social Worker, Marriage and Family Therapist, and Mental Health	
†Elevator Safety Board	670	Counselor Board	839
Emergency Medical Services Commission, Indiana	836	†Soil and Water Conservation Committee, State	311
Employees' Appeals Commission, State	33	Soil Scientists, Indiana Board of Registration for	307
†Employment and Training Services, Department of	645	†Solid Waste Management Board	320.1
Engineers, State Board of Registration for Professional	864	Solid Waste Management Board	329
Enterprise Zone Board	58	Speech-Language Pathology and Audiology Board	880
Environmental Adjudication, Office of	315	†Standardbred Board of Regulations, Indiana	341
Environmental Health Specialists, Board of	896	†Stream Pollution Control Board of the State of Indiana	330
Environmental Management, Department of	318	Student Assistance Commission, State	585
†Environmental Management Board, Indiana	320	Tax Review, Indiana Board of	52
Ethics Commission, State	40	†Teacher Training and Licensing, Commission on	530
Fair Commission, State	80	Teachers' Retirement Fund, Board of Trustees of the Indiana State	550
Family Resources, Division of	470	†Television and Radio Service Examiners, Board of	884
Family and Social Services, Office of the Secretary of	405	†Textbook Adoptions, Commission on	520
Finance Authority, Indiana	135	Toxicology, State Department of	260
Financial Institutions, Department of	750	†Traffic Safety, Office of	150
†Fire Marshal, State	650	†Transportation, Department of	100
Fire Prevention and Building Safety Commission	675	Transportation, Indiana Department of	105
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
Homeland Security, Department of	290	†Water Pollution Control Board	330.1
†Horse Racing Commission, Indiana	70	Worker's Compensation Board of Indiana	631
Horse Racing Commission, Indiana	71	Workforce Development, Department of	646

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

State Agencies

NUMERICAL LIST

TITLE NUMBER

GENERAL GOVERNMENT

10	Office of Attorney General for the State
11	Consumer Protection Division of the Office of the Attorney General
†15	State Election Board
18	Indiana Election Commission
20	State Board of Accounts
25	Indiana Department of Administration
28	Office of Technology
†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 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	Division of Preparedness and Training
290	Department of Homeland Security

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
318	Department of Environmental Management
†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	Department 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

TITLE NUMBER

455	Division of Aging
460	Division of Disability, Aging, and Rehabilitative Services
465	Department of Child 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
512	Department 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 and Community Development Authority

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

**TITLE 50 DEPARTMENT OF LOCAL
GOVERNMENT FINANCE**

LSA Document #05-142(F)

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.

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2512)

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2512)*

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2512)*

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2512)*

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2512)*

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2513*)

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 and the Real Property Assessment Guidelines for 2002-Version A.**

(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 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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2513)

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 **using one (1) of the following two (2) methods**:

(1) Method 1:

- (A) Establish revised land base rates for the January 1, 1999, valuation date, and apply the revised land base rates to develop a revised 2002 land assessment.
- (B) Calculate and apply a revised neighborhood factor using the procedure outlined in the Real Property Assessment Guidelines for 2002-Version A. This method will produce revised 2002 assessments.
- (C) Compare the revised 2002 assessment to 2004 and 2005 sales to develop an annual adjustment factor to adjust the 2002 assessment to the 2006 assessment.

(2) Method 2:

- (A) Establish new land base rates that reflect the January 1, 2005, valuation date, and apply these new

land base rates to develop a 2006 land value.

(B) Calculate and apply a new neighborhood factor using the procedure outlined in the Real Property Assessment Guidelines for 2002-Version A. This method will produce the 2006 assessment directly and the application of an annual adjustment factor will be unnecessary.

(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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2514)~~

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2514)

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2515)*

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 11)~~ 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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2515)*

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2515)~~

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 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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2515*)

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2516*)

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; filed Mar 10, 2006, 3:55 p.m.: 29 IR 2516*)

SECTION 16. 50 IAC 21-4-3 IS REPEALED.

LSA Document #05-142(F)

Notice of Intent Published: July 1, 2005; 28 IR 2996

Proposed Rule Published: September 1, 2005; 28 IR 3621

Hearing Held: September 28, 2005

Approved by Attorney General: February 24, 2006

Approved by Governor: March 10, 2006
Filed with Secretary of State: March 10, 2006, 3:55 p.m.
IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher
Small Business Regulatory Coordinator: Michael Dart, General Counsel, Department of Local Government Finance, Indiana Government Center-North, 100 North Senate Avenue, Room N1058(B), Indianapolis, IN 46204, (317) 233-0166, mdart@dlgf.in.gov

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #05-230(F)

DIGEST

Amends 326 IAC 1-1-3 concerning references to the Code of Federal Regulations. Effective 30 days after filing with the Secretary of State.

HISTORY

IC 13-14-9-8 Notice and Notice of First Hearing: September 1, 2005, Indiana Register (28 IR 3677).

Date of First Hearing: October 5, 2005.

Proposed Rule and Notice of Public Hearing: November 1, 2005, Indiana Register (29 IR 632).

Date of Second Hearing: December 7, 2005.

326 IAC 1-1-3

SECTION 1. 326 IAC 1-1-3, AS AMENDED AT 29 IR 795, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-1-3 References to the Code of Federal Regulations

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

Affected: IC 13-15; IC 13-17

Sec. 3. Unless otherwise indicated, any reference to a provision of the Code of Federal Regulations (CFR) shall mean the July 1, ~~2004~~, 2005, edition*.

*This body of documents is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board*; 326 IAC 1-1-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2369; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1102; filed Dec 14, 1989, 9:35 a.m.: 13 IR 868; filed Aug 9, 1991, 11:00 a.m.: 14 IR 2218; filed May 25, 1994, 11:00 a.m.: 17 IR 2237; filed Jul 25, 1995, 5:00 p.m.: 18 IR 3381; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3298; filed Oct 30, 2000, 2:13 p.m.: 24 IR 667; filed May

21, 2002, 10:20 a.m.: 25 IR 3054; filed Aug 26, 2004, 11:30 a.m.: 28 IR 17; filed Oct 14, 2005, 10:00 a.m.: 29 IR 795; filed Mar 17, 2006, 1:00 p.m.: 29 IR 2517)

LSA Document #05-230(F)

Proposed Rule Published: November 1, 2005; 29 IR 632

Hearing Held: December 7, 2005

Approved by Attorney General: March 15, 2006

Approved by Governor: March 17, 2006

Filed with Secretary of State: March 17, 2006, 1:00 p.m.

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

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

Small Business Assistance Program Ombudsman: 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

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #05-236(F)

DIGEST

Adds 326 IAC 20-29 concerning national emission standards for hazardous air pollutants for steel pickling hydrochloric acid process sources and hydrochloric acid regeneration plants. Effective 30 days after filing with the Secretary of State.

HISTORY

IC 13-14-9 Notice and Notice of First Hearing: September 1, 2005, Indiana Register (28 IR 3682).

Date of First Hearing: October 5, 2005.

Proposed Rule and Notice of Public Hearing: November 1, 2005, Indiana Register (29 IR 635).

Date of Second Hearing: December 7, 2005.

326 IAC 20-29

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; filed Mar 14, 2006, 3:36 p.m.: 29 IR 2517)

LSA Document #05-236(F)

Proposed Rule Published: November 1, 2005; 29 IR 635

Hearing Held: December 7, 2005

Approved by Attorney General: March 9, 2006

Approved by Governor: March 14, 2006

Filed with Secretary of State: March 14, 2006, 3:36 p.m.

IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher
Small Business Regulatory Coordinator: Sandra El-Yusuf, IDEM Compliance and Technical Assistance Program, OPPTA - MC60-04, 100 North Senate Avenue, W-041, Indianapolis, IN 46204-2251, (317) 232-8578, selyusuf@idem.in.gov

Small Business Assistance Program Ombudsman: Eric Levenhagen, IDEM Small Business Assistance Program Ombudsman, External Affairs - MC50-01, 100 North Senate Avenue, IGCN 1301, Indianapolis, IN 46204-2251, (317) 234-3386, elevenha@idem.in.gov

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #05-121(F)

DIGEST

Adds 345 IAC 1-7 to prescribe procedures for condemnation, indemnity, and disposition of animals and objects, euthanasia of animals and destruction of objects, and cleaning and disinfecting to prevent, detect, control, and eradicate diseases and pests of animals. Effective 30 days after filing with the Secretary of State.

345 IAC 1-7

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

Rule 7. Acquisition and Disposition of Animals and Objects

345 IAC 1-7-1 Definitions; applicability

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-3

Sec. 1. The definitions in IC 15-2.1-2 and this rule apply throughout this rule. (*Indiana State Board of Animal Health*; 345 IAC 1-7-1; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2518)

345 IAC 1-7-2 “Board” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3

Sec. 2. “Board” means the Indiana state board of animal health appointed under IC 15-2.1-3. (*Indiana State Board of Animal Health*; 345 IAC 1-7-2; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2518)

345 IAC 1-7-3 “Object” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-18

Sec. 3. “Object” means the following:

(1) Any pest or disease.

(2) A material or tangible thing that could harbor a pest or disease.

(*Indiana State Board of Animal Health*; 345 IAC 1-7-3; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2518)

345 IAC 1-7-4 “Payment limit” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-18

Sec. 4. “Payment limit” means a limit prescribed by law on the amount of money a person may receive for indemnity for destruction of an animal or object. (*Indiana State Board of Animal Health*; 345 IAC 1-7-4; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2518)

345 IAC 1-7-5 “Pest” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-3

Sec. 5. “Pest” means any of the following that can directly or indirectly injure, cause damage to, or cause disease in animals:

(1) A protozoan.

(2) A plant.

(3) A bacteria.

(4) A fungus.

(5) A virus or viroid.

(6) An infectious agent or other pathogen.

(7) An arthropod.

(8) A parasite.

(9) A prion.

(10) A vector.

(11) Any organism similar to or allied with any of the organisms described in this section.

(*Indiana State Board of Animal Health*; 345 IAC 1-7-5; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2518)

345 IAC 1-7-6 “State veterinarian” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-4

Sec. 6. “State veterinarian” means the following:

- (1) The state veterinarian appointed under IC 15-2.1-4.
- (2) The state veterinarian’s authorized representatives.

(Indiana State Board of Animal Health; 345 IAC 1-7-6; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2518)

345 IAC 1-7-7 Condemnation

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-18

Sec. 7. The state veterinarian may order any animal or object condemned in order to do the following:

- (1) Protect the citizens and animals of the state from diseases and pests.
- (2) Maintain or improve the state’s disease status as recognized by any of the following:

- (A) Another state.
- (B) The United States Department of Agriculture or other federal agency or entity.
- (C) A foreign country.
- (D) The Office International des Epizooties (OIE) or other international standard-setting bodies.

(Indiana State Board of Animal Health; 345 IAC 1-7-7; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2519)

345 IAC 1-7-8 Indemnity

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-18-15; IC 15-2.1-18-16; IC 15-2.1-19

Sec. 8. (a) Except as provided in IC 15-2.1-18-15 and subject to any other limits imposed by law, the board will indemnify owners of animals or objects condemned by the board according to this section. The following apply:

- (1) If another provision of IC 15-2.1 or this title provides a specific procedure for indemnification for certain animals or objects, the more specific provisions shall control.
- (2) If indemnity is paid by the federal government, the indemnity procedures prescribed by the federal government may be used instead of the procedures in this rule.

(b) The state veterinarian shall determine an appraised value for all condemned animals and objects. For purposes of IC 15-2.1-18-16 and this rule, “satisfactory appraisal” means a value determined by the state veterinarian to be a fair estimate of the condemned animal’s or object’s fair market value. The state veterinarian may consider the following when determining appraised value:

- (1) The owner’s purchase price for the condemned animal or object.
- (2) The sales price of similar animals or objects sold on the open market.
- (3) The animal’s market value as the following:
 - (A) A food animal.
 - (B) A breeding animal.
- (4) The salvage value of the animal or object.
- (5) The value according to the following:

- (A) Published catalogues.
- (B) Market reports.
- (C) Other formal and informal market surveys.
- (6) Any other relevant information.

The state veterinarian may survey, hire, or consult with and may rely on the opinion of independent appraisers, experts, and other knowledgeable persons when determining the value of animals and objects.

(c) The state veterinarian must notify the owner of the state veterinarian’s determination of appraised value. The procedures in IC 15-2.1-19 shall control the following:

- (1) The notification process.
- (2) The owner’s opportunity to appeal the state veterinarian’s determination.

(d) The board will pay an owner of condemned animals and objects the lesser of the following amounts:

- (1) The appraised value determined under this rule minus any amounts received by the owner for the condemned animal or object from the following:
 - (A) Insurance proceeds.
 - (B) Indemnity from the federal government.
 - (C) Any other source.
- (2) The applicable payment limit, if any.

The state veterinarian shall keep a record of indemnity paid.

(e) The owner of condemned animals or objects must report to the board any money received for the condemned animal or object from any source other than the state immediately upon receipt of the money. *(Indiana State Board of Animal Health; 345 IAC 1-7-8; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2519)*

345 IAC 1-7-9 Acquisition of animals and objects by voluntary sale

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-18-16.5

Sec. 9. The state veterinarian may do the following:

- (1) Purchase any animal or object for the purpose of:
 - (A) preventing;
 - (B) detecting;
 - (C) controlling; and
 - (D) eradicating;
diseases and pests of animals.
- (2) Negotiate and pay a fair value for any animal or object purchased.

The state veterinarian shall keep a record of all animals and objects purchased. *(Indiana State Board of Animal Health; 345 IAC 1-7-9; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2519)*

345 IAC 1-7-10 Euthanasia and disposal

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-18

Sec. 10. (a) When the board or its agents condemn an

animal, the state veterinarian may prescribe the means by which the animal shall be euthanized. If the state veterinarian prescribes a method of euthanasia, the method shall be one that is reasonably humane while allowing for efficient accomplishment of disease control objectives under the prevailing circumstances.

(b) When the board or its agent condemns an object, the state veterinarian may prescribe the means by which the object is destroyed. If the state veterinarian prescribes a method of destruction, the method shall be one that allows for efficient accomplishment of disease control objectives under the prevailing circumstances.

(c) The state veterinarian may order any animal or object disposed of in a particular manner in order to prevent, detect, control, eradicate, or otherwise protect the citizens and animals of the state from diseases and pests of animals. In an order issued under this section, the state veterinarian may:

- (1) restrict the use of disposal methods prescribed in IC 15-2.1-16 and 345 IAC 7-7; or
- (2) prescribe new or alternative methods of disposal.

(d) Subject to state laws governing procurement, the state veterinarian may contract with:

- (1) private veterinarians;
- (2) renderers; and
- (3) any other qualified person;

for euthanasia, destruction, and disposal services. (*Indiana State Board of Animal Health; 345 IAC 1-7-10; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2519*)

345 IAC 1-7-11 Cleaning and disinfecting

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-15-7; IC 15-2.1-16-18

Sec. 11. The state veterinarian may do the following:

(1) Order the cleaning and disinfecting of any:

- (A) premises;**
- (B) building; or**
- (C) other:**
 - (i) structure;**
 - (ii) conveyance;**
 - (iii) equipment; or**
 - (iv) object;**

using procedures approved by the state veterinarian in order to prevent, detect, control, and eradicate diseases and pests of animals.

(2) Subject to state laws governing procurement, contract with qualified persons for cleaning and disinfecting services.

(*Indiana State Board of Animal Health; 345 IAC 1-7-11; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2520*)

LSA Document #05-121(F)

Notice of Intent Published: June 1, 2005; 28 IR 2756

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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 #05-177(F)

DIGEST

Amends 345 IAC 2.5-3-2 to reduce from six months to 60 days the period following a whole herd test for tuberculosis during which animals may be moved into the state from modified accredited or accreditation preparatory states or zones without an individual tuberculin test. Makes other technical changes in the law of tuberculosis control. Effective 30 days after filing with the Secretary of State.

345 IAC 2.5-3-2

SECTION 1. 345 IAC 2.5-3-2, AS ADDED AT 28 IR 2679, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

345 IAC 2.5-3-2 Moving cattle and bison into the state

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13

Sec. 2. (a) A person may move cattle and bison into the state only if the requirements of this rule and 345 IAC 1-3 are met. The following apply to all cattle and bison entering the state:

(1) Before cattle or bison are moved into the state, the owner must obtain a permit from the board under 345 IAC 1-3-4. Permits may be obtained by calling the board at (317) 227-0316.

(2) Cattle and bison entering the state must be accompanied by a certificate as required in 345 IAC 1-3-4. Certificates accompanying cattle and bison must indicate the following:

(A) The name and address of the **following**:

(i) **The owner of the herd of origin.**

(~~B~~) ~~The name and address of~~ (ii) **The destination.**

(~~C~~) **(B) The permit number issued by the state veterinarian.**

(~~D~~) **(C) A description of the animals.**

(~~E~~) **(D) The official identification of each animal.**

(~~F~~) **(E) The date ~~conducted~~ or dates and results of any tests for diseases, including tuberculosis, conducted on the animals.**

(~~G~~) **(F) The herd status, if any, of the herd of origin including the date or dates of any herd tests.**

(~~H~~) **(G) Any other health information:**

- (i) relevant to the shipment of the animals; or
- (ii) otherwise required by law.

(3) Cattle and bison must be individually identified ~~prior to~~ **before** movement into the state as specified in 345 IAC 1-3-3.

(b) Reactor cattle and bison may not be moved into the state unless they are moved directly to an approved slaughtering establishment in a manner that meets the requirements for reactors in 9 CFR 77.17. Exposed cattle and bison may not be moved into the state unless they are moved directly to an approved slaughtering establishment in a manner that meets the requirements for exposed animals in 9 CFR 77.17. Suspect cattle and bison may not be moved into the state unless they are moved directly to an approved slaughtering establishment in a manner that meets the requirements for suspect cattle and bison in 9 CFR 77.17.

(c) A person may move into the state sexually intact female cattle of dairy breeds, including dairy cross breeds, that are six (6) months of age or older that originate from an accredited-free state or zone or a modified accredited advanced state or zone only under one (1) of the following conditions:

(1) The animals are moved:

(A) directly to an approved slaughtering establishment for slaughter; or ~~are moved~~

(B) through one (1) approved livestock facility; and then ~~direct~~ **directly** to slaughter.

(2) The animals originate from an accredited herd ~~and the accredited herd that~~ has completed the tuberculosis testing necessary for accredited status with negative results within one (1) year ~~prior to before~~ the date of movement into the state.

(3) If the animals are moved:

(A) into the state to an exhibition; and ~~are moved~~

(B) back out of the state within ten (10) days of arrival; the requirements in subsections (d) through (h) apply.

(4) The animals are moved in accordance with a commuter herd agreement under subsection (i).

(5) Each animal, without regard to its age, has tested negative for tuberculosis on an official test conducted within the sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state. ~~But,~~ Animals to be moved need not be retested if they were tested negative for tuberculosis as a part of a herd tuberculosis test at their herd of origin within the six (6) months ~~prior to before~~ the movement into the state.

(d) A person may move into the state cattle and bison other than animals described in subsection (c) that originate from accredited-free states or zones.

(e) A person may move into the state cattle and bison other than animals described in subsection (c) that originate from modified accredited advanced states or zones if the animals are not infected with and have not been exposed to tuberculosis and one (1) of the following conditions is met:

(1) The animals are moved:

(A) directly to an approved slaughtering establishment for slaughter; or ~~are moved~~

(B) through one (1) approved livestock facility; and then ~~direct~~ **directly** to slaughter only.

(2) The cattle or bison are **as follows**:

(A) Steers or spayed heifers. ~~and are~~

(B) Officially identified or officially identified by premises of origin identification.

(3) The cattle or bison originate from an accredited herd ~~and the accredited herd that~~ has completed the tuberculosis testing necessary for accredited status with negative results within two (2) years ~~prior to before~~ the date of movement into the state.

(4) The cattle and bison are sexually intact animals that are not from an accredited herd, and each animal has tested negative for tuberculosis on an official test conducted within the sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state. ~~But,~~ Animals to be moved need not be retested if they were tested negative for tuberculosis as a part of a herd tuberculosis test at their herd of origin within the six (6) months ~~prior to before~~ the movement into the state.

(f) A person may move into the state cattle and bison that originate from modified accredited states or zones if the animals are not infected with and have not been exposed to tuberculosis and one (1) of the following conditions is met:

(1) The animals are moved:

(A) directly to an approved slaughtering establishment for slaughter; or ~~are moved~~

(B) through one (1) approved livestock facility; and then ~~direct~~ **directly** to slaughter only.

(2) The cattle or bison are **as follows**:

(A) Steers or spayed heifers. ~~that are~~

(B) Officially identified or identified by official premises of origin identification. ~~and each animal has~~

(C) Tested negative for tuberculosis on an official test within the sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state.

(3) The cattle and bison originate from an accredited herd ~~and the accredited herd that~~ has completed the tuberculosis testing necessary for accredited status with negative results within one (1) year ~~prior to before~~ the date of movement into the state.

(4) The cattle and bison are sexually intact animals that are not from an accredited herd and meet each of the following requirements:

(A) The animal originated from a herd that tested negative for tuberculosis to a herd test of animals twelve (12) months of age and older conducted within one (1) year ~~prior to before~~ the date of movement into the state.

(B) Each animal that is two (2) months of age or older has tested negative for tuberculosis on an official test conducted within the sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state. ~~But,~~ Animals to be moved need not be retested if they were tested negative for tuberculosis as a part of a herd tuberculosis test at their herd of origin within the ~~six (6) months prior to sixty (60) days before~~ the movement into the state.

(g) A person may move into the state cattle and bison that originate from accreditation preparatory states or zones if the animals are not infected with and have not been exposed to tuberculosis and one (1) of the following conditions is met:

(1) The animals are moved:

(A) directly to an approved slaughter establishment for slaughter; or ~~are moved~~

(B) through one (1) approved livestock facility; and then ~~direct~~ **directly** to slaughter only.

(2) The cattle or bison are **as follows**:

(A) Steers or spayed heifers. ~~that are~~

(B) Officially identified or identified by official premises of origin identification. ~~that~~

(C) Originate from a herd that tested negative for tuberculosis to a herd test conducted within one (1) year ~~prior to before~~ the date of movement into the state. ~~and each animal has~~

(D) Tested negative for tuberculosis on an official test within the sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state. ~~But,~~

Animals to be moved need not be retested if they were tested negative for tuberculosis as a part of a herd tuberculosis test at their herd of origin within the six (6) months ~~prior to before~~ the movement into the state.

(3) The cattle and bison:

(A) originate from an accredited herd ~~the accredited herd that~~ has completed the tuberculosis testing necessary for accredited status within one (1) year ~~prior to before~~ the date of movement; and ~~each animal in the shipment has~~

(B) **have** tested negative for tuberculosis on an official test within the sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state.

(4) The cattle and bison are sexually intact animals that are not from an accredited herd and meet each of the following requirements:

(A) The herd from which the animals originated tested negative for tuberculosis to a herd test conducted within one (1) year ~~prior to before~~ the date of movement into the state.

(B) Each animal has tested negative for tuberculosis twice on official tests conducted between sixty (60) and one hundred eighty (180) days apart, with the second test conducted not more than sixty (60) days immediately ~~prior to before~~ the ~~animal~~ **animal's** entering the state. ~~But,~~ The second test is not required if the animals are moved interstate within ~~six (6) months~~ **sixty (60) days** following the herd of origin test. ~~and one (1) additional negative test of the animal is conducted after the herd test and within sixty (60) days of the movement.~~

(h) A person may move into the state cattle and bison that originate from a nonaccredited state or zone if the animals are **as follows**:

(1) Not infected with and have not been exposed to tuberculosis.

(2) Moved directly to an approved slaughter establishment for slaughter. ~~and~~

(3) Accompanied by a permit. ~~and~~

(4) Moved in a conveyance that has been sealed with an official seal.

(i) Cattle or bison that are members of a recognized and approved commuter herd may be moved interstate in accordance with the applicable commuter herd agreement. Animals must move directly from without commingling with animals from outside the production system under the terms of an approved herd commuter agreement. The state veterinarian may accept applications for commuter herd recognition and issue approvals for commuter herd movements under an approved commuter herd agreement as follows:

(1) Movements must be **as follows**:

(A) Without change of ownership.

(2) ~~Movements must be~~ (B) A part of and within the normal operations of a production system.

(3) (2) The commuter herd agreement must address and may waive or alter **the following**:

(A) The requirements in 345 IAC 1-3 for **the following**:

(i) Permits to enter the state.

(ii) Animal identification. ~~and~~

(iii) Certificates of veterinary inspection. ~~and~~

(B) The requirements in this article for tuberculosis testing.

(4) (3) The owner must **do the following**:

(A) Keep records of all movements for at least five (5) years.

(B) Present the records to state or federal officials for inspection upon request. ~~and~~

(C) Submit reports as required by the commuter herd agreement.

Commuter herd agreements shall be for a period of one (1) year and must be reviewed and renewed annually to remain in effect.

(j) The state veterinarian may permit the movement of any animal, including reactor, exposed, or quarantined cattle and bison, into the state:

(1) for the purpose of research or disposal; or

(2) to further the purposes of this article.

(Indiana State Board of Animal Health; 345 IAC 2.5-3-2; filed Apr 13, 2005, 12:30 p.m.; 28 IR 2679; filed Mar 30, 2006, 1:42 p.m.; 29 IR 2520)

LSA Document #05-177(F)

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TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #05-216(F)

DIGEST

Amends 345 IAC 1-3-17 and 345 IAC 1-3-19 concerning the movement of sheep and goats into Indiana. Repeals 345 IAC 7-5-17 and 345 IAC 7-5-18 concerning identification and health requirements for exhibiting sheep and goats. Effective 30 days after filing with the Secretary of State.

345 IAC 1-3-17 **345 IAC 7-5-17**
345 IAC 1-3-19 **345 IAC 7-5-18**

SECTION 1. 345 IAC 1-3-17 IS AMENDED TO READ AS FOLLOWS:

345 IAC 1-3-17 Sheep; applicability; importation restrictions

Authority: IC 15-2.1-3-19
 Affected: IC 15-2.1-3-13; IC 15-2.1-21-6

Sec. 17. (a) A person moving sheep into the state must meet the provisions of 345 IAC 1-3-1 through 345 IAC 1-3-5.

(b) ~~Sheep from a flock where sore mouth, foot rot or caseous lymphadenitis exists are not eligible for entry into Indiana except for immediate slaughter. requirements in 345 IAC 5-5 and the applicable requirements in this rule.~~ (Indiana State Board of Animal Health; Reg 76-1, Title V, Sec 1; filed Aug 10, 1976, 10:29 a.m.: Rules and Regs. 1977, p. 133; filed May 2, 1983, 10:02 a.m.: 6 IR 1044; filed Jan 8, 1986, 2:52 p.m.: 9 IR 996; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2523)

SECTION 2. 345 IAC 1-3-19 IS AMENDED TO READ AS FOLLOWS:

345 IAC 1-3-19 Goats; prohibitions

Authority: IC 15-2.1-3-19
 Affected: IC 15-2.1-3-13; IC 15-2.1-21-6

Sec. 19. (a) A person moving goats into the state must meet the provisions of 345 IAC 1-3-1 through 345 IAC 1-3-5.

(b) ~~Goats from herds requirements in which sore mouth, foot rot or caseous lymphadenitis exists may not be imported into Indiana except for immediate slaughter. 345 IAC 5-5 and the applicable requirements in this rule.~~ (Indiana State Board of Animal Health; Reg 76-1, Title VI, Sec 1; filed Aug 10, 1976, 10:29 a.m.: Rules and Regs. 1977, p. 134; filed May 2, 1983, 10:02 a.m.: 6 IR 1044; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Mar 30, 2006, 1:42 p.m.: 29 IR 2523)

SECTION 3. THE FOLLOWING ARE REPEALED: 345 IAC 7-5-17; 345 IAC 7-5-18.

LSA Document #05-216(F)

Notice of Intent Published: September 1, 2005; 28 IR 3611

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TITLE 357 INDIANA PESTICIDE REVIEW BOARD

LSA Document #05-215(F)

DIGEST

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.

357 IAC 1-12

SECTION 1. 357 IAC 1-12 IS ADDED TO READ AS FOLLOWS:

Rule 12. Pesticide Drift

357 IAC 1-12-1 Definitions

Authority: IC 15-3-3.6-4
 Affected: IC 15-3-3.6-14

Sec. 1. The following definitions apply throughout this rule:

(1) "Drift" means the physical movement of a pesticide through the air at the time of application from the target site to a nontarget site. The term shall not mean the movement of a pesticide, at a time after the application has been made, by any of the following:

- (A) Erosion.
- (B) Volatility after deposition on the target site.
- (C) Windblown soil particles.

(2) "Nontarget site" means any site that is not the intended target site of the pesticide application, including, but not limited to, the following:

- (A) Personal property.
- (B) Public property.
- (C) A body of water.
- (D) A person.
- (E) An animal.

- (F) Livestock.
- (G) Managed bees.
- (H) A commodity.
- (I) A desirable plant.

(3) “Standards” means the legally enforceable limits, as established by state or federal regulations.

(4) “Sufficient quantity to cause harm” means an amount of pesticide that results in any of the following:

(A) Pesticide residues in excess of established tolerances or standards.

(B) Documented:

- (i) death;
- (ii) illness;
- (iii) stunting;
- (iv) deformation;
- (v) discoloration; or
- (vi) other effects;

that are detrimental to the nontarget site.

(5) “Target site” means the specific site to which a pesticide was intentionally applied.

(6) “Tolerance” means the maximum amount of a pesticide residue, as established by the U.S. Environmental Protection Agency, that may lawfully remain on or in food or animal feed.

(7) “Volatility” means the ability of a pesticide to move to a nontarget site as a vapor rather than as a:

- (A) drift particle; or
- (B) spray droplet.

(Indiana Pesticide Review Board; 357 IAC 1-12-1; filed Mar 17, 2006, 1:00 p.m.: 29 IR 2523)

357 IAC 1-12-2 Drift restriction

Authority: IC 15-3-3.6-4
Affected: IC 15-3-3.6-14

Sec. 2. A person may not apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a nontarget site. (Indiana Pesticide Review Board; 357 IAC 1-12-2; filed Mar 17, 2006, 1:00 p.m.: 29 IR 2524)

LSA Document #05-215(F)

Notice of Intent Published: September 1, 2005; 28 IR 3612

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TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #05-209(F)

DIGEST

Adds 405 IAC 6-10 and 405 IAC 8 to implement a program to complement the federal Medicare Prescription Drug Benefit and to establish program eligibility and enrollment guidelines. Effective 30 days after filing with the Secretary of State.

405 IAC 6-10

405 IAC 8

SECTION 1. 405 IAC 6-10 IS ADDED TO READ AS FOLLOWS:

Rule 10. Discontinuance of the Indiana Prescription Drug Program Point of Service Drug Card

405 IAC 6-10-1 General provisions

Authority: IC 12-10-16-5
Affected: IC 12-10-16-3

Sec. 1. Under IC 12-10-16-3, the office hereby adopts and promulgates this article to phase-out the IPDP discount card program and transition members to the federal Medicare Part D program. (Office of the Secretary of Family and Social Services; 405 IAC 6-10-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2524)

405 IAC 6-10-2 Definitions

Authority: IC 12-10-16-5
Affected: IC 12-10-16-3

Sec. 2. (a) The definitions in this section apply throughout this rule unless the context clearly indicates another meaning.

(b) “Centers for Medicare and Medicaid Services” means the federal administrator of the Medicare prescription drug benefit.

(c) “Enhanced Medicare Part D plan” means a Medicare Part D plan that is not considered standard or basic actuarially equivalent standard coverage by the Centers for Medicare and Medicaid Services.

(d) “Full low-income subsidy” means the Centers for Medicare and Medicaid Services benefit provided to eligible low-income individuals enrolled in the Medicare prescription drug benefit. Full low-income subsidy eligible individuals:

- (1) are not required to pay monthly premiums or annual deductible;**
- (2) have small copayments; and**
- (3) have no gap in coverage.**

Eligibility is determined by the Social Security Administration.

(e) "Low-income subsidy" means either a:
 (1) full low-income subsidy; or
 (2) partial low-income subsidy;
 as determined by the Social Security Administration.

(f) "Low-income subsidy application" means the Application for Help with Medicare Prescription Drug Plan Costs, which is processed and administered through the Social Security Administration.

(g) "Low-income subsidy premium" means the maximum amount the low-income subsidy will pay towards a Medicare Part D beneficiary's monthly premium in the state of Indiana, as determined by the Centers for Medicare and Medicaid Services and adjusted annually.

(h) "Medicare-advantage prescription drug plan" means an entity authorized by the Centers for Medicare and Medicaid Services to provide prescription drug coverage to Medicare Advantage beneficiaries.

(i) "Medicare Part D plan" means a:
 (1) Medicare prescription drug plan; or
 (2) a Medicare-Advantage prescription drug plan.

(j) "Member" means a person who has:
 (1) met all eligibility requirements; and
 (2) has been enrolled in the Indiana prescription drug program.

(k) "Partial low-income subsidy" means the Centers for Medicare and Medicaid Services benefit provided to eligible low-income individuals enrolled in the Medicare prescription drug benefit. Partial low-income subsidy eligible individuals are eligible for the following:
 (1) reduced premiums on a sliding-scale;
 (2) a maximum annual deductible of fifty dollars;
 (3) fifteen percent (15%) copayments; and
 (4) no gap in coverage.

Eligibility is determined by the Social Security Administration.

(l) "Premium" means the monthly cost of being enrolled in a Medicare Part D plan.

(m) "Standard" means a Medicare Part D plan that is considered standard or basic actuarially equivalent standard coverage by the Centers for Medicare and Medicaid Services. Does not include enhanced Medicare Part D plans. (*Office of the Secretary of Family and Social Services; 405 IAC 6-10-2; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2524*)

405 IAC 6-10-3 Benefits

Authority: IC 12-10-16-5
 Affected: IC 12-10-16

Sec. 3. (a) The IPDP drug card program will end on December 31, 2005.

(b) Any benefit dollars remaining on IPDP member drug cards will no longer be available to the member after December 31, 2005.

(c) December 31, 2005, will be the last date of service that pharmacy providers will be able to submit a claim to the IPDP.

(d) The IPDP shall accept reversals and rebills electronically ninety (90) days after December 31, 2005. (*Office of the Secretary of Family and Social Services; 405 IAC 6-10-3; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2525*)

405 IAC 6-10-4 Transition to Medicare Part D plan; auto-assignment for full low-income subsidy beneficiaries

Authority: IC 12-10-16-5
 Affected: IC 12-10-16

Sec. 4. (a) The program may, to the extent it can identify IPDP members that have been determined eligible for full low-income subsidy from the Centers for Medicare and Medicaid Services, randomly assign members to Medicare prescription drug plans offering standard coverage with a monthly premium below the low-income subsidy premium amount in compliance with subsection (b). In the event the same entity offers more than one (1) such Medicare prescription drug plan in the state, the program will assign members randomly among the entity's eligible Medicare prescription drug plans.

(b) The program shall only auto-assign members to Medicare prescription drug plans that have agreed to accept electronic auto-assignment from the program in a manner defined by the program.

(c) Married couples auto-assigned by the office shall be assigned to the same Medicare prescription drug plan whenever possible.

(d) The program will send the member a letter notifying them that they will have at least twenty-five (25) calendar days to select a Medicare Part D plan. If no selection has been made within the period of not less than twenty-five (25) calendar days, the office may auto-assign the member to a Medicare prescription drug plan that has contracted with the IPDP to receive auto-assignment.

(e) A member may opt out of the auto-assignment by calling or writing the IPDP before the end of the twenty-five (25) calendar day period.

(f) Any member that has not selected a Medicare Part D plan before the end of the initial enrollment period, that is otherwise eligible for the program, may be auto-assigned to a Medicare Part D plan before the end of the twenty-five (25) calendar day opt-out period.

(g) If a member is enrolled in a Medicare-Advantage organization, the office may assign the member to the Medicare-Advantage prescription drug plan being offered by the same entity. If the Medicare-Advantage organization in which the member is enrolled does not offer Medicare prescription drug benefits, the office may randomly assign the member to a Medicare prescription drug plan. (*Office of the Secretary of Family and Social Services; 405 IAC 6-10-4; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2525*)

405 IAC 6-10-5 Transition to Medicare Part D plan; auto-assignment for partial low-income subsidy beneficiaries

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5. (a) The program may, to the extent it can identify IPDP members that have been determined eligible for partial low-income subsidy from the Centers for Medicare and Medicaid Services, randomly assign members to Medicare prescription drug plans offering standard coverage, with a monthly premium below the low income subsidy premium amount for the region, that have contracted with the program to administer IPDP assistance with Medicare Part D premiums and other Medicare Part D plan costs. In the event the same entity offers more than one (1) such Medicare prescription drug plan in the state, the program will assign members randomly among the entity's eligible Medicare prescription drug plans.

(b) The program shall only auto-assign members to Medicare Part D plans that have agreed to accept electronic auto-assignment from the program in a manner defined by the program.

(c) Married couples auto-assigned by the office shall be assigned to the same Medicare Part D plan whenever possible.

(d) The program will send the member a letter notifying them that they will have at least twenty-five (25) calendar days to select a Medicare Part D plan. If no selection has been made within the period of not less than twenty-five (25) calendar days, the office may auto-assign the member to a Medicare prescription drug plan that has contracted with the IPDP to receive auto-assignment.

(e) A member may not receive IPDP assistance with Medicare Part D premiums and other Medicare Part D plan costs if he or she enrolls in a Medicare Part D plan that has not contracted with the program to administer such benefits.

(f) A member may opt out of the auto-assignment by calling or writing the IPDP before the end of the twenty-five (25) calendar day period.

(g) Any member that has not selected a Medicare Part D plan before the end of the initial enrollment period, that is

otherwise eligible for the program, may be auto-assigned to a Medicare Part D plan that has contracted with the program to administer IPDP assistance with Medicare Part D premiums and other Medicare Part D plan costs before the end of the member's twenty-five (25) calendar day opt-out period.

(h) If member is enrolled in a Medicare-Advantage organization, the office may assign the member to the Medicare-Advantage prescription drug plan being offered by the same entity. If the Medicare-Advantage organization in which the member is enrolled does not offer Medicare prescription drug benefits, the office may randomly assign the member to a Medicare prescription drug plan. (*Office of the Secretary of Family and Social Services; 405 IAC 6-10-5; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2526*)

SECTION 2. 405 IAC 8 IS ADDED TO READ AS FOLLOWS:

ARTICLE 8. INDIANA PRESCRIPTION DRUG PROGRAM MEDICARE WRAPAROUND BENEFIT

Rule 1. General Provisions

405 IAC 8-1-1 Intent and purpose

Authority: IC 12-10-16-5
Affected: IC 12-10-16-3

Sec. 1. Under IC 12-10-16-3, the office hereby adopts and promulgates this article to do the following:

(1) Interpret and implement provisions of IC 12-10-16-3 to provide assistance to low-income seniors with the expense of participating in a Medicare Part D plan.

(2) Ensure the efficient, economical, and reasonable operations of the Indiana prescription drug program.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-1-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2526*)

Rule 2. Definitions

405 IAC 8-2-1 Applicability

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. The definitions in this rule apply throughout this article unless the context clearly indicates another meaning.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-2-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2526*)

405 IAC 8-2-2 "Applicant" defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. "Applicant" means the person for whom Indiana prescription drug program enrollment is requested. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-2; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2526*)

405 IAC 8-2-3 “Benefit period” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. “Benefit period” means a specified time frame during which a member is concurrently enrolled in both a Medicare Part D plan and the Indiana prescription drug program. The benefit period shall not exceed one (1) calendar year beginning in January with limits specified in 405 IAC 8-6-4. The benefit shall not be paid or begin until the first day of the first month in which:

- (1) the member has an active effective date in a Medicare Part D plan; and
- (2) the member’s Medicare Part D plan recognizes the member’s enrollment in the IPDP.

(Office of the Secretary of Family and Social Services; 405 IAC 8-2-3; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-4 “Centers for Medicare and Medicaid Services” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 4. “Centers for Medicare and Medicaid Services” means the federal administrator of the Medicare prescription drug benefit. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-4; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-5 “Complete applicant file” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5. (a) “Complete applicant file” means an enrollment form for the Indiana prescription drug program that includes the following information about the applicant and applicant’s spouse, if applicable:

- (1) Name.
- (2) Address of domicile.
- (3) Date of birth.
- (4) Social Security number.
- (5) Medicare Health Insurance Claim Number (HICN).
- (6) Marital status.
- (7) Signature.
- (8) Proof of low-income subsidy determination by the Social Security Administration. Proof includes either a letter of determination from the Social Security Administration or electronic confirmation provided by the Centers for Medicare and Medicaid Services.
- (9) Proof that the applicant’s income is below one hundred fifty percent (150%) of the federal poverty limit applicable to the individual’s family size.
- (10) Proof of enrollment in a Medicare prescription drug plan. Acceptable proof should be electronic confirmation provided by the Centers for Medicare and Medicaid Services or a Medicare Part D plan member identification number.

(b) Applicants may provide information to the office by

mail, facsimile, or telephone or over the Internet. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-5; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-6 “Deductible” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 6. “Deductible” means the amount a beneficiary must pay out-of-pocket before the member’s Medicare Part D plan begins to cover prescription drug costs during each benefit period. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-6; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-7 “Domicile” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 7. “Domicile” means the applicant’s:

- (1) true;
- (2) fixed;
- (3) principal; and
- (4) permanent;

home. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-7; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-8 “Eligible” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 8. “Eligible” means a person who meets all requirements for enrollment in the program. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-8; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-9 “Enhanced Medicare Part D plan” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 9. “Enhanced Medicare Part D plan” means a Medicare Part D plan that is not considered standard or basic actuarially equivalent standard coverage by the Centers for Medicare and Medicaid Services. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-9; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-10 “Federal poverty limit” or “FPL” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 10. “Federal poverty limit” means the nonfarm income official poverty guideline as determined by the federal Office of Management and Budget. (Office of the Secretary of Family and Social Services; 405 IAC 8-2-10; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-11 “Full low-income subsidy” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 11. “Full low-income subsidy” means the full extra help for paying for Medicare prescription drug plan costs provided by the Centers for Medicare and Medicaid Services (CMS). According to CMS, beneficiaries receiving “full low-income subsidy” will:

- (1) not be responsible for monthly premium costs for basic Medicare Part D plans;
- (2) have no annual deductible; and
- (3) have no gap in coverage.

(Office of the Secretary of Family and Social Services; 405 IAC 8-2-11; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2527)

405 IAC 8-2-12 “Income” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 12. “Income” means the amount of money or its equivalent received as follows:

- (1) In exchange for or as a result of labor or services.
- (2) From the sale of goods or property.
- (3) As profits from financial investments.

(Office of the Secretary of Family and Social Services; 405 IAC 8-2-12; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)

405 IAC 8-2-13 “Indiana prescription drug program” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 13. “Indiana prescription drug program” means the program established by IC 12-10-16. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-13; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-14 “Initial enrollment period” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 14. “Initial enrollment period” means the Medicare Part D initial enrollment period ending May 15, 2006, as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-14; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-15 “Low-income subsidy” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 15. “Low-income subsidy” means either:

- (1) a full low-income subsidy;
- (2) or partial low-income subsidy;

as determined by the Social Security Administration. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-15; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-16 “Low-income subsidy application” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 16. “Low-income subsidy application” means the Application for Help with Medicare Prescription Drug Plan Costs, which is processed and administered through the Social Security Administration. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-16; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-17 “Low-income subsidy determination” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 17. “Low-income subsidy determination” means a definitive determination from the Social Security Administration as to an applicant’s eligibility for the low-income subsidy. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-17; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-18 “Low-income subsidy premium” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 18. “Low-income subsidy premium” means the maximum amount the low-income subsidy will pay towards a Medicare Part D beneficiary’s monthly premium in the state of Indiana, as determined by the Centers for Medicare and Medicaid Services and adjusted annually. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-18; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-19 “Medicare-Advantage prescription drug plan” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 19. “Medicare-Advantage prescription drug plan” means an entity authorized by the Centers for Medicare and Medicaid Services to provide prescription drug coverage to Medicare-Advantage beneficiaries. *(Office of the Secretary of Family and Social Services; 405 IAC 8-2-19; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)*

405 IAC 8-2-20 “Medicare Part D plan” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 20. “Medicare Part D plan” means a:

- (1) Medicare prescription drug plan; or
- (2) Medicare-Advantage prescription drug plan.

(Office of the Secretary of Family and Social Services; 405 IAC 8-2-20; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)

405 IAC 8-2-21 “Medicare prescription drug plan” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 21. “Medicare prescription drug plan” means an entity authorized by the Centers for Medicare and Medicaid

Services to provide prescription drug coverage to Medicare beneficiaries. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-21; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528*)

405 IAC 8-2-22 “Member” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 22. “Member” means a person who has:

- (1) met all eligibility requirements; and
- (2) been enrolled in the Indiana prescription drug program.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-2-22; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-23 “Noncovered drug” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 23. “Noncovered drug” means a drug that is:

- (1) not on a Medicare Part D plan’s formulary; or
- (2) being treated as so as a result of a coverage determination or appeal.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-2-23; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-24 “Not eligible for the Indiana prescription drug program” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 24. “Not eligible for the Indiana prescription drug program” means the applicant does not meet one (1) or more of the eligibility requirements for enrollment in the program. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-24; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-25 “Office” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 25. “Office” means the office of the secretary of family and social services. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-25; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-26 “Partial low-income subsidy” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 26. “Partial low-income subsidy” means the partial extra help for paying for Medicare prescription drug plan costs provided by the Centers for Medicare and Medicaid Services. According to CMS, beneficiaries receiving “partial low-income subsidy” will:

- (1) be responsible for monthly premium on a sliding scale for standard Medicare Part D plans;

- (2) have a reduced annual deductible; and
- (3) have no gap in coverage.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-2-26; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-27 “Premium” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 27. “Premium” means the monthly cost of being enrolled in a Medicare prescription drug plan. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-27; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-28 “Prescription drug” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 28. “Prescription drug” means any prescription drug that is not a noncovered drug. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-28; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-29 “Program” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 29. “Program” means the Indiana prescription drug program. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-29; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-30 “Proof of income” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 30. “Proof of income” means documentation of the income of an applicant and an applicant’s family. Proof of income for the program should be provided by the Social Security Administration through the low-income subsidy application. If the Social Security Administration’s low-income subsidy determination does not include an income determination, the office may make an income determination using the same protocol that the Social Security Administration uses to determine income. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-30; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-31 “Provider” defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 31. “Provider” means an entity that:

- (1) provides Medicare prescription drug coverage through a Medicare Part D plan in the state of Indiana; and
- (2) participates in the program in accordance with 405 IAC 8-6-1(a) and 405 IAC 8-6-2(b).

(*Office of the Secretary of Family and Social Services; 405 IAC 8-2-31; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529*)

405 IAC 8-2-32 "Secretary" defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 32. "Secretary" means the secretary of family and social services. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-32; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

405 IAC 8-2-33 "Senior" defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 33. "Senior" means a person at least sixty-five (65) years of age. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-33; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

405 IAC 8-2-34 "Spouse" defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 34. "Spouse" means the legal husband or wife of an applicant. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-34; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

405 IAC 8-2-35 "Standard" defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 35. "Standard" means a Medicare Part D plan that is considered standard or basic actuarially equivalent standard coverage by the Centers for Medicare and Medicaid Services. The term excludes enhanced plans. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-35; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

405 IAC 8-2-36 "True out-of-pocket costs" defined

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 36. "True out-of-pocket costs" means prescription drug costs that count towards a member's Medicare Part D plan maximum out-of-pocket costs. (*Office of the Secretary of Family and Social Services; 405 IAC 8-2-36; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

Rule 3. Eligibility Requirements

405 IAC 8-3-1 Age

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. To be eligible for the program, an applicant must be at least sixty-five (65) years of age. (*Office of the Secretary of Family and Social Services; 405 IAC 8-3-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

405 IAC 8-3-2 Income

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. To be eligible for the program, an applicant's income must not exceed one hundred fifty percent (150%) of the federal poverty limit applicable to the individual's family size, as defined by the federal Office of Management and Budget. (*Office of the Secretary of Family and Social Services; 405 IAC 8-3-2; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

405 IAC 8-3-3 Ineligibility

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. Notwithstanding any other provision of this article, an individual is not eligible for the program if any of the following apply:

- (1) The applicant is not a Medicare beneficiary.
- (2) The individual:
 - (A) is not domiciled in Indiana;
 - (B) does not intend to reside permanently in the state of Indiana;
 - (C) has not received a low-income subsidy determination from Social Security Administration;
 - (D) has been determined eligible for full low-income subsidy;
 - (E) is dually eligible for both Medicare and full Medicaid;
 - (F) is an inmate of a correctional facility; or
 - (G) is not enrolled in a Medicare Part D plan.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-3-3; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

Rule 4. Application and Enrollment

405 IAC 8-4-1 General requirements

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. (a) A completed applicant file will be processed by the office and must include verification of the following:

- (1) That an applicant has completed the Application for Help with Medicare Prescription Drug Plan Costs and received a determination from the Social Security Administration.
- (2) Of an applicant's enrollment in a Medicare Part D plan that has contracted with the IPDP to provide state benefits in coordination with Medicare Part D.

(b) Applicant file information may be submitted to the office by mail or telephone or over the Internet.

(c) An applicant who does not have a complete applicant file will be determined pending. Such an applicant may submit requirements necessary to complete their applicant file to receive a determination from the office. An applicant file that has been pending for more than sixty (60) calendar days may be closed and determined ineligible by the office. An applicant's initial file date will begin on the date the office receives documents requesting IPDP assistance.

(d) After a completed applicant file has been processed and approved by the office, the office will notify the member's Medicare Part D plan of the member's eligibility for benefits under the IPDP.

(e) If the office receives an eligible applicant's completed applicant file on or before the fifteenth day of the month, the applicant shall be eligible for program benefits beginning the first day of the following month. If the office receives an eligible applicant's completed applicant file after the fifteenth day of the month, the applicant shall be eligible to receive program benefits beginning the first day of the month after the following month. (*Office of the Secretary of Family and Social Services; 405 IAC 8-4-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530*)

Rule 5. Auto-Assignment to a Medicare Prescription Drug Plan

405 IAC 8-5-1 Auto-assignment

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. (a) If, according to the Centers for Medicare and Medicaid Services, an applicant otherwise eligible for the Indiana prescription drug program has not selected a Medicare Part D plan, the program may randomly assign the member to a Medicare prescription drug plan that has contracted with the IPDP.

(b) The applicant will be sent a letter notifying them that they will have at least twenty-five (25) calendar days to select a Medicare prescription drug plan that has contracted with the IPDP. If no selection has been made within the period of not less than twenty-five (25) calendar days, the office may auto-assign the applicant to a Medicare prescription drug plan that has entered into agreement with the IPDP. An applicant may opt out of the auto-assignment by calling or writing the IPDP before the end of the twenty-five (25) calendar day period.

(c) Married couples auto-assigned by the office will be assigned to the same Medicare Part D plan when possible.

(d) Any applicant that has not selected a Medicare Part D plan before the end of the initial enrollment period, that is otherwise eligible for the program, may be auto-assigned to a Medicare Part D plan, before the end of the twenty-five (25) calendar day opt-out period. (*Office of the Secretary of Family and Social Services; 405 IAC 8-5-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2531*)

Rule 6. Benefits

405 IAC 8-6-1 Assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. (a) An eligible member may receive:

(1) premium assistance for the monthly premium cost of the:

(A) Medicare prescription drug plan; or

(B) Medicare-Advantage prescription drug plan; and

(2) assistance with other Medicare prescription drug plan costs as defined in section 2 of this rule;

if the member enrolls, or has been auto-enrolled, into a Medicare Part D plan that has contracted with the IPDP to provide such benefits.

(b) The amount of monthly premium assistance provided by the IPDP shall not exceed the low-income subsidy premium amount for the region, as determined by the Centers for Medicare and Medicaid Services.

(c) The premium assistance benefit shall be paid directly to the Medicare Part D Plan in which the eligible IPDP member is enrolled.

(d) Premium assistance provided by the IPDP will be reduced by the amount of premium assistance a member receives from the Centers for Medicare and Medicaid Services.

(e) The IPDP member is responsible for any premium amount above the low-income subsidy premium per month.

(f) IPDP premium assistance:

(1) may only be applied to the prescription drug portion of a Medicare-Advantage prescription drug plan's monthly premium; and

(2) shall not pay for the medical portion of the Medicare-Advantage prescription drug plan monthly premium.

(g) IPDP premium assistance shall not pay for any portion of the Medicare Part D premium related to late-enrollment penalties. (*Office of the Secretary of Family and Social Services; 405 IAC 8-6-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2531*)

405 IAC 8-6-2 Deductible or coinsurance assistance benefit

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. (a) An eligible member may receive not more than two hundred fifty dollars (\$250) in annual benefits to be applied to his or her Medicare Part D Plan deductible or coinsurance requirements.

(b) IPDP deductible or coinsurance assistance benefits shall only be available to IPDP members enrolled in a Medicare Part D plan that has contracted with the IPDP to provide the benefits.

(c) Benefit dollars will be available for a remainder of the benefit period, beginning on the date of enrollment in the

IPDP. Benefits not used before the end of this period will not be available to the member. Benefits shall not be paid on a IPDP member's behalf until the member is effectively enrolled in a Medicare Part D plan that has contracted with the IPDP.

(d) The IPDP will pay benefits, up to the two hundred fifty (\$250) annual limit, directly to the Medicare Part D plan in which the member is enrolled.

(e) IPDP benefits shall:

(1) only be available for prescription drug plan costs that are countable to the beneficiary's true out-of-pocket costs; and

(2) not be used to pay for noncovered drugs.

(Office of the Secretary of Family and Social Services; 405 IAC 8-6-2; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2531)

405 IAC 8-6-3 Assistance with Medicare prescription drug plan monthly premium only

Authority: IC 12-10-16-5

Affected: IC 12-10-16

Sec. 3. (a) An eligible member may receive assistance for the monthly premium cost of the Medicare prescription drug plan or Medicare-Advantage prescription drug plan in which the member is enrolled. Premium assistance shall be available provided the IPDP member enrolls in a Medicare Part D plan that has contracted with the state to provide such benefits.

(b) The amount of premium assistance provided by the IPDP shall not exceed the low-income subsidy premium in the region, as determined by the Centers for Medicare and Medicaid Services.

(c) The premium assistance benefit shall be paid directly to the Medicare Part D plan in which the eligible IPDP member is enrolled.

(d) Premium assistance provided by the IPDP shall be reduced by the amount of premium assistance a member receives from the Centers for Medicare and Medicaid Services.

(e) The IPDP member shall be responsible for any premium amount above the low-income subsidy premium per month.

(f) IPDP premium assistance may:

(1) only be applied to the prescription drug portion of a Medicare-Advantage prescription drug plan's monthly premium; and

(2) shall not pay for the medical portion of the Medicare-Advantage prescription drug plan monthly premium.

(g) IPDP premium assistance shall not pay for any portion of the Medicare Part D premium related to late-enrollment

penalties. *(Office of the Secretary of Family and Social Services; 405 IAC 8-6-3; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2532)*

405 IAC 8-6-4 Benefit limitations

Authority: IC 12-10-16-5

Affected: IC 12-10-16

Sec. 4. (a) Benefits are available under sections 2 and 3 of this rule on a first come, first served basis.

(b) Benefits will exist under this program to the extent that appropriations are available for the program.

(c) The state budget director shall determine if appropriations are available to continue offering and paying benefits for members.

(d) Upon determination that program benefits will meet or exceed budget, the program will implement a waiting list for further benefits, beginning with the members who:

(1) do not receive any partial subsidy from Medicare; and

(2) are between one hundred thirty-five percent (135%) and one hundred fifty percent (150%) FPL.

(Office of the Secretary of Family and Social Services; 405 IAC 8-6-4; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2532)

Rule 7. (Reserved)

Rule 8. (Reserved)

Rule 9. Member Appeals

405 IAC 8-9-1 Purpose

Authority: IC 12-10-16-5

Affected: IC 12-10-16

Sec. 1. (a) The purpose of this rule is to establish a uniform method of administrative review and administrative adjudication for appeals concerning applicants and enrollees of the program, in order to determine whether or not any action for which there is a complaint was done in accordance with state statutes, regulations, rules, and policies. As used in this rule, "policies" include:

(1) program manuals;

(2) administrative directives;

(3) transmittals; and

(4) other official written pronouncements of state policy.

(b) This rule shall be construed in such a manner as to provide all parties with an adequate opportunity to be heard in accordance with due process of law. As used in this rule, "party" means either of the following:

(1) A person to whom the agency action is specifically directed.

(2) The office.

(c) In the event that any provision of this article is deemed

to be in conflict with any other provision of state statute, regulation, or rule that is specifically applicable to the program, then such other statute, regulation, or rule shall supersede that part of this article in which the conflict is found. (*Office of the Secretary of Family and Social Services; 405 IAC 8-9-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2532*)

405 IAC 8-9-2 Standing

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. (a) In the event that the:

- (1) rights;
- (2) duties;
- (3) obligations;
- (4) privileges; or
- (5) other legal relations;

of any person or entity are required or authorized by law to be determined by the office, then such person or entity may request an administrative review by the office as provided for in section 3 of this rule.

(b) Unless otherwise provided by law, only those persons or entities, or their respective attorneys at law, whose:

- (1) rights;
- (2) duties;
- (3) obligations;
- (4) privileges; or
- (5) other legal relations;

are alleged to have been adversely affected by any action or determination of the office, may request administrative review under this rule. Any alleged harm to an enrollee or applicant must be direct and immediate to the party and not indirect and general in character. (*Office of the Secretary of Family and Social Services; 405 IAC 8-9-2; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2533*)

405 IAC 8-9-3 Requests for administrative review

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. (a) Any party complaining of an action of the office in accordance with this article may file a request for administrative review as provided in this section.

(b) The enrollee or applicant is required to seek administrative review before filing an administrative appeal under section 5 of this rule.

(c) Unless otherwise provided for by statute, regulation, or rule, a request for administrative review by an enrollee or applicant shall be filed in writing with the office not later than thirty-five (35) days following the date of the action being reviewed. (*Office of the Secretary of Family and Social Services; 405 IAC 8-9-3; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2533*)

405 IAC 8-9-4 Conduct of administrative review

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 4. (a) Upon receipt of a request for administrative review, the office will conduct a review of the action.

(b) Upon completion of the review, the office will issue a written decision. The decision will be final unless a party requests an administrative appeal in accordance with this rule.

(c) The written decision shall do the following:

- (1) specify the reasons for the decision;
- (2) identify the:
 - (A) statutes;
 - (B) regulations;
 - (C) rules; and
 - (D) policies;

supporting the decision.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-9-4; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2533*)

405 IAC 8-9-5 Filing an administrative appeal; scheduling appeals

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5. (a) Any party who is not satisfied with the administrative review of the office as provided for in this rule may file a request for an administrative appeal as provided in this section. The person or entity requesting the administrative appeal shall be known as the appellant.

(b) Unless otherwise provided for by statute, regulation, or rule, appeal requests by an appellant shall be filed in writing with the hearings and appeals section of the office not later than thirty (30) days following the effective date of the administrative review being appealed. Appeal hearings shall be conducted at a reasonable time, place, and date.

(c) The hearings and appeals section of the office, upon application of any party, or in its own discretion, may consolidate appeals to promote administrative efficiency. Hearings may only be consolidated in cases in which the sole issue involved is one of state law or policy.

(d) Any party filing an appeal under this rule is not excused from exhausting all interim procedures that may be required by statute or rule for administrative review before the filing of an administrative appeal. Any issues not raised within the interim review procedures of the administrative review in a timely manner are waived and shall not be an issue during the evidentiary hearing of the administrative appeal.

(e) The hearings and appeals section of the office will schedule evidentiary hearings and issue notices to the parties regarding the date, time, and location of the scheduled hearing.

(f) A continuance of a hearing will be granted only for

good cause shown. An objection to a request for a continuance shall be considered before a continuance is granted or denied. Requests for a continuance shall be in writing and accompanied by adequate documentation of the reasons for the request. Good cause includes the following:

- (1) The inability to attend the hearing because of a serious physical or mental condition.
- (2) An incapacitating injury.
- (3) A death in the family.
- (4) Severe weather conditions making it impossible to travel to the hearing.
- (5) The unavailability of a witness and the evidence cannot be obtained otherwise.
- (6) Other reasons similar to those listed in this section.

If the appellant is represented by counsel, the request for continuance must also include alternative dates for the scheduling of a new hearing. However, the hearings and appeals section may schedule a new hearing without respect to the requested date if such date cannot be accommodated or confirmed with the requesting attorney within a reasonable time of the request. (*Office of the Secretary of Family and Social Services; 405 IAC 8-9-5; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2533*)

405 IAC 8-9-6 Conduct and authority of administrative law judge

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 6. (a) The conduct of an administrative law judge (ALJ) shall be in a manner that promotes public confidence in the integrity and impartiality of the administrative hearing process. The ALJ who conducts a hearing is prohibited from any of the following:

- (1) Consulting any party or party's agent on any fact in issue unless upon notice and opportunity for all parties to participate.
- (2) Performing any of the investigative or prosecutorial functions of the family and social services administration in the administrative appeal heard or to be heard by him or her or in a factually related administrative or judicial action.
- (3) Being influenced by any of the following:
 - (A) Partisan interests.
 - (B) Public clamor.
 - (C) Fear of criticism.
- (4) Conveying or permitting others to convey the impression that they are in a special position to influence the ALJ.
- (5) Commenting publicly, except as to hearing schedules or procedures, about pending or impending proceedings.
- (6) Engaging in financial or business dealings that tend to do any of the following:
 - (A) Reflect adversely on his or her impartiality.
 - (B) Interfere with the proper performance of his or her duties.

(C) Exploit the ALJ's position.

(D) Involve the ALJ in frequent financial business dealings with attorneys or other persons who are likely to come before the ALJ.

(b) An ALJ shall disqualify himself or herself in a proceeding in which:

- (1) his or her impartiality might reasonably be questioned; or
- (2) the ALJ's personal bias, prejudice, or knowledge of a disputed evidentiary fact might influence the decision.

Nothing in this subsection prohibits a person who is an employee of the family and social services administration from serving as an ALJ.

(c) The ALJ shall be authorized to do the following:

- (1) Administer oaths and affirmations.
- (2) Issue subpoenas.
- (3) Rule upon offers of proof.
- (4) Receive relevant evidence.
- (5) Facilitate discovery in accordance with the Indiana rules of trial procedure.
- (6) Regulate the course of the hearing and conduct of the parties.
- (7) Hold informal conferences for the settlement or simplification of the issues under appeal.
- (8) Dispose of procedural motions and similar matters.
- (9) Exercise such other powers as may be given by the law relating to the particular program area under appeal.

(*Office of the Secretary of Family and Social Services; 405 IAC 8-9-6; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2534*)

405 IAC 8-9-7 Conduct of hearing; hearing decisions

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 7. (a) The administrative law judge (ALJ) shall conduct the hearing in an informal manner and without recourse to the technical common law rules of evidence.

(b) The ALJ shall exclude from consideration irrelevant, immaterial, or unduly repetitious evidence.

(c) Every party shall have the right to submit evidence. In the event that an objection to evidence is sustained, the party proffering the evidence may make an offer of proof. Each party shall have the right to cross-examine the witnesses and offer rebutting evidence. (*Office of the Secretary of Family and Social Services; 405 IAC 8-9-7; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2534*)

405 IAC 8-9-8 Hearing decision

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 8. (a) Following completion of the hearing, or after submission of briefs by the parties (if briefing is permitted by the administrative law judge (ALJ)), the ALJ shall issue

his or her decision in the matter concurrently to the parties. The decision shall be final unless a party requests agency review of the decision in accordance with this rule.

(b) The ALJ's decision shall do the following:

- (1) Include findings of fact.
- (2) Specify the reasons for the decision.
- (3) Identify the evidence and statutes, regulations, rules and policies supporting the decision.

(c) The findings of fact need not include a recitation of every piece of evidence admitted in the evidentiary hearing. Rather, the findings should contain the basic facts that have formed the basis for the ALJ's ultimate decision. The ALJ's decision must also do the following:

- (1) Cite the relevant laws upon which the ultimate decision is based.
- (2) Relate the facts to the law.

(Office of the Secretary of Family and Social Services; 405 IAC 8-9-8; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2534)

405 IAC 8-9-9 Agency review

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 9. (a) Any party who is not satisfied with the decision of the administrative law judge (ALJ) may request agency review of the decision within ten (10) days of receipt thereof in accordance with instructions issued with the decision.

(b) After receiving a request for agency review of a hearing decision, the hearings and appeals section of the family and social services administration shall notify the parties when the decision will be reviewed. The agency review shall be completed by the secretary of the family and social services administration or the secretary's designee. All such reviews shall be conducted upon the record, as defined in section 7 of this rule, except that a transcript of the oral testimony shall not be necessary for review unless the party requests that one be transcribed at the party's expense.

(c) No new evidence will be considered during the agency review; however, any party wishing to submit a memorandum of law, citing evidence in the record, may do so pursuant to instructions issued by the hearings and appeals section of the family and social services administration.

(d) The secretary of family and social services administration or the secretary's designee shall review the ALJ's decision to determine if the decision is supported by the evidence in the record and is in accordance with statutes, regulations, rules, and policies applicable to the issues under appeal.

(e) Following the review of the secretary or designee, the secretary or designee shall issue a written decision doing one (1) of the following:

- (1) Affirming the decision of the ALJ.

(2) Amending or modifying the decision of the ALJ.

(3) Reversing the decision of the ALJ.

(4) Remanding the matter to the ALJ for further specified action.

(5) Making such other order or determination as is proper on the record.

(f) The parties will be issued a written notice of the action taken as a result of the agency review. If the decision of the ALJ is reversed, amended, or modified, the secretary or designee shall state the reasons for the action in the written decision.

(g) The hearings and appeals section of the family and social services administration shall distribute the written notice on agency review to the following:

- (1) All parties of record.
- (2) The ALJ who rendered the decision following the evidentiary hearing.
- (3) Any other person designated by the secretary or designee.

(Office of the Secretary of Family and Social Services; 405 IAC 8-9-9; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2535)

405 IAC 8-9-10 Agency record; judicial review

Authority: IC 12-10-16-5
Affected: IC 4-21.5-3-33; IC 4-21.5-5; IC 12-10-16

Sec. 10. (a) The record of the administrative proceedings shall be that as defined in IC 4-21.5-3-33.

(b) If the appellant is not satisfied with the secretary's final action after agency review, he or she may file for judicial review in accordance with IC 4-21.5-5.

(c) The appellant is required to seek agency review before filing a petition for judicial review. *(Office of the Secretary of Family and Social Services; 405 IAC 8-9-10; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2535)*

Rule 10. Contracts with Part D Plans

405 IAC 8-10-1 General provisions for contracting for assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. (a) The IPDP may contract with Medicare Part D plans to administer state assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs. Only Medicare Part D plans offering standard coverage that have a monthly premium at or below the low-income subsidy premium amount may contract with the IPDP to administer the state's assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs.

(b) Medicare Part D plans contracting with the IPDP to administer state Medicare Part D assistance may place an IPDP logo on joint IPDP and PDP member prescription drug cards, if approved by the program, and shall do the following:

- (1) Accept electronic auto-enrollment records in a standard defined by the IPDP.
- (2) Only invoice the state for premium expenses up to the low-income subsidy regional premium, as determined by the Centers for Medicare and Medicaid Services.
- (3) Administer the IPDP Medicare Part D assistance program. Per member expenses shall not exceed two hundred fifty dollars (\$250) in a calendar year, or other period of eligibility defined by the IPDP.
- (4) Communicate IPDP assistance to the Centers for Medicare and Medicaid Services true out-of-pocket facilitator to apply towards members' true out-of-pocket expenses.
- (5) Provide IPDP with claims data on IPDP members:
 - (A) in order for the IPDP to understand the utilization underlying its costs; and
 - (B) for reconciliation of incurred and paid amounts.
- (6) Comply with all federal regulations pertaining to Medicare Part D plans as outlined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(Office of the Secretary of Family and Social Services; 405 IAC 8-10-1; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2535)

405 IAC 8-10-2 General provisions for contracting for assistance with Medicare prescription drug plan monthly premium only

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. (a) The IPDP may contract with Medicare Part D plans to administer state Medicare Part D premium-only assistance. Medicare Part D plans offering coverage in the State of Indiana may contract with the IPDP to administer the state's Medicare Part D premium assistance programs.

(b) Medicare Part D plans contracting with the IPDP to administer the state's Medicare Part D premium assistance program may place a IPDP logo on joint IPDP and PDP member prescription drug cards, if approved by the program, and shall do the following:

- (1) Only invoice the state for premium expenses up to the low-income subsidy regional premium, as determined by the Centers for Medicare and Medicaid Services.
- (2) Provide IPDP with data on IPDP members in order for the IPDP to understand the utilization underlying its costs, and for reconciliation of incurred and paid amounts.
- (3) Comply with all federal regulations pertaining to Medicare Part D plans as outlined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(Office of the Secretary of Family and Social Services; 405 IAC 8-10-2; filed Mar 29, 2006, 2:19 p.m.: 29 IR 2536)

LSA Document #05-209(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

Small Business Regulatory Coordinator: 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 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #05-259(F)

DIGEST

Amends 410 IAC 1-4-1.1 to amend the definition of bloodborne pathogens. Amends 410 IAC 1-4-4.3 to add a definition of HCV. Amends 410 IAC 1-4-8 to update the sterilization requirements for equipment and environmental surfaces. Effective 30 days after filing with the Secretary of State.

410 IAC 1-4-1.1

410 IAC 1-4-4.3

410 IAC 1-4-8

SECTION 1. 410 IAC 1-4-1.1 IS AMENDED TO READ AS FOLLOWS:

410 IAC 1-4-1.1 "Bloodborne pathogens" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 1.1. "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, HBV, HCV, and HIV. *(Indiana State Department of Health; 410 IAC 1-4-1.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Mar 28, 2006, 12:45 p.m.: 29 IR 2536)*

SECTION 2. 410 IAC 1-4-4.3 IS AMENDED TO READ AS FOLLOWS:

410 IAC 1-4-4.3 "HBV" and "HCV" defined

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 4.3. (a) "HBV" means hepatitis B virus.

(b) "HCV" means hepatitis C virus. (*Indiana State Department of Health; 410 IAC 1-4-4.3; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Mar 28, 2006, 12:45 p.m.: 29 IR 2536*)

SECTION 3. 410 IAC 1-4-8 IS AMENDED TO READ AS FOLLOWS:

410 IAC 1-4-8 Precautions generally

Authority: IC 16-41-11-9
Affected: IC 16-19; IC 16-41-11

Sec. 8. (a) All covered individuals and health care workers under this rule shall comply with the requirements imposed under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).

(b) The operator and all covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of a facility providing services to patients or other members of the public in which there is a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with human blood or other potentially infectious materials shall also comply with the following requirements:

(1) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(2) Heating procedures capable of sterilization must be used when heat stable, nondisposable equipment is sterilized. ~~Heat labile, reusable equipment requiring sterilization must be sterilized by chemical means. Records must be maintained to document~~ Monitoring of heat sterilization procedures shall include documentation of the following:

(A) ~~Duration of sterilization technique. Each sterilization cycle.~~

(B) ~~Mechanisms for determination of effective sterility. Use of chemical indicators when sterilizing packaged nondisposable equipment.~~

(C) ~~That biological indicators were used within thirty (30) days prior to the current sterilization procedure.~~

(~~E~~) (D) ~~Routine monthly equipment maintenance inspections according to manufacturer recommendations.~~

~~These Documents required under this item [subdivision] must be made available to the department upon request.~~

(3) ~~Reusable equipment requiring sterilization that are [sic., is] destroyed or altered by heat must be sterilized by chemical means.~~

(~~3~~) (4) Environmental surfaces and equipment not requiring sterilization which have been contaminated by blood or other potentially infectious materials shall be cleaned ~~then decontaminated~~ with an absorbent material prior to disinfection. Disinfectant solutions shall:

(A) be a ~~hospital grade, tuberculocidal germicide registered with the Environmental Protection Agency (EPA) registered disinfectant, for use as a hospital disinfectant and labeled tuberculocidal or registered germicide with specific inactivation claims against HIV and HBV;~~ or
(B) be a sodium hypochlorite ~~five-tenths percent (0.5%) concentration, by volume (common household bleach in ten percent (10%) concentration in water); the solution shall be solution dated and shall not be used if it is more than after~~ twenty-four (24) hours old as follows:

(i) A minimum of 1:100 dilution (one-quarter (¼) cup of five and twenty-five hundredths percent (5.25%) common household bleach in one (1) gallon of water).

(ii) A 1:10 dilution (one (1) part five and twenty-five hundredths percent (5.25%) common household bleach in ten (10) parts water) shall be used when a blood, culture, or OPIM spill occurs in the laboratory setting.

(~~4~~) (5) If a patient's diagnosis, laboratory analysis, or medical condition requires additional infection control measures or isolation, those specific measures apply in addition to the requirements of this rule and other requirements found at IC 16-19.

(*Indiana State Department of Health; 410 IAC 1-4-8; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Mar 28, 2006, 12:45 p.m.: 29 IR 2537*)

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IC 4-22-7-5(c) Notice from Secretary of State Regarding Documents Incorporated by Reference: None Received by Publisher
Small Business Regulatory Coordinator: Robert Teclaw,
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TITLE 414 HOSPITAL COUNCIL

LSA Document #05-95(F)

DIGEST

Adds 414 IAC 1-1-3 and 414 IAC 1-1-4 to establish licensing fees for abortion clinics and birthing centers. Effective 30 days after filing with the Secretary of State.

414 IAC 1-1-3

414 IAC 1-1-4

Final Rules

SECTION 1. 414 IAC 1-1-3 IS ADDED TO READ AS FOLLOWS:

ARTICLE 1. LICENSE FEES

Rule 1. License Fees for Hospitals, Ambulatory Outpatient Surgical Centers, Abortion Clinics, and Birthing Centers

414 IAC 1-1-3 Abortion clinic license fees

Authority: IC 16-21-2-12; IC 16-21-2-14
Affected: IC 16-21-1; IC 16-21-2

Sec. 3. (a) Each abortion clinic licensed under IC 16-21-2 and 410 IAC 26 shall pay a license fee or annual renewal fee.

(b) An application for an abortion clinic license must be accompanied by a licensing fee at the rate set in the fee schedule in this subsection. Annual renewal fees will be due upon application for renewal of license, as provided by 410 IAC 26-2, based upon total annual surgical abortion procedures performed as reported to the state department of health on the most recently filed annual abortion clinic report (State Form 52234). The fee schedule shall be as follows:

Total Annual Surgical Abortion Procedures	Fee
0 – 799	\$500
800 – 3,499	\$1,000
3,500 – 6,999	\$2,000
7,000 and above	\$3,000

(Hospital Council; 414 IAC 1-1-3; filed Apr 4, 2006, 2:30 p.m.: 29 IR 2538)

SECTION 2. 414 IAC 1-1-4 IS ADDED TO READ AS FOLLOWS:

414 IAC 1-1-4 Birthing center license fees

Authority: IC 16-21-2-12; IC 16-21-2-14
Affected: IC 16-21-1; IC 16-21-2

Sec. 4. (a) Each birthing center licensed under IC 16-21-2 and 410 IAC 27 shall pay a license fee or annual renewal fee.

(b) An application for a birthing center license must be accompanied by a licensing fee at the rate set in the fee schedule in this subsection. Annual renewal fees will be due upon application for renewal of license, as provided by 410 IAC 27-2, upon total annual births as reported to the state department of health on the most recently filed annual birthing center report (State Form 52236). The fee schedule shall be as follows:

Total Annual Deliveries	Fee
0 – 799	\$500
800 – 3,499	\$1,000
3,500 – 6,999	\$2,000
7,000 and above	\$3,000

(Hospital Council; 414 IAC 1-1-4; filed Apr 4, 2006, 2:30 p.m.: 29 IR 2538)

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TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #05-226(F)

DIGEST

Amends 828 IAC 0.5-2-3 and 828 IAC 0.5-2-4 concerning fees for licensure to practice dentistry and dental hygiene. Amends 828 IAC 1-1-1 through 828 IAC 1-1-3, 828 IAC 1-1-6, and 828 IAC 1-1-7 concerning the requirements for licensure of dentists by examination to facilitate the outsourcing of the administration of the examinations. Amends 828 IAC 1-2-1 through 828 IAC 1-2-3 and 828 IAC 1-2-6 concerning the requirements for licensure of dental hygienists by examination to facilitate the outsourcing of the administration of the examination. Amends 828 IAC 1-3-1.1, 828 IAC 1-3-1.5, and 828 IAC 1-3-2 concerning licensure to practice dentistry and dental hygiene by endorsement. Repeals 828 IAC 1-1-8, 828 IAC 1-1-12, 828 IAC 1-1-21, 828 IAC 1-2-7; 828 IAC 1-2-8, 828 IAC 1-2-9, 828 IAC 1-2-12, and 828 IAC 1-2-14. Effective 30 days after filing with the Secretary of State.

828 IAC 0.5-2-3	828 IAC 1-2-2
828 IAC 0.5-2-4	828 IAC 1-2-3
828 IAC 1-1-1	828 IAC 1-2-6
828 IAC 1-1-2	828 IAC 1-2-7
828 IAC 1-1-3	828 IAC 1-2-8
828 IAC 1-1-6	828 IAC 1-2-9
828 IAC 1-1-7	828 IAC 1-2-12
828 IAC 1-1-8	828 IAC 1-2-14
828 IAC 1-1-12	828 IAC 1-3-1.1
828 IAC 1-1-21	828 IAC 1-3-1.5
828 IAC 1-2-1	828 IAC 1-3-2

SECTION 1. 828 IAC 0.5-2-3, AS AMENDED AT 28 IR 2713, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

828 IAC 0.5-2-3 Dental fees

Authority: IC 23-1.5-2-9; IC 23-1.5-2-10; IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13; IC 25-14-1-27.5

Affected: IC 25-13-1-8; IC 25-14-1-10

Sec. 3. The board shall charge and collect the following fees related to the practice of dentistry:

(1) Examination administration	\$250 plus the cost of supplies; models, and the use of the examination facility
Application for licensure	
(2) Recexamination administration	\$150 plus the cost of supplies; models, and the use of the examination facility
Repeat law examination only	
	ity \$25
(3) Licensure by endorsement	\$250
(4) (3) License renewal	\$100 biennially
(5) (4) Dental intern permit application	\$100
(6) (5) Dental intern permit renewal	\$50
(7) (6) Verification of dental licensure to another state	\$10
(8) (7) Duplicate wall license	\$10
(9) (8) Professional corporation registration application	\$25
(10) (9) Professional corporation registration renewal	\$20 biennially
(11) (10) Application fees for the following permits:	\$50
(A) General anesthesia, deep sedation (GADS)	
(B) Light parenteral conscious sedation (LPCS)	
(12) (11) Renewal fees for the following permits:	\$50 biennially
(A) General anesthesia-deep sedation (GADS)	
(B) Light parenteral conscious sedation (LPCS)	
(13) (12) Registration of an additional office in which to administer general anesthesia, deep sedation, GADS, or light parenteral conscious sedation (LPCS)	\$25
(14) (13) Reinstatement of inactive license	\$250
(15) (14) Instructor's license application	\$250
(16) (15) Instructor's license renewal	\$50 annually
(17) (16) Instructor's application for the following permits:	\$50
(A) GADS	
(B) LPCS	
(18) (17) Renewal fee for instructor's GADS/LPCS permit	\$25 annually

(State Board of Dentistry; 828 IAC 0.5-2-3; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1180; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376; filed Apr 18, 2005, 2:00 p.m.: 28 IR 2713; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2538)

SECTION 2. 828 IAC 0.5-2-4 IS AMENDED TO READ AS

FOLLOWS:

828 IAC 0.5-2-4 Dental hygiene fees

Authority: IC 23-1.5-2-9; IC 23-1.5-2-10; IC 25-1-8-2; IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-8; IC 25-14-1-10

Sec. 4. The board shall charge and collect the following fees related to the practice of dental hygiene:

(1) Examination and/or recexamination	\$100 plus the cost of supplies and the use of the examination facility
Application for licensure	
(2) Repeat law examination only	\$ 25
(3) Licensure by endorsement	\$100
(4) (3) License renewal	\$ 50 biennially
(5) (4) Dental hygiene intern permit application	\$ 50
(6) (5) Dental hygiene intern permit renewal	\$ 25
(7) (6) Verification of dental hygiene licensure to another state	\$ 10
(8) (7) Duplicate wall license	\$ 10
(9) (8) Reinstatement of inactive license	\$100

(State Board of Dentistry; 828 IAC 0.5-2-4; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1181; filed Oct 8, 2002, 12:40 p.m.: 26 IR 376; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2539)

SECTION 3. 828 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-1 Qualifications of applicants; approved dental schools

Authority: IC 25-14-1-13

Affected: IC 25-14-1-16

Sec. 1. All applicants for licensure to practice dentistry must:

(1) have graduated from an accredited and approved a dental school accredited by the Commission on Accreditation of the American Dental Association; and must

(2) submit certification of having completed, within the prior year, an American Red Cross or American Heart Association cardiopulmonary resuscitation course or such another course as may be approved by the board. An approved dental school is one which requires the following:

- (1) Graduation from high school, or equivalent training.
- (2) The successful completion of two (2) full academic years of work in a college of liberal arts or sciences. This college course must include at least one (1) year of college credit in English, biology, physics, and inorganic chemistry and one-half (1/2) year of college credit in organic chemistry. All courses in science shall include both class and laboratory instruction. Formal credit in biology and physics, but not in English and chemistry, may be waived in the case of an exceptional student with three (3) years of college credit or a student holding a bachelor's or other degree from an accredited college.

(3) Four (4) academic years in a dental school which presents a curriculum, including at least the following subjects:

- (A) Anatomy, macroscopic and microscopic.
- (B) Oral surgery.
- (C) Bacteriology.
- (D) Pharmacology and materia medica.
- (E) Operative dentistry.
- (F) Physiology.
- (G) Oral anatomy.
- (H) Periodontia.
- (I) Endodontia.
- (J) Prosthodontia.
- (K) Anesthesia, general and local.
- (L) Preventive dentistry.
- (M) Pathology.
- (N) Medicine.
- (O) Diagnosis.
- (P) Radiology.
- (Q) Orthodontia.
- (R) Dentistry for children.
- (S) Dental materials.
- (T) Public health.
- (U) Hygiene.
- (V) History of dentistry.
- (W) Practice management.
- (X) Ethics.
- (Y) Jurisprudence.

(State Board of Dentistry; PT 1, Rule 1; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 48; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 191; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2189; filed Oct 12, 1993, 5:00 p.m.: 17 IR 399; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2539)

SECTION 4. 828 IAC 1-1-2 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-2 Application forms

Authority: IC 4-1-8-1; IC 25-14-1-13

Affected: IC 25-14-1-3; IC 25-14-1-16

Sec. 2. (a) The applicant for ~~examination licensure~~ must complete the application on forms prescribed and provided by the board. All statements contained in the application must be verified by the applicant. The verified application, ~~all examination~~ fees, and other documents that the board may require must be submitted to the board. ~~office at least forty-five (45) days prior to the first day of the examination.~~

(b) ~~The following~~ proof that the applicant is a graduate of a dental school that is recognized by the board must be submitted: ~~to the board at least seven (7) days prior to the examination. The following documents must be submitted:~~

- (1) An official transcript showing the date the degree was conferred.
- (2) An official diploma or a certificate of completion signed by the:

- (A) dean of the applicant's professional school; and ~~the~~
- (B) registrar of the university or college.

(c) Additional documents to be submitted by the applicant for a license include the following:

(1) Where the name on any document differs from the applicant's name, one (1) of the following:

- (A) A notarized or certified copy of a marriage certificate.
- (B) Legal proof of a name change.

(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks before filing of the application.

(3) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:

- (A) The offense of which the applicant was convicted.
- (B) The court in which the applicant was convicted.
- (C) The cause number under which the applicant was convicted.
- (D) The penalty imposed by the court.

(4) An applicant who is now, or has been, licensed to practice any health profession in another state or Canadian province must submit verification of license status. This information must be sent by the state or province that issued the license directly to the Indiana board.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state shall submit a self-query form completed by the following:

- (A) The National Practitioner Data Bank (NPDB).
- (B) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

(d) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (State Board of Dentistry; PT 1, Rule 2; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 191; filed Oct 16, 1985, 3:57 p.m.: 9 IR 520; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2540)

SECTION 5. 828 IAC 1-1-3 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-3 Examinations required for licensure

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 3. ~~(a)~~ In order to obtain an Indiana license to practice dentistry, each ~~candidate~~ applicant must pass an examination that includes the following:

- (1) All sections of the national dental board examination.
- (2) A clinical examination.
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) ~~A passing score must be obtained on all sections of the national board dental examination before any candidate may take the clinical or law examinations.~~ (State Board of Dentistry; PT 1, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2278; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2540)

SECTION 6. 828 IAC 1-1-6 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-6 National board examination; dental and dental hygiene law examinations

Authority: IC 25-14-1-13
Affected: IC 25-14-1-13

Sec. 6. (a) A passing score on a national board dental examination, as approved by the board, must be ~~attained~~ **achieved** by the ~~candidate~~ **applicant** before the ~~candidate~~ **applicant** will be permitted to take the ~~clinical portion of the examination and the~~ written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) Passage of the Indiana dental and dental hygiene law examination with a score of at least seventy-five (75) is mandatory before the ~~candidate~~ **applicant** may be licensed. ~~Candidates~~ **Applicants** failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken. (State Board of Dentistry; PT 1, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1520; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2279; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2541)

SECTION 7. 828 IAC 1-1-7 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-1-7 Clinical examination

Authority: IC 25-1-8-5; IC 25-14-1-13
Affected: IC 25-14-1-3

Sec. 7. ~~The clinical~~ **To be eligible for licensure by examination, shall consist an applicant must meet any one (1) of the following sections (or procedures):**

- (1) Oral diagnosis and treatment planning, infection control, and periodontics.
- (2) Operative dentistry.

~~(3) Prosthetic dentistry.~~

~~The procedure for administering this examination will be determined by the board. Each candidate shall be required to have a score of seventy-five (75) or more in each section to pass the clinical examination requirements:~~

(1) Have passed all parts of one (1) of the following examinations within the five (5) year period immediately before the date of the board's receipt of the applicant's application:

(A) The Central Regional Dental Testing Service (CRDTS) examination.

(B) The North East Regional Board (NERB) examination.

(C) The Southern Regional Testing Agency (SRTA) examination.

(D) The Western Regional Examining Board (WREB) examination.

(2) Have taken an examination administered by the board and received a passing score as established by the board.

(State Board of Dentistry; PT 1, Rule 7; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; filed Sep 11, 2000, 2:23 p.m.: 24 IR 377; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2279; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2541)

SECTION 8. 828 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-1 Qualifications of applicants; accredited and approved dental hygiene schools

Authority: IC 25-13-1-5
Affected: IC 25-13-1-6

Sec. 1. All applicants for licensure to practice dental hygiene must:

(1) have graduated from an accredited and approved a school of dental hygiene school that is accredited by the Commission on Dental Accreditation of the American Dental Association; and must

(2) submit certification of having completed within the prior year an American Red Cross or American Heart Association cardiopulmonary resuscitation course or ~~such another~~ course as may be approved by the board. An accredited and approved dental hygiene school is one that requires the following:

- (1) Graduation from high school or equivalent training.**
- (2) Two (2) academic years in a dental hygiene school that presents a curriculum, including, at least, the following subjects:**

(A) Anatomy, general and oral:

(B) Pharmacology:

(C) Microbiology and immunology:

(D) Radiology:

(E) Physiology:

(F) Preventive dentistry:

- (G) Dental hygiene science.
- (H) Histology.
- (I) Chemistry.
- (J) Dental materials.
- (K) Periodontology.
- (L) Nutrition.
- (M) Pathology, general and oral.
- (N) Oral and written communication.
- (O) Psychology.
- (P) Sociology.
- (Q) Community dental health.

(State Board of Dentistry; PT 2, Rule 1; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 51; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Oct 12, 1993, 5:00 p.m.: 17 IR 401; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2243; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2541)

SECTION 9. 828 IAC 1-2-2 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-2 Application forms

Authority: IC 4-1-8-1; IC 25-13-1-5

Affected: IC 25-13-1-4

Sec. 2. (a) The applicant for ~~examination licensure~~ must complete the application on forms prescribed and provided by the board. The applicant shall verify all statements contained in the application. The verified application, ~~all examination~~ fees, and other documents that the board may require must be submitted to the board. ~~office at least forty-five (45) days prior to the first day of the examination.~~

(b) ~~The following~~ proof that the applicant is a graduate of a school of dental hygiene that is recognized by the board must be submitted to the board ~~at least seven (7) days prior to the examination. The following documents must be submitted: as follows:~~

- (1) An official transcript showing the date the degree was conferred.
- (2) An official diploma or a certificate of completion signed by the dean and the registrar of the applicant's school.

(c) Additional documents to be submitted by the applicant for a license include the following:

- (1) Where the name on any document differs from the applicant's name, one (1) of the following:
 - (A) A notarized or certified copy of a marriage certificate.
 - (B) Legal proof of a name change.
- (2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks before filing of the application.
- (3) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the

applicant has been convicted. This notarized statement must include the following:

- (A) The offense of which the applicant was convicted.
- (B) The court in which the applicant was convicted.
- (C) The cause number under which the applicant was convicted.
- (D) The penalty imposed by the court.

(4) An applicant who is now, or has been, licensed to practice any health profession in another state or Canadian province must submit verification of license status. This information must be sent by the state or province that issued the license directly to the Indiana board.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state shall submit a self-query form completed by the following:

- (A) The National Practitioner Data Bank (NPDB).
- (B) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

(d) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (State Board of Dentistry; PT 2, Rule 2; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Oct 16, 1985, 3:57 p.m.: 9 IR 522; filed Oct 12, 1993, 5:00 p.m.: 17 IR 401; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2243; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2542)

SECTION 10. 828 IAC 1-2-3 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-3 Examinations required for licensure

Authority: IC 25-1-8-5; IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 3. (a) In order to obtain an Indiana license to practice dental hygiene, each ~~candidate applicant~~ must pass an examination that includes ~~the following:~~

- (1) All sections of the national dental hygiene board examination.
- (2) A clinical examination.
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

~~(b) A passing score must be obtained on all sections of the national board dental hygiene examination before any candidate may take the clinical or law examinations.~~

(b) To be eligible for licensure by examination, an applicant must meet any one (1) of the following clinical examination requirements:

- (1) Have passed all parts of one (1) of the following examinations within the five (5) year period immediately before the date of the board's receipt of the applicant's application:
 - (A) The Central Regional Dental Testing Service (CRDTS) examination.
 - (B) The North East Regional Board (NERB) examination.

(C) The Southern Regional Testing Agency (SRTA) examination.

(D) The Western Regional Examining Board (WREB) examination.

(2) Have taken an examination administered by the board and received a passing score as established by the board.

(State Board of Dentistry; PT 2, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2279; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2542)

SECTION 11. 828 IAC 1-2-6 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-2-6 National board examination; dental and dental hygiene law examination

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 6. (a) A passing score on a national board dental hygiene examination, as approved by the board, must be ~~attained~~ **achieved** by the ~~candidate~~ **applicant** before the ~~candidate~~ **applicant** will be permitted to take the ~~clinical portion of the examination and the~~ written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) Passage of the Indiana dental and dental hygiene law examination with a score of at least seventy-five (75) is mandatory before the ~~candidate~~ **applicant** may be licensed. ~~Candidates~~ **Applicants** failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken. *(State Board of Dentistry; PT 2, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1521; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1014; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2280; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2543)*

SECTION 12. 828 IAC 1-3-1.1 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-1.1 Dental licensure by endorsement; credentials

Authority: IC 4-1-8-1; IC 25-14-1-13

Affected: IC 25-14-1-16

Sec. 1.1. (a) Persons seeking licensure to practice dentistry by endorsement shall **do the following**:

- (1) File an application on a form supplied by the board. and**
- (2) Submit the fees required by 828 IAC 0.5-2-3.**

(b) The applicant for a license shall provide the following:

- (1) Where the name on any document differs from the applicant's name, **one (1) of the following**:

- (A) A notarized or certified copy of a marriage certificate. or**
- (B) Legal proof of a name change.**

(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks ~~prior to~~ **before** filing of the application.

(3) An original transcript of the applicant's dental education, including **the following**:

(A) The degree or degrees conferred. and

(B) The date each degree was conferred.

(4) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state or Canadian province must submit verification of license status. This information must be sent by the state or province that issued the license directly to the Indiana board.

(6) The applicant shall submit a self-query form completed by **the following**:

(A) The National Practitioner Data Bank (NPDB). and

(B) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

(7) The applicant shall submit proof of **the following**:

(A) Completion of at least twenty (20) hours of continuing dental education taken in the previous two (2) years. No more than two (2) hours of training in basic life support shall count toward this requirement.

~~(8) The applicant shall submit proof~~ **(B) That the applicant successfully completed the**

(i) National Board Dental Examination provided by the Joint Commission on Dental Examinations; or success-fully completed the

(ii) National Dental Examining Board of Canada Written Examination provided by the National Dental Examining Board of Canada.

~~(9) The applicant shall submit proof~~ **(C) That the applicant satisfactorily completed a national, regional, state, or provincial clinical licensing examination in any other state or Canadian province having and maintaining a standard of examination for licensure and laws regulating the practice of dentistry within that state or province that are is substantially equivalent to the examination and licensing requirements of Indiana.**

~~(10) The applicant shall submit proof~~ **(D) That the applicant has been engaged in the active practice of dentistry for not less than five (5) two (2) years out of the nine (9) three (3) years immediately preceding the submission of the application.**

~~(11)~~ (8) The applicant shall submit **the following**:

(A) Written statements from at least three (3) practicing dentists verifying the applicant's active, moral, and ethical practice of dentistry. The statements must:

(i) be originals; and ~~must~~

(ii) have been written not more than eight (8) weeks ~~prior~~ **to before** the submission of the application.

~~(12) The applicant shall submit~~ (B) Proof that the applicant is currently certified in **one (1) of the following**:

(i) Basic life support. ~~or~~

(ii) Advanced cardiac life support.

~~(13)~~ (9) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

~~(c) An applicant who has previously failed an examination for licensure administered by the board is not eligible to apply for a license by endorsement, until such applicant has passed all portions of the examination in which he or she failed or provides the board with proof that additional training has been received in the subjects of the failure.~~

(c) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (*State Board of Dentistry; 828 IAC 1-3-1.1; filed Sep 27, 2002, 2:38 p.m.: 26 IR 373; errata filed Sep 27, 2002, 2:59 p.m.: 26 IR 383; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2543*)

SECTION 13. 828 IAC 1-3-1.5 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-1.5 Licensure to practice dental hygiene by endorsement; credentials

Authority: IC 4-1-8-1; IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-7; IC 25-13-1-17

Sec. 1.5. (a) Persons seeking licensure to practice dental hygiene by endorsement shall **do the following**:

- (1) File an application on a form supplied by the board. ~~and~~
- (2) Submit the fees required by 828 IAC 0.5-2-4.

(b) The applicant for a license shall provide the following:

(1) Where the name on any document differs from the applicant's name, **one (1) of the following**:

(A) A notarized or certified copy of a marriage certificate. ~~or~~

(B) Legal proof of a name change.

(2) Two (2) recent passport-type photographs of the applicant, taken within eight (8) weeks ~~prior to~~ **before** filing of the application.

(3) An original transcript of the applicant's dental hygiene education, including **the following**:

(A) The degree or degrees conferred. ~~and~~

(B) The date each degree was conferred.

(4) If the applicant has been convicted of a criminal offense, excluding minor traffic violations, the applicant shall submit a notarized statement detailing all criminal offenses, excluding minor traffic violations, for which the applicant has been

convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(5) An applicant who is now, or has been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.

(6) The applicant shall submit **the following**:

(A) A self-query form completed by **the following**:

(i) The National Practitioner Data Bank (NPDB). ~~and~~

(ii) The Healthcare Integrity and Protection Data Bank (HIPDB) data bank.

~~(7) The applicant shall submit~~ (B) Proof of completion of at least fourteen (14) hours of continuing dental hygiene education taken within the previous two (2) years. No more than two (2) hours of training in basic life support shall count toward this requirement.

~~(8)~~ (7) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

~~(9)~~ (8) The applicant shall submit **the following** proof that the applicant:

(A) Satisfactorily completed **the following**:

(i) The National Board Dental Hygiene Examination provided by the Joint Commission on Dental Examinations.

~~(10) The applicant shall submit proof that the applicant satisfactorily completed~~ (ii) A **national**, regional, or state clinical licensing examination in any other state having and maintaining a standard of examination for licensure and laws regulating the practice of dental hygiene within that state or province that ~~are~~ **is** substantially equivalent to the examination and licensing requirements of Indiana.

~~(11) The applicant shall submit proof that the applicant~~ (B) Has been engaged in the active practice of dental hygiene for not less than two (2) years out of the five (5) years immediately preceding the submission of the application.

~~(12)~~ (9) The applicant shall submit **the following**:

(A) Written statements from at least three (3) practicing dentists verifying the applicant's active, moral, and ethical practice of dental hygiene. The statements must:

(i) be originals; and ~~must~~

(ii) have been written not more than eight (8) weeks ~~prior~~ **to before** the submission of the application.

~~(13) The applicant shall submit~~ (B) Proof that the applicant is currently certified in basic life support.

(c) An applicant who has previously failed an examination for licensure administered by the board is not eligible to apply for a license by endorsement until ~~such~~ **the** applicant:

(1) has passed all portions of the examination in which he or she failed; or

(2) provides the board with proof that additional training has been received in the subjects of the failure.

(d) All applicants must submit the applicant's United States Social Security number in order to be eligible for licensure. (*State Board of Dentistry; 828 IAC 1-3-1.5; filed Sep 27, 2002, 2:38 p.m.: 26 IR 374; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2544*)

SECTION 14. 828 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

828 IAC 1-3-2 "Practice of dentistry" defined

Authority: IC 25-14-1-13

Affected: IC 25-14-1-16

Sec. 2. (a) Under IC 25-14-1-16(b)(2), an applicant for licensure by endorsement must have practiced dentistry for at least ~~five (5)~~ **two (2)** out of the ~~nine (9)~~ **three (3)** years preceding the date of application.

(b) "Practice of dentistry" means that the applicant has actively engaged in clinical patient contact for at least an average of twenty (20) hours per week for ~~five (5)~~ **two (2)** years. A maximum of ~~two (2) years~~ **one (1) year** of the ~~five (5)~~ **two (2)** year requirement may have been in postdoctoral training in a program approved by the board. (*State Board of Dentistry; 828 IAC 1-3-2; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1728; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Sep 27, 2002, 2:38 p.m.: 26 IR 375; filed Mar 23, 2006, 10:15 a.m.: 29 IR 2545*)

SECTION 15. THE FOLLOWING ARE REPEALED: 828 IAC 1-1-8; 828 IAC 1-1-12; 828 IAC 1-1-21; 828 IAC 1-2-7; 828 IAC 1-2-8; 828 IAC 1-2-9; 828 IAC 1-2-12; 828 IAC 1-2-14.

LSA Document #05-226(F)

Notice of Intent Published: September 1, 2005; 28 IR 3613

Proposed Rule Published: January 1, 2006; 29 IR 1370

Hearing Held: February 3, 2006

Approved by Attorney General: March 15, 2006

Approved by Governor: March 23, 2006

Filed with Secretary of State: March 23, 2006, 10:15 a.m.

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

Small Business Regulatory Coordinator: 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 65 STATE LOTTERY COMMISSION

LSA Document #06-99(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #06-99(E), printed at 29 IR 2561:

In 65 IAC 1-1-18(2), on page 1 of the original document (29 IR 2562), delete "\$1.00" and insert "\$100".

Filed with Secretary of State: April 7, 2006, 1:10 p.m.

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

NOTE: This change was incorporated into the printed version of LSA Document #06-99(E) and may be found at 29 IR 2561, as corrected.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #06-71(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #06-71(E), printed at 29 IR 2208:

In 71 IAC 12-2-15(b)(2), on page 1 of the original document (29 IR 2209), delete "a".

Filed with Secretary of State: April 10, 2006, 2:00 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 71 INDIANA HORSE RACING COMMISSION

LSA Document #06-78(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #06-78(E), printed at 29 IR 2209:

- (1) In 71 IAC 5-3-3(a)(23), on page 7 of the original document (29 IR 2212), delete "designate" and insert "designating".
- (2) In 71 IAC 5-3-3(a)(32), on page 7 of the original document (29 IR 2212), delete "are" and insert "is".
- (3) In 71 IAC 5.5-3-3(a)(12), on page 10 of the original document (29 IR 2214), delete "once" and insert "office".
- (4) In 71 IAC 6-1-4(a), on page 14 of the original document (29 IR 2217), delete "is" and insert "are".
- (5) In 71 IAC 8-1-1(b), on page 15 of the original document

(29 IR 2217), delete "prohibitions" and insert "prohibition" [sic.].

(6) In 71 IAC 8-1-1(b), on page 15 of the original document (29 IR 2217), delete "includes" and insert "include".

(7) In 71 IAC 8-1-1(b), on page 15 of the original document (29 IR 2217), delete "is" and insert "are".

(8) In 71 IAC 8-8-2(b), on page 23 of the original document (29 IR 2222), delete "which" and insert "that".

(9) In 71 IAC 8-9-1(a), on page 23 of the original document (29 IR 2222), delete "which" and insert "that".

(10) In 71 IAC 8.5-1-1(b), on page 24 of the original document (29 IR 2223), delete "includes" and insert "include".

(11) In 71 IAC 8.5-1-1(b), on page 24 of the original document (29 IR 2223), delete "is" and insert "are".

(12) In 71 IAC 8.5-1-5(7), on page 26 of the original document (29 IR 2224), delete "fureosmide" and insert "furosemide".

(13) In 71 IAC 8.5-4-11, on page 28 of the original document (29 IR 2225), delete "unlabelled" and insert "unlabeled".

(14) In 71 IAC 8.5-5-2(a), on page 29 of the original document (29 IR 2226), delete "These" and insert "The following".

(15) In 71 IAC 8.5-5-2(b), on page 30 of the original document (29 IR 2226), insert "is" before "any nonfood".

(16) In 71 IAC 8.5-5-2(i), on page 30 of the original document (29 IR 2226), delete "which" and insert "that".

(17) In 71 IAC 8.5-7-2(b), on page 32 of the original document (29 IR 2227), delete "which" and insert "that".

Filed with Secretary of State: April 10, 2006, 2:00 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 #03-129(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 2-1-6(d), on page 13 of the original document (28 IR 2054), after "then the", delete "criteria" and insert "criterion".

(2) In 327 IAC 2-1.5-8(e), on page 66 of the original document (28 IR 2080), after "then the", delete "criteria" and insert "criterion" and, after "subdivision (2)", insert "(B)".

Filed with Secretary of State: April 6, 2006, 2:48 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 #06-117(AC)

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

- (1) In 327 IAC 3-1-2 at *, after "Office of Water", delete "Management" and insert "Quality" and delete "1255" and insert "N1255".
- (2) In 327 IAC 3-2.1-2, after "Office of Water", delete "Management" and insert "Quality", delete "1255" and insert "N1255", and delete "46206" and insert "46204".
- (3) In 327 IAC 3-2.1-3 at *, after "Office of Water", delete "Management" and insert "Quality", after "100 North Senate Avenue," insert "Room N1255," and delete "46206" and insert "46204".
- (4) In 327 IAC 3-6-2(1), after "Office of Water", delete "Management" and insert "Quality", delete "1255" and insert "N1255", and delete "46206" and insert "46204".
- (5) In 327 IAC 3-6-2(2), after "Office of Water", delete "Management" and insert "Quality", delete "1255" and insert "N1255", and delete "46206" and insert "46204".
- (6) In 327 IAC 3-6-2(3), after "Office of Water", delete "Management" and insert "Quality", delete "1255" and insert "N1255", and delete "46206" and insert "46204".
- (7) In 327 IAC 3-6-2(4), after "Office of Water", delete "Management" and insert "Quality", delete "1255" and insert "N1255", and delete "46206" and insert "46204".
- (8) In 327 IAC 6.1-4-11 at *, delete "(202) 260-7786" and insert "(202) 566-1730".
- (9) In 327 IAC 8-2.1-13(c), delete "1-877-8-NSF-HELP." and insert "1-877-867-3435.".
- (10) In 327 IAC 15-4-3(c)(1), delete "enforcement" and insert "water quality" and delete "(317) 232-8603" and insert "(317) 232-8670".

Filed with Secretary of State: April 10, 2006, 2:46 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 Recall

**TITLE 50 DEPARTMENT OF LOCAL
GOVERNMENT FINANCE**

LSA Document #05-252

Under IC 4-22-2-40, LSA Document #05-252, printed at 29 IR
836, is recalled.

TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #05-138

Under IC 4-22-2-40, LSA Document #05-138, printed at 29 IR
658, is recalled.

Notice of Withdrawal

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #05-192

Under IC 4-22-2-41, LSA Document #05-192, printed at 29 IR 1270, is withdrawn.

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

LSA Document #05-145

LSA Document #05-145, printed at 28 IR 2998, is withdrawn.

TITLE 808 STATE BOXING COMMISSION

LSA Document #05-151

LSA Document #05-151, printed at 28 IR 2998, is withdrawn.

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

LSA Document #05-179

LSA Document #05-179, printed at 28 IR 3326, is withdrawn.

TITLE 852 INDIANA OPTOMETRY BOARD

LSA Document #05-184

Under IC 4-22-2-41, LSA Document #05-184, printed at 29 IR 656, is withdrawn.

TITLE 860 INDIANA PLUMBING COMMISSION

LSA Document #05-154

LSA Document #05-154, printed at 28 IR 3000, is withdrawn.

TITLE 862 PRIVATE DETECTIVES LICENSING BOARD

LSA Document #05-157

LSA Document #05-157, printed at 28 IR 3001, is withdrawn.

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

LSA Document #05-162

LSA Document #05-162, printed at 28 IR 3001, is withdrawn.

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

LSA Document #05-163

LSA Document #05-163, printed at 28 IR 3001, is withdrawn.

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

LSA Document #05-164

LSA Document #05-164, printed at 28 IR 3001, is withdrawn.

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #05-150

LSA Document #05-150, printed at 28 IR 3002, is withdrawn.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #06-89(E)

DIGEST

Temporarily establishes procedures for application and administration of the investment deduction established by IC 6-1.1-12.4 until the department establishes permanent rules on this subject or July 1, 2006, whichever comes first. Authority: IC 4-22-2-37.1; SEA 260-2006. Effective March 29, 2006.

SECTION 1. The purpose of this document is to establish formal procedures to govern the application and administration of the investment deduction established under IC 6-1.1-12.4. The:

(1) procedures;
(2) procedural requirements; and
(3) standards;
established by this document are intended to ensure that the investment deduction is properly administered.

SECTION 2. This document applies to taxpayers applying for and local assessing officials exercising authority under IC 6-1.1-12.4 in administering the investment deduction applicable to real and personal property.

SECTION 3. The definitions in this document apply throughout this document.

SECTION 4. (a) For real property, “creates or retains employment” means a development, redevelopment, or rehabilitation of the real property that:

(1) produces new jobs that were not previously performed; or
(2) maintains existing jobs performed before the development, redevelopment, or rehabilitation of the real property;
by employees located at the site of the real property. The term may also refer to a development, redevelopment, or rehabilitation of real property that keeps an existing business in operation that otherwise would have ceased to maintain operations in Indiana without the development, redevelopment, or rehabilitation even though the total number of jobs that exists after the development, redevelopment, or rehabilitation may be less than before the development, redevelopment, or rehabilitation occurred.

(b) For personal property, “creates or retains employment” means a purchase of personal property other than inventory that:

(1) produces new jobs that were not previously performed; or
(2) maintains existing jobs performed before the purchase of the personal property;
by employees of the owner or lessee of the personal property

in Indiana. The term may also refer to a purchase of personal property other than inventory that keeps an existing business in operation that otherwise would have ceased to maintain operations in Indiana without the purchase of the personal property, even though the total number of jobs that exists after the purchase of the personal property may be fewer than before the purchase of personal property occurred.

SECTION 5. “Department” means the department of local government finance.

SECTION 6. “Development” means construction that improves a parcel of land.

SECTION 7. “Inventory” has the meaning set forth in 50 IAC 4.2-5-1.

SECTION 8. “Investment deduction” means the deduction for real or personal property provided in IC 6-1.1-12.4.

SECTION 9. “Official” means any of the following:

- (1) A county auditor.
- (2) A county assessor.
- (3) A township assessor.

SECTION 10. “Personal property” has the meaning set forth in IC 6-1.1-11, except, for purposes of this document, the term excludes inventory.

SECTION 11. “Purchase” means the act of obtaining title to real or personal property. A person is deemed to be purchasing property when:

- (1) title to the property is transferred into the person’s name; or
- (2) a person assumes a legal obligation to pay the property taxes on the property.

SECTION 12. “Real property” has the meaning set forth in IC 6-1.1-1-15.

SECTION 13. “Redevelopment” means the construction of new improvements on either of the following:

- (1) Unimproved real estate.
- (2) Real estate upon which a prior existing improvement is demolished to allow for new construction.

SECTION 14. “Rehabilitation” means either of the following:

- (1) The remodeling, repair, or betterment of property in any manner.
- (2) Any enlargement or extension of an improvement.

SECTION 15. (a) In order to be eligible for the investment deduction:

- (1) real property must meet the requirements of IC 6-1.1-12.4-2; and

(2) the real property owner must timely file a notice to claim the investment deduction.

(b) The investment deduction does not apply to a facility listed in IC 6-1.1-12.1-3(e).

(c) For purposes of the limitation of the investment deduction to two million dollars (\$2,000,000) in assessed value for real property for the assessment year, a real property owner is limited to a total two million dollar (\$2,000,000) deduction in assessed value for all eligible development, redevelopment, or rehabilitation on all real property owned within a county. The two million dollar (\$2,000,000) in assessed value limitation of the investment deduction shall not be applied individually to each parcel of property owned within a county by the real property owner.

SECTION 16. (a) In order to be eligible for the investment deduction:

- (1) personal property must meet the requirements of IC 6-1.1-12.4-3; and
- (2) the personal property owner must claim the investment deduction on a timely filed:
 - (A) annual; or
 - (B) amended; personal property tax return.

(b) For purposes of the limitation of the investment deduction to two million dollars (\$2,000,000) in assessed value for personal property for the assessment year, a personal property owner is limited to a total two million dollar (\$2,000,000) deduction in assessed value for all eligible personal property owned within the county. The two million dollar (\$2,000,000) in assessed value limitation of the investment deduction shall not be applied individually to each personal property return filed in the county by the personal property owner.

SECTION 17. Real property and personal property located in an area that has been designated as an allocation area, as defined in IC 6-1.1-21.2-3, are not eligible for the investment deduction.

SECTION 18. If the investment deduction has been claimed for an assessment year, all other statutory deductions as set forth in IC 6-1.1-12.4-5 shall not be claimed on the:

- (1) development, redevelopment, or rehabilitation of real property; or
- (2) purchase of personal property; subject to the investment deduction.

SECTION 19. The investment deduction on eligible real property:

- (1) is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs; and

(2) continues for the following two (2) years.

SECTION 20. The investment deduction on eligible personal property:

- (1) is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs; and
- (2) continues for the following two (2) years.

SECTION 21. The annual amount of the investment deduction on eligible real property is calculated using the formula set forth in IC 6-1.1-12.4-2(c).

SECTION 22. The annual amount of the investment deduction on eligible personal property is calculated using the formula set forth in IC 6-1.1-12.4-3(c).

SECTION 23. If the assessed value of real property or personal property receiving the investment deduction is subsequently decreased as the result of an appeal, or by other action of an assessing official, the amount of the investment deduction shall be adjusted by the township assessor to reflect the percentage decrease that results from the change and submitted to the county auditor. Other actions of an assessing official include, but are not limited to, the following:

- (1) General reassessment.
- (2) Annual adjustments.
- (3) The processing of an amended personal property return.

SECTION 24. If the assessed value of real property or personal property receiving the investment deduction is subsequently increased as the result of an appeal, or by other action of an assessing official, the amount of the investment deduction shall be adjusted by the township assessor to reflect the percentage increase that results from the change and submitted to the county auditor. Other actions of an assessing official include, but are not limited to, changes made to the assessment as a result of any of the following:

- (1) A general reassessment.
- (2) An annual adjustment.
- (3) The processing of an amended personal property return.

SECTION 25. (a) A property owner must claim the real property investment deduction for all eligible years by completing a notice on Form RPID-1 for the first year the investment deduction is claimed.

(b) Form RPID-1 is available:

- (1) from the county assessor; and
- (2) on the department's Web site at www.in.gov/dlgf/.

(c) The completed Form RPID-1 is to be filed with the township assessor of the township in which the property is

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located. The completed Form RPID-1 must be filed:

- (1) by May 10 of each year; or
- (2) within thirty (30) days of receipt of a notice of new assessment or reassessment given under IC 6-1.1-4-22; whichever is later.

SECTION 26. (a) A property owner must claim the personal property investment deduction by completing Schedule PPID-1 and attaching that schedule to a timely filed:

- (1) personal; or
- (2) amended personal; property tax return.

(b) Schedule PPID-1 is available:

- (1) at the offices of the:
 - (A) county assessor; and
 - (B) township assessor; and
- (2) on the department's Web site at www.in.gov/dlgf/.

(c) The completed Schedule PPID-1 shall be:

- (1) attached to the property owner's:
 - (A) personal; or
 - (B) amended personal; property tax return; and
- (2) filed with the township assessor of the township in which the property is located.

SECTION 27. (a) A township assessor receiving a Form RPID-1 from a property owner shall inform the county auditor of the following:

- (1) The real property eligible for the investment deduction as contained in the notice filed by the taxpayer.
- (2) The investment deduction amount.

(b) The township assessor shall accomplish the tasks referenced in subsection (a) by doing the following:

- (1) Completing the township assessor's section of the RPID-1.
- (2) Sending a duplicate of the completed form to the county auditor:
 - (A) not later than July 1 of the assessment year; or
 - (B) within thirty (30) days after receipt of a properly filed application; whichever is later.

SECTION 28. (a) A township assessor receiving a Schedule PPID-1 attached to a property owner's annual personal property tax return or amended personal property tax return shall do the following:

- (1) Identify the personal property eligible for the investment deduction.
- (2) Inform the county auditor of the investment deduction amount.

(b) The township assessor shall accomplish the tasks referenced in subsection (a) by doing the following:

(1) Completing the appropriate section of the first page of the:

- (A) personal property return (Form 102 or 103); or
- (B) amended personal property return.

(2) Sending a duplicate of the first page to the county auditor:

- (A) not later than July 1 of the assessment year; or
- (B) within thirty (30) days after receipt of a properly filed schedule; whichever is later.

SECTION 29. A county auditor receiving a completed Form RPID-1 from a township assessor shall do the following:

- (1) Make the investment deduction in the amount certified by the township assessor.
- (2) Notify the county property tax board of appeals of the amount of the investment deduction granted.

SECTION 30. A county auditor receiving the first page of a personal property tax return (Form 102 or 103) showing a personal property investment deduction from a township assessor shall do the following:

- (1) Make the investment deduction in the amount certified by the township assessor.
- (2) Notify the county property tax board of appeals of the amount of the investment deduction granted.

SECTION 31. (a) An official may review an investment deduction to determine whether the property has created or retained jobs as set forth in IC 6-1.1-12.4-6 and this document.

(b) An official who determines that the creation or retention of employment has not occurred shall follow the notification and hearing procedures outlined in IC 6-1.1-12.4-6 through IC 6-1.1-12.4-9.

(c) The review referenced in subsection (a) is only to determine the eligibility of property for the investment deduction. An official may not use the statutory procedure in IC 6-1.1-12.4-6 through IC 6-1.1-12.4-9 to appeal the amount of the investment deduction.

(d) If an official disallows or modifies the claimed investment deduction for any reason other than a determination under subsection (a), the taxpayer may appeal the denial or modification in accordance with the statutory provisions and procedural remedies otherwise applicable and available when an assessment is changed or a deduction is denied.

SECTION 32. (a) If there is a change in ownership of property that has been granted an investment deduction, the investment deduction shall continue to apply to the property.

(b) The amount of the investment deduction on the

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property shall continue to be calculated using the formula set forth in:

- (1) IC 6-1.1-12.4-2; or
- (2) IC 6-1.1-12.4-3.

LSA Document #06-89(E)

Filed with Secretary of State: March 29, 2006, 11:00 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-82(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 803. Effective March 17, 2006.

SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 803, Crown Jewels".

SECTION 2. Scratch-off tickets in scratch-off game number 803 shall sell for five dollars (\$5) per ticket.

SECTION 3. Play Symbols: In [sic.] Scratch-Off Game Number 803, Crown Jewels shall contain a total of twenty-three (23) play and prize spots. These include ten (10) play spots in the area labeled "YOUR NUMBERS", two (2) play spots in the area labeled "WINNING NUMBERS", one (1) play spot in area labeled "BONUS MONEY", and ten (10) prize symbols each located directly under the corresponding "YOUR NUMBERS" play symbols. The play symbol captions correspond with and verify the play symbols as follows:

YOUR NUMBERS Play Symbols:

1 ONE	2 TWO	3 THR	4 FOR	5 FIV	6 SIX	7 SVN	8 EGT	9 NIN	10 TEN
11 ELVN	12 TWLV	13 THRTN	14 FORTN	15 FIFTN	16 SIXTN	17 SVNTN	18 EGHTN	19 NINTN	20 TWTY
★ WIN	🎁 WIN ALL								

WINNING NUMBERS Play Symbols:

1 ONE	2 TWO	3 THR	4 FOR	5 FIV	6 SIX	7 SVN	8 EGT	9 NIN	10 TEN
11 ELVN	12 TWLV	13 THRTN	14 FORTN	15 FIFTN	16 SIXTN	17 SVNTN	18 EGHTN	19 NINTN	20 TWTY

BONUS Play Symbols:



SECTION 4. Prize Symbols: Each of the ten (10) prize symbols are located directly under the corresponding "YOUR NUMBERS" play symbol. Prize symbol captions correspond with and verify each of the prize symbols as follows:

\$1.00 ONE	\$2.00 TWO	\$3.00 THREE	\$5.00 FIVE	\$10.00 TEN
\$15.00 FIFTEEN	\$20.00 TENTY	\$25.00 THY FIVE	\$50.00 FIFTY	\$100 ONE HUN
\$500 FIV HUN	\$1,000 ONE THOU	\$4,000 FOUR THOU	\$10,000 TEN THOU	\$100,000 HUN THOU

SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$2", "\$4", "\$5", "\$10", "\$15", "\$20", "\$50", "\$100", and "\$500". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$5 = FIV
\$10 = TEN
\$15 = FTN
\$20 = TWY
\$40 = FRY
\$50 = FTY
\$100 = HUN
\$500 = FHN


SECTION 6. How to Win: A prize winner in the Scratch-Off Game Number 803, Crown Jewels is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal twenty (20) play and prize spots in the area labeled "YOUR NUMBERS", two (2) play spots in the area labeled "WINNING NUMBERS", and one (1) play spot in area labeled "BONUS MONEY". Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If the holder of the scratch-off game number 803 matches any of "YOUR NUMBERS" to either of the two (2) "WINNING NUMBERS", the holder is entitled to the prize that is representative of that number. If the "★" symbol is revealed, the ticket holder is entitled to win the prize shown automatically. If the "🎁" symbol is revealed, the ticket holder is entitled to win all ten (10) prizes. If the "FAST \$40" is revealed in the "BONUS MONEY", the ticket holder is entitled to win forty dollars (\$40) automatically.


SECTION 7. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
2 - \$1 + 1 - \$3	\$5 (five dollars)	240,000 prizes
1 - \$5	\$5 (five dollars)	120,000 prizes
10 - \$1 (Chest)	\$10 (ten dollars)	60,000 prizes
5 - \$2	\$10 (ten dollars)	60,000 prizes
1 - \$10	\$10 (ten dollars)	150,000 prizes

Emergency Rules

1 - \$5 + 1 - \$10	\$15 (fifteen dollars)	15,000 prizes
1 - \$15	\$15 (fifteen dollars)	15,000 prizes
1 - \$20	\$20 (twenty dollars)	7,500 prizes
2 - \$10	\$20 (twenty dollars)	15,000 prizes
2 - \$5 + 1 - \$10	\$20 (twenty dollars)	7,500 prizes
4 - \$5	\$20 (twenty dollars)	30,000 prizes
2 - \$5 + 3 - \$10	\$40 (forty dollars)	7,500 prizes
6 - \$5 + 1 - \$10	\$40 (forty dollars)	7,500 prizes
1 - \$40 (Bonus)	\$40 (forty dollars)	6,250 prizes
2 - \$25	\$50 (fifty dollars)	1,500 prizes
1 - \$10 + 1 - \$40 (Bonus)	\$50 (fifty dollars)	1,500 prizes
10 - \$5	\$50 (fifty dollars)	1,500 prizes
8 - \$5 + 1 - \$10	\$50 (fifty dollars)	1,500 prizes
1 - \$50	\$50 (fifty dollars)	1,150 prizes
3 - \$20 + 1 - \$40 (Bonus)	\$100 (one hundred dollars)	2,000 prizes
10 - \$10 (Chest)	\$100 (one hundred dollars)	2,000 prizes
2 - \$50	\$100 (one hundred dollars)	1,750 prizes
4 - \$20 + 4 - \$5	\$100 (one hundred dollars)	1,750 prizes
1 - \$100	\$100 (one hundred dollars)	1,750 prizes
4 - \$100 + 3 - \$20 + 1 - \$40 (Bonus)	\$500 (five hundred dollars)	1,000 prizes
1 - \$500	\$500 (five hundred dollars)	875 prizes
10 - \$100 (Chest)	\$1,000 (one thousand dollars)	150 prizes
1 - \$1,000	\$1,000 (one thousand dollars)	150 prizes
1 - \$4,000	\$4,000 (four thousand dollars)	10 prizes
8 - \$500	\$4,000 (four thousand dollars)	10 prizes
2 - \$1,000 + 2 - \$4,000	\$10,000 (ten thousand dollars)	9 prizes
1 - \$10,000	\$10,000 (ten thousand dollars)	9 prizes
1 - \$100,000	\$100,000 (one hundred thousand dollars)	8 prizes

Chest =  symbol wins all

Bonus =  symbol wins \$40

Total value of all prizes*: \$10,580,000

Prize payout: 70.53%

Overall odds: 1 in 3.95

*The number and total value of prizes in this game are

based on a print quantity of approximately three million (3,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in Scratch-Off Game Number 803, Crown Jewels is sixty (60) days from the end of the game.

LSA Document #06-82(E)

Filed with Secretary of State: March 17, 2006, 12:35 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-83(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 801. Effective March 17, 2006.

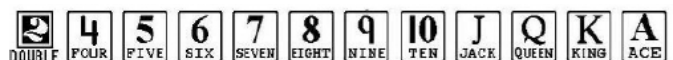
SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 801, Deuces Wild".

SECTION 2. Scratch-off tickets in scratch-off game number 801 shall sell for one dollar (\$1) per ticket.

SECTION 3. Play Symbols: Scratch-Off Ticket Game Number 801, Deuces Wild shall contain a total of thirteen (13) play and prize spots within five (5) independent games labeled "GAME 1", "GAME 2", "GAME 3", "GAME 4", and "BONUS GAME". Four (4) play spots included in Games 1 through 4 are located under area labeled "YOUR CARD", four (4) play spots in Games 1 through 4 are located under area labeled "DEALER'S CARD", four (4) prize spots included in Games 1 through 4 are located in area labeled "PRIZE", and one (1) play spot in area labeled "BONUS GAME". The play symbol captions correspond with and verify the play symbols as follows:

GAME 1 - 4

YOUR CARD Play Symbols:



GAME 1 - 4

DEALER'S CARD Play Symbols:

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BONUS GAME Play Symbols:



SECTION 4. Prize Symbols: Each of the four (4) prize symbols is located under the area labeled "PRIZE" for each corresponding game. Prize symbol captions correspond with and verify each of the prize symbols as follows:



SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$1", "\$2", "\$4", "\$5", "\$10", "\$20", "\$40", and "\$100". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$1 = ONE
\$2 = TWO
\$4 = FOR
\$5 = FIV
\$10 = TEN
\$20 = TWY
\$40 = FRY
\$100 = HUN

SECTION 6. How to Win: A prize winner in Scratch-Off Ticket Game Number 801, Deuces Wild is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal thirteen (13) play and prize spots with five (5) independent games labeled "GAME 1", "GAME 2", "GAME 3", "GAME 4", and "BONUS GAME". Games 1 through 4 include four (4) play and prize spots under areas labeled "YOUR CARD", "DEALER'S CARD", and "PRIZE". One (1) play spot is located in area labeled "BONUS GAME". Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If the ticket holder's "YOUR CARD" beats "DEALER'S CARD", the holder is entitled to win the corresponding prize. If a "E" symbol is revealed, the ticket holder is entitled [sic, to] DOUBLE the prize shown corresponding with that number. If "E" symbol is revealed in the "BONUS GAME", the holder is entitled to WIN ALL four (4) prizes indicated in Games 1 - 4.

SECTION 7. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
1 - \$1	\$1 (one dollars [sic.])	504,000 prizes
\$1 (Double)	\$2 (two dollars)	252,000 prizes
\$2	\$2 (two dollars)	84,000 prizes
2 - \$1 + 1 - \$2	\$4 (four dollars)	33,600 prizes
1 - \$1 (Win All)	\$4 (four dollars)	67,200 prizes
1 - \$2 + 1 - \$3	\$5 (five dollars)	25,200 prizes
1 - \$1 + 1 - \$2 (Double)	\$5 (five dollars)	8,400 prizes
1 - \$5 (Double)	\$10 (ten dollars)	8,400 prizes
2 - \$2 + 1 - \$6	\$10 (ten dollars)	33,600 prizes
1 - \$10	\$10 (ten dollars)	8,400 prizes
2 - \$5 + 1 - \$10	\$20 (twenty dollars)	12,600 prizes
1 - \$20	\$20 (twenty dollars)	4,200 prizes
1 - \$10 (Double) + \$40 (forty dollars)	\$40 (forty dollars)	945 prizes
1 - \$20	\$40 (forty dollars)	5,040 prizes
1 - \$10 (Win All)	\$40 (forty dollars)	1050 prizes
1 - \$40	\$100 (one hundred dollars)	420 prizes
1 - \$25 (Win All)	\$100 (one hundred dollars)	420 prizes
1 - \$100	\$100 (one hundred dollars)	10 prizes
1 - \$2,500 (Double)	\$5,000 (five thousand dollars)	10 prizes
1 - \$5,000	\$5,000 (five thousand dollars)	10 prizes

Double = E symbol

Win All = E symbol in Bonus Game

Total value of all prizes*: \$3,052,600

Prize payout: 60.57%

Overall odds: 1 in 4.80

*The number and total value of prizes in this game are based on a print quantity of approximately five million (5,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in Scratch-Off Game Number 801, Deuces Wild is March 31, 2007.

SECTION 10. This document shall expire April 30, 2007.

Emergency Rules

LSA Document #06-83(E)

Filed with Secretary of State: March 17, 2006, 12:35 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-85(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 817. Effective March 23, 2006.

SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 817, Super Duper Bingo".

SECTION 2. Scratch-off tickets in scratch-off game number 817 shall sell for two dollars (\$2) per ticket.

SECTION 3. Play Symbols: Scratch-Off Ticket Game Number 817, Super Duper Bingo shall contain one hundred and thirty (130) play spots with four (4) independent games labeled "CARD 1", "CARD 2", "CARD 3", and "CARD 4", respectively, on the right side of the ticket and play data area labeled "CALLER'S CARD" on the left side. The game play data area on the right side for each individual card shall have twenty-five (25) play spots arranged in a matrix of five (5) rows and five (5) columns. The columns shall be labeled B, I, N, G, and O, respectively. A corresponding prize box including winning prizes shall be printed along the side of each game card. The "CALLER'S CARD" shall contain twenty-four (24) play spots arranged in a matrix of eight (8) rows and three (3) columns. There are six (6) additional play spots located directly under the "CALLER'S CARD" matrix labeled "BONUS SPOT". The play symbol captions correspond with and verify the play symbols as follows:

CALLER'S CARD/BONUS SPOT Play Symbols:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75

PLAYER'S CARD Play Symbols:

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
71	72	73	74	75	FREE				

SECTION 4. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$2", "\$3", "\$5", "\$10", "\$20", "\$25", "\$35", "\$50", "\$150", "\$195", "\$200", "\$245", and "\$250". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$2 = TWO
\$3 = THR
\$5 = FIV
\$10 = TEN
\$20 = TWY
\$25 = TWF
\$35 = TFV
\$50 = FTY
\$150 = OHF
\$195 = ONF
\$200 = TWH
\$245 = TFF
\$250 = THF

SECTION 5. How to Win: (a) A prize winner in the Scratch-Off Game Number 817, Super Duper Bingo is determined by removing the entire scratch-off material from the "CALLER'S CARD" area on the left hand side of ticket to reveal thirty (30) play spots. For the purpose of this rule [document], "winning play" means that the play symbols on "CARD 1", "CARD 2", "CARD 3", or "CARD 4", or combination thereof, match the "CALLING CARD" play symbols in any of the following manner:

- (1) Five (5) play symbols in a vertical, horizontal, or diagonal line and win \$2 - \$20 (free space may be one (1) of the numbers).
- (2) One (1) play symbol in each corner to win \$25 - \$250 (free space may be one (1) of the numbers).
- (3) Eight (8) play symbols arranged diagonally from corner to corner in the form of an "X" ("free space(s)" may be represented as a number) to win \$150 - \$20,000.

(b) A valid scratch-off ticket in Scratch-Off Game Number 817, Super Duper Bingo may contain a maximum of four (4) winning plays. There shall, however, be no more than one (1) winning play in "CARD 1", "CARD 2", "CARD 3", or "CARD 4", respectively, on a single scratch-off ticket.

SECTION 6. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
Line - CARD 1	\$2 (two dollars)	360,000 prizes
Line - CARD 2	\$3 (three dollars)	225,000 prizes
Line - CARDS 1 & 2	\$5 (five dollars)	135,000 prizes
Line - CARD 3	\$10 (ten dollars)	30,000 prizes
Line - CARD 4	\$20 (twenty dollars)	15,000 prizes
Line - CARDS 1, 2, & 4	\$25 (twenty-five dollars)	7,500 prizes

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Line – CARDS 1, 2, 3, & 4	\$35 (thirty-five dollars)	7,500 prizes
4 Corners – CARD 2	\$50 (fifty dollars)	7,500 prizes
“X” – CARD 1	\$150 (one hundred fifty dollars)	100 prizes
4 Corners – CARDS 1 & 3 + Line – CARD 4	\$195 (one hundred ninety-five dollars)	75 prizes
4 Corners – CARD 2 + “X” – CARD 1	\$200 (two hundred dollars)	75 prizes
4 Corners – CARDS 1, 2, & 3 + Line – CARD 4	\$245 (two hundred and forty-five dollars)	50 prizes
“X” – CARD 2	\$250 (two hundred and fifty dollars)	50 prizes
4 Corners – CARD 4	\$250 (two hundred and fifty dollars)	50 prizes
“X” – CARD 3	\$1,000 (one thousand dollars)	25 prizes
“X” – CARD 4	\$20,000 (twenty thousand dollars)	9 prizes

Total value of all prizes*: \$3,781,875

Prize payout: 63.03%

Overall odds: 1 in 3.81

*The number and total value of prizes in this game are based on a print quantity of approximately three million (3,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 7. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 8. The last day to claim a prize in Scratch-Off Game Number 817, Super Duper Bingo is sixty (60) days from the end of the game.

LSA Document #06-85(E)

Filed with Secretary of State: March 23, 2006, 12:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-86(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 820. Effective March 23, 2006.

SECTION 1. The name of the scratch-off game is “Scratch-Off Game Number 820, American Idol”.

SECTION 2. Scratch-off tickets in scratch-off game number 820 shall sell for two dollars (\$2) per ticket.

SECTION 3. Play Symbols: A scratch-off ticket in Scratch-Off Ticket Game Number 820, American Idol shall contain twenty-two (22) play symbols. These include ten (10) play spots in the area labeled “YOUR NUMBERS”, two (2) play symbols in the area labeled “IDOL NUMBERS”, and ten (10) prize symbols are each located directly under the corresponding “YOUR NUMBERS” play symbols. The play symbol captions correspond with and verify the play symbols as follows:

IDOL NUMBER Play Symbols:

1 ONE 11 ELVN	2 TWO 12 TWLV	3 THR 13 THRTN	4 FOR 14 FORTN	5 FIV 15 FIFTN	6 SIX 16 SIXTN	7 SVN 17 SUNTN	8 EGT 18 EGHTN	9 NIN 19 NINTN	10 TEN 20 THTY
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YOUR NUMBER Play Symbols:

1 ONE 11 ELVN	2 TWO 12 TWLV	3 THR 13 THRTN	4 FOR 14 FORTN	5 FIV 15 FIFTN	6 SIX 16 SIXTN	7 SVN 17 SUNTN	8 EGT 18 EGHTN	9 NIN 19 NINTN	10 TEN 20 THTY	WIN ALL
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SECTION 4. Prize Symbols: Each of the ten (10) prize symbols are located directly under the corresponding “YOUR NUMBERS” play symbols. Prize symbol captions correspond with and verify each of the prize symbols as follows:

\$1.00 ONE \$15.00 FIFTEEN	\$2.00 TWO \$20.00 TWENTY	\$3.00 THREE \$50.00 FIFTY	\$4.00 FOUR \$100 ONE HUN	\$5.00 FIVE \$500 FIV HUN	\$7.00 SEVEN \$2,000 TWO THOU	\$10.00 TEN \$20,000 THTY THOU
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SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of “\$2”, “\$4”, “\$5”, “\$10”, “\$20”, “\$50”, “\$100”, and “\$400”. The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$2 = TWO
\$4 = FOR
\$5 = FIV
\$10 = TEN
\$20 = TWY
\$50 = FTY
\$100 = HUN
\$400 = FRH

SECTION 6. How to Win: A prize winner in the Scratch-Off Game Number 820, American Idol is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal twenty (20) play and prize

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spots in the area labeled "YOUR NUMBERS" and two (2) play symbols in the area labeled "IDOL NUMBERS". Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If the holder of the scratch-off game number 820 matches any of "YOUR NUMBERS" to either of the two (2) "IDOL NUMBERS", the holder is entitled to the prize that is representative of that number. If the "WIN ALL" symbol is revealed, the ticket holder is entitled to win all ten (10) prizes.

SECTION 7. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
1 - \$2	\$2 (two dollars)	183,600 prizes
1 - \$4	\$4 (four dollars)	153,000 prizes
1 - \$2 + 1 - \$3	\$5 (five dollars)	40,800 prizes
1 - \$5	\$5 (five dollars)	20,400 prizes
10 - \$1 (Win)	\$10 (ten dollars)	10,200 prizes
5 - \$2	\$10 (ten dollars)	5,100 prizes
1 - \$3 + 1 - \$7	\$10 (ten dollars)	5,100 prizes
1 - \$10	\$10 (ten dollars)	5,100 prizes
10 - \$2 (Win)	\$20 (twenty dollars)	5,100 prizes
1 - \$5 + 1 - \$15	\$20 (twenty dollars)	2,550 prizes
1 - \$20	\$20 (twenty dollars)	2,550 prizes
10 - \$5 (Win)	\$50 (fifty dollars)	6,800 prizes
5 - \$10	\$50 (fifty dollars)	1,360 prizes
1 - \$50	\$50 (fifty dollars)	1,360 prizes
10 - \$10 (Win)	\$100 (one hundred dollars)	1,275 prizes
2 - \$50	\$100 (one hundred dollars)	680 prizes
1 - \$100	\$100 (one hundred dollars)	680 prizes
4 - \$100	\$400 (four hundred dollars)	136 prizes
5 - \$100 + 1 - \$500	\$1,000 (one thousand dollars)	17 prizes
10 - \$100 (Win)	\$1,000 (one thousand dollars)	17 prizes
10 - \$2,000 (Win)	\$20,000 (twenty thousand dollars)	2 prizes
1 - \$20,000	\$20,000 (twenty thousand dollars)	2 prizes



= Win all 10 prizes shown.

Total value of all prizes*: \$2,652,100

Prize payout: 65.00%

Overall odds: 1 in 4.58

*The number and total value of prizes in this game are based on a print quantity of approximately two million (2,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in Scratch-Off Game Number 820, American Idol is March 31, 2007.

SECTION 10. This document shall expire April 30, 2007.

LSA Document #06-86(E)

Filed with Secretary of State: March 23, 2006, 12:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-87(E)

DIGEST

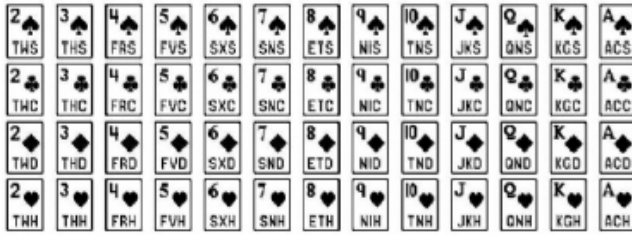
Temporarily adds rules concerning scratch-off game number 804. Effective March 23, 2006.

SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 804, Beat The Dealer".

SECTION 2. Scratch-off tickets in scratch-off game number 804 shall sell for five dollars (\$5) per ticket.

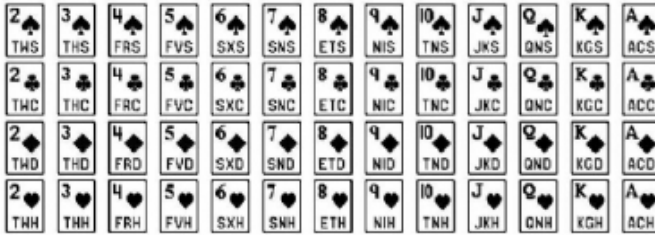
SECTION 3. Play Symbols: A scratch-off ticket in Scratch-Off Ticket Game Number 804, Beat The Dealer shall contain sixteen (16) play and prize spots. Included are five (5) independent games labeled "ROUND 1", "ROUND 2", "ROUND 3", "ROUND 4", and "ROUND 5" and one (1) prize spot in area labeled "POT". Five (5) play spots (one (1) per round) are located under area labeled "YOUR CARDS", five (5) play spots (one (1) per round) are located under area labeled "DEALER'S CARDS", five (5) prize spots (one (1) per round) are located in area labeled "PRIZE", and one (1) prize spot in area labeled "POT". The play symbol captions correspond with and verify the play symbols as follows:

YOUR CARD Play Symbols:



(The Spades and Clubs will be imaged in Black. The Hearts and Diamonds will be imaged in Red)

DEALER'S CARD Play Symbols:



(The Spades and Clubs will be imaged in Black. The Hearts and Diamonds will be imaged in Red)

SECTION 4. Prize Symbols: Five (5) prize spots appear under area labeled "PRIZE" and one (1) prize spot is located in area labeled "POT". Prize symbol captions correspond with and verify each of the prize symbols as follows:

PRIZE/POT Symbols:

\$1.00 ONE	\$2.00 TWO	\$3.00 THREE	\$4.00 FOUR	\$5.00 FIVE	\$10.00 TEN	\$15.00 FIFTEEN	\$20.00 TWENTY
\$25.00 THY FIVE	\$40.00 FORTY	\$50.00 FIFTY	\$100 ONE HUN	\$500 FIVE HUN	\$1,000 ONE THOU	\$5,000 FIVE THOU	\$10,000 TEN THOU
\$100,000 HUN THOU							

SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$5", "\$10", "\$15", "\$20", "\$40", "\$50", "\$100", and "\$500". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$5 = FIV
\$10 = TEN
\$15 = FTN
\$20 = TWY
\$40 = FRY
\$50 = FTY
\$100 = HUN
\$500 = FHN

SECTION 6. How to Win: A prize winner in Scratch-Off Game Number 804, Beat The Dealer is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal sixteen (16) play and prize spots. It includes five (5) independent games labeled "ROUND 1", "ROUND 2", "ROUND 3", "ROUND 4", and "ROUND 5". Five (5) play spots (one (1) per round) are

located under area labeled "YOUR CARDS", five (5) play spots (one (1) per round) are located under area labeled "DEALER'S CARDS", five (5) prize spots (one (1) per round) are located in area labeled "PRIZE", and one (1) prize spot in area labeled "POT". Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If the ticket holder's "YOUR CARD" beats the "DEALER'S CARD", the holder is entitled to win the corresponding prize for that round. If all five (5) of "YOUR CARDS" creates a better hand than all five (5) of the "DEALER'S CARDS", the holder is entitled to win the prize shown in area labeled "POT".

SECTION 7. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
5 - \$1	\$5 (five dollars)	270,000 prizes
1 - \$5	\$5 (five dollars)	270,000 prizes
5 - \$1 + 1 - \$5	\$10 (ten dollars)	90,000 prizes
5 - \$2	\$10 (ten dollars)	60,000 prizes
2 - \$5	\$10 (ten dollars)	60,000 prizes
1 - \$5 + 1 - \$10	\$15 (fifteen dollars)	15,000 prizes
1 - \$15	\$15 (fifteen dollars)	15,000 prizes
1 - \$20	\$20 (twenty dollars)	7,500 prizes
4 - \$3 + 2 - \$4	\$20 (twenty dollars)	30,000 prizes
4 - \$5	\$20 (twenty dollars)	7,500 prizes
2 - \$10	\$20 (twenty dollars)	15,000 prizes
5 - \$5 + 1 - \$15	\$40 (forty dollars)	15,000 prizes
4 - \$10	\$40 (forty dollars)	9,375 prizes
1 - \$40	\$40 (forty dollars)	9,375 prizes
2 - \$25	\$50 (fifty dollars)	2,500 prizes
2 - \$5 + 4 - \$10	\$50 (fifty dollars)	2,500 prizes
5 - \$10	\$50 (fifty dollars)	2,500 prizes
2 - \$5 + 2 - \$20	\$50 (fifty dollars)	2,500 prizes
1 - \$50	\$50 (fifty dollars)	2,500 prizes
5 - \$20	\$100 (one hundred dollars)	1,500 prizes
2 - \$10 + 4 - \$20	\$100 (one hundred dollars)	1,250 prizes
2 - \$10 + 2 - \$20 + 1 - \$40	\$100 (one hundred dollars)	1,250 prizes
5 - \$10 + 1 - \$50	\$100 (one hundred dollars)	1,250 prizes
1 - \$100	\$100 (one hundred dollars)	1,250 prizes
2 - \$50 + 4 - \$100	\$500 (five hundred dollars)	625 prizes
1 - \$500	\$500 (five hundred dollars)	500 prizes

Emergency Rules

5 - \$100 + 1 - \$500	\$1,000 (one thousand dollars)	100 prizes
2 - \$500	\$1,000 (one thousand dollars)	100 prizes
1 - \$1,000	\$1,000 (one thousand dollars)	75 prizes
2 - \$5,000	\$10,000 (ten thousand dollars)	6 prizes
5 - \$1,000 + 1 - \$5,000	\$10,000 (ten thousand dollars)	5 prizes
1 - \$10,000	\$10,000 (ten thousand dollars)	5 prizes
1 - \$100,000	\$100,000 (one hundred thousand dollars)	5 prizes
Total value of all prizes*: \$10,572,500		
Prize payout: 70.48%		
Overall odds: 1 in 3.36		

*The number and total value of prizes in this game are based on a print quantity of approximately three million (3,00,000) [sic.] tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in Scratch-Off Game Number 804, Beat The Dealer is sixty (60) days from the end of the game.

LSA Document #06-87(E)

Filed with Secretary of State: March 23, 2006, 12:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-90(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 805. Effective March 29, 2006.

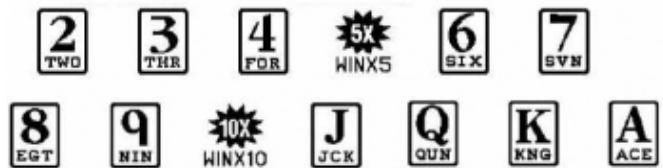
SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 805, \$500,000 Lucky Draw".

SECTION 2. Scratch-off tickets in scratch-off game number 805 shall sell for ten dollars (\$10) per ticket.

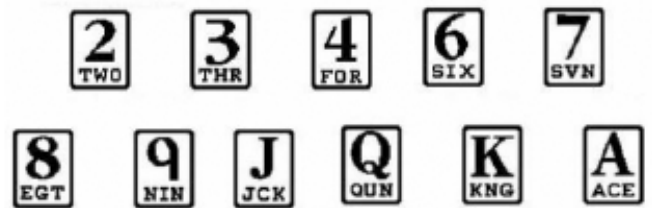
SECTION 3. Play Symbols: Scratch-Off Ticket Game

Number 805, \$500,000 Lucky Draw shall contain a total of forty-six (46) play and prize spots. Twenty (20) play spots are included in area labeled "YOUR CARDS", six (6) play spots are located in area labeled "DRAW CARDS", and twenty (20) prize symbols are located directly under corresponding "YOUR CARDS" play spots. The play symbol captions correspond with and verify the play symbols as follows:

YOUR CARD Play Symbols:



DRAW CARD Play Symbols:



SECTION 4. Prize Symbols: Each of the twenty (20) prize symbols is located directly under corresponding "YOUR CARDS" play spots. Prize symbol captions correspond with and verify each of the prize symbols as follows:





SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$10", "\$15", "\$20", "\$50", "\$100", and "\$500". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$10 = TEN
 \$15 = FTN
 \$20 = TWY
 \$50 = FTY
 \$100 = HUN
 \$200 = TWH
 \$500 = FHN



SECTION 6. How to Win: A prize winner in Scratch-Off Ticket Game Number 805, \$500,000 Lucky Draw is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal forty-six (46) play and prize spots. Twenty (20) play spots are included in area labeled "YOUR CARDS", six (6) play spots are located in area labeled "DRAW CARDS", and twenty (20) prize

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symbols are located directly under corresponding “YOUR CARDS” play spots. Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If any of the ticket holder’s “YOUR CARDS” match any of the “DRAW CARDS”, the holder is entitled to win the prize for that card. If a “” symbol is revealed, the ticket holder is entitled to win five (5) times the prize for that card. If a “” symbol is revealed, the holder is entitled to win ten (10) times the prize for that card.

SECTION 7. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
2 - \$5	\$10 (ten dollars)	86,400 prizes
1 - \$10	\$10 (ten dollars)	64,800 prizes
1 - \$5 + 1 - \$10	\$15 (fifteen dollars)	21,600 prizes
1 - \$15	\$15 (fifteen dollars)	21,600 prizes
2 - \$5 + 1 - \$10	\$20 (twenty dollars)	43,200 prizes
2 - \$10	\$20 (twenty dollars)	43,200 prizes
1 - \$20	\$20 (twenty dollars)	21,600 prizes
1 - \$5 (10X)	\$50 (fifty dollars)	1,080 prizes
2 - \$25	\$50 (fifty dollars)	1,080 prizes
1 - \$10 (5X)	\$50 (fifty dollars)	1,080 prizes
2 - \$20 + 1 - \$10	\$50 (fifty dollars)	1,080 prizes
1 - \$50	\$50 (fifty dollars)	1,080 prizes
1 - \$20 (5X)	\$100 (one hundred dollars)	1,080 prizes
1 - \$10 (10X)	\$100 (one hundred dollars)	1,080 prizes
5 - \$20	\$100 (one hundred dollars)	1,080 prizes
1 - \$10 (5X) + 2 - \$25	\$100 (one hundred dollars)	1,080 prizes
1 - \$100	\$100 (one hundred dollars)	1,080 prizes
1 - \$20 (10X)	\$200 (two hundred dollars)	405 prizes
10 - \$20	\$200 (two hundred dollars)	360 prizes
1 - \$10 + 2 - \$20 + \$100	\$200 (two hundred dollars)	360 prizes
1 - \$50 + 1 - \$100	\$200 (two hundred dollars)	360 prizes
4 - \$50	\$200 (two hundred dollars)	360 prizes
1 - \$200	\$200 (two hundred dollars)	360 prizes
1 - \$20 (10X) + 3 - \$100	\$500 (five hundred dollars)	45 prizes
10 - \$50	\$500 (five hundred dollars)	45 prizes
6 - \$50 + 1 - \$200	\$500 (five hundred dollars)	45 prizes

1 - \$100 (5X)	\$500 (five hundred dollars)	45 prizes
1 - \$500	\$500 (five hundred dollars)	45 prizes
20 - \$50	\$1,000 (one thousand dollars)	36 prizes
1 - \$50 (10X) + 1 - \$500	\$1,000 (one thousand dollars)	27 prizes
1 - \$100 (10X)	\$1,000 (one thousand dollars)	27 prizes
5 - \$200	\$1,000 (one thousand dollars)	27 prizes
1 - \$1,000	\$1,000 (one thousand dollars)	27 prizes
20 - \$500	\$10,000 (ten thousand dollars)	5 prizes
1 - \$10,000	\$10,000 (ten thousand dollars)	4 prizes
1 - \$500,000	\$500,000 (five thousand dollars) [sic.]	4 prizes
Win 5 times =  symbol		
Win 10 times =  symbol		
Total value of all prizes*: \$7,845,500		
Prize payout: 72.64%		
Overall odds: 1 in 3.42		

*The number and total value of prizes in this game are based on a print quantity of approximately one million (1,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in scratch-off game number 805 is sixty (60) days from the end of the game.

LSA Document #06-90(E)

Filed with Secretary of State: March 29, 2006, 2:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-99(E)

DIGEST

Amends 65 IAC 1-1-18 concerning collection of fees for services rendered. Effective April 6, 2006.

Emergency Rules

65 IAC 1-1-18

SECTION 1. 65 IAC 1-1-18 IS AMENDED TO READ AS FOLLOWS:

65 IAC 1-1-18 Fees

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 18. The director shall collect the fees set out below when the following services are performed, unless provided to the contrary in this title:

Service	Fee
(1) Copying records of the commission (per page) . . .	\$0.50
(2) Instant and on-line application fee for a new retailer contract, including a change of control, for each ticket selling location	\$100
(2) (3) Instant application and bonding fee for retailer contract for each ticket selling location	\$25 \$50
(3) (4) On-line application fee for retailer contract for each on-line selling location	\$50 \$75
(4) (5) Renewal bonding fee for retailer contract for each selling location	\$25 \$50
(5) (6) Application and bonding fee for each instant only selling location following a change of control of a retailer within the meaning of 65 IAC 3-3-5.6	\$25 \$50
(6) (7) On-line application fee for each on-line selling location following a change of control within the meaning of 65 IAC 3-3-5.6	\$50 \$75
(7) (8) Application and bonding fee for each instant selling location following a change of entity structure within the meaning of 65 IAC 3-3-5.6, accompanied by a change of control within the meaning of 65 IAC 3-3-5.6 . . .	\$25 \$50
(8) (9) Application and bonding fee for each on-line selling location following a change of entity structure within the meaning of 65 IAC 3-3-5.6, accompanied by a change of control within the meaning of 65 IAC 3-3-5.6 . . .	\$50 \$75
(9) (10) Issuance of duplicate or amended certificate of authority	\$10
(10) (11) Weekly service charge for on-line retailers pursuant to 65 IAC 3-4-8(a)	\$12
(11) (12) Additional weekly charge for on-line retailers with weekly sales averaging below one thousand dollars (\$1,000) pursuant to 65 IAC 3-4-8(b)	\$25
(12) (13) Additional weekly charge for on-line retailers with weekly sales averaging greater than or equal to one thousand dollars (\$1,000) but below two thousand dollars (\$2,000) pursuant to 65 IAC 3-4-8(c)	\$10
(13) (14) Delinquency charge for late payment of amounts due the commission	Up to \$50
(14) (15) Interest rate applicable to delinquent payments . . .	12%

(State Lottery Commission; 65 IAC 1-1-18; emergency rule filed May 4, 1990, 4:35 p.m.: 13 IR 1724; emergency rule filed Jul 16, 1991, 5:00 p.m.: 14 IR 2261; emergency rule filed Dec 30, 1991, 11:30 a.m.: 15 IR 736; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1030; emergency rule filed Apr 14,

1992, 5:00 p.m.: 15 IR 1969; emergency rule filed Apr 19, 1993, 5:00 p.m.: 16 IR 2192; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Apr 6, 2006, 3:00 p.m.: 29 IR 2562; errata filed Apr 7, 2006, 1:10 p.m.: 29 IR 2546)

LSA Document #06-99(E)

Filed with Secretary of State: April 6, 2006, 3:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-100(E)

DIGEST

Amends 65 IAC 3-3-3 concerning retailer contracts for on-line games and pull-tab games. Effective April 6, 2006.

65 IAC 3-3-3

SECTION 1. 65 IAC 3-3-3 IS AMENDED TO READ AS FOLLOWS:

65 IAC 3-3-3 Award of contracts

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-9

Sec. 3. (a) The commission shall contract with retailers for the sale of instant tickets and for the sale of on-line tickets and pull-tab tickets. A retailer contract for the sale of on-line tickets or pull-tab tickets may be in the form of an amendment to a retailer contract for the sale of instant tickets, or all of the contracts for a single retailer may be combined into one (1) or more documents.

(b) The commission shall enter into contracts with retailers for instant games for periods of not less than one (1) year. Contracts for instant games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for instant games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission.

(c) The commission shall contract with each retailer for on-line games for a period of not less than one (1) year, **unless approved by the executive director**. Contracts for on-line games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for on-line games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission.

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(d) A retailer contract for pull-tab games initially executed by the commission shall expire on the same date as the expiration of the retailer's contract for instant games. Thereafter, the commission shall contract with each retailer for pull-tab games for a period of not less than one (1) year, **unless approved by the executive director** with the contract term beginning and ending on the same dates as the retailer's contract for instant games. Contracts for pull-tab games shall be renewable based on a schedule determined by the commission. A nonrefundable renewal fee may be required in an amount established by the commission. No certificate of authority shall be issued for any renewal retailer contract for pull-tab games until the renewal fee, if required, is paid to the commission and updated information on the retailer is submitted as may be required by the security division of the commission. (*State Lottery Commission; 65 IAC 3-3-3; emergency rule filed Sep 5, 1989, 3:20 p.m.: 13 IR 98; emergency rule filed Jan 24, 1990, 4:00 p.m.: 13 IR 1069; emergency rule filed May 7, 1990, 2:10 p.m.: 13 IR 1735; emergency rule filed Jan 29, 1992, 12:00 p.m.: 15 IR 1035; emergency rule filed Apr 14, 1992, 5:00 p.m.: 15 IR 1970; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Aug 23, 2002, 1:27 p.m.: 26 IR 40, eff Aug 29, 2002; emergency rule filed Apr 6, 2006, 3:00 p.m.: 29 IR 2562*)

LSA Document #06-100(E)

Filed with Secretary of State: April 6, 2006, 3:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-101(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 809. Effective April 6, 2006.

SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 809, Mad Money".

SECTION 2. Scratch-off tickets in scratch-off game number 809 shall sell for one dollar (\$1) per ticket.

SECTION 3. Play Symbols: A scratch-off ticket in Scratch-Off Ticket Game Number 809, Mad Money shall contain nine (9) play and prize spots. These include four (4) play spots in the area labeled "YOUR NUMBERS", one (1) play symbol in the area labeled "MAD MONEY NUMBER", and four (4) prize symbols, each located directly under the corresponding "YOUR NUMBERS" play symbols. The play symbol captions correspond with and verify the play symbols as follows:

MAD MONEY NUMBES [sic.] Play Symbols:

1 ONE	2 TWO	3 THR	4 FOR	5 FIV
6 SIX	7 SVN	8 EGT	9 NIN	10 TEN

YOUR NUMBERS Play Symbols:

1 ONE	2 TWO	3 THR	4 FOR	5 FIV
6 SIX	7 SVN	8 EGT	9 NIN	10 TEN

SECTION 4. Prize Symbols: Each of the four (4) prize symbols are located directly under the corresponding "YOUR NUMBERS" play symbols. Prize symbol captions correspond with and verify each of the prize symbols as follows:

\$1.00 ONE	\$2.00 TWO	\$3.00 THREE	\$4.00 FOUR	\$5.00 FIVE	\$10.00 TEN
\$20.00 TWENTY	\$25.00 TNY FIVE	\$40.00 FORTY	\$100 ONE HUN	\$1,000 ONE THOU	\$2,000 TWO THOU

SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$1", "\$2", "\$4", "\$5", "\$10", "\$20", "\$40", and "\$100". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$1 = ONE
\$2 = TWO
\$4 = FOR
\$5 = FIV
\$10 = TEN
\$20 = TWY
\$40 = FRY
\$100 = HUN

SECTION 6. How to Win: A prize winner in the Scratch-Off Game Number 809, Mad Money is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal nine (9) play and prize spots. These include four (4) play spots in the area labeled "YOUR NUMBERS", one (1) play symbol in the area labeled "MAD MONEY NUMBER", and four (4) prize symbols, each located directly under the corresponding "YOUR NUMBERS" play symbols. Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If the holder of the scratch-off game number 809 matches any of "YOUR

Emergency Rules

NUMBERS” to the “MAD MONEY NUMBER”, the holder is entitled to the prize that is representative of that number.

SECTION 7. Prize structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
1 - \$1	\$1 (one dollar)	504,000 prizes
2 - \$1	\$2 (two dollars)	252,000 prizes
1 - \$2	\$2 (two dollars)	84,000 prizes
4 - \$1	\$4 (four dollars)	33,600 prizes
2 - \$2	\$4 (four dollars)	67,200 prizes
1 - \$2 + 1 - \$3	\$5 (five dollars)	25,200 prizes
1 - \$5	\$5 (five dollars)	8,400 prizes
2 - \$5	\$10 (ten dollars)	8,400 prizes
3 - \$2 + 1 - \$4	\$10 (ten dollars)	33,600 prizes
1 - \$10	\$10 (ten dollars)	8,400 prizes
2 - \$5 + 1 - \$10	\$20 (twenty dollars)	12,600 prizes
1 - \$20	\$20 (twenty dollars)	4,200 prizes
4 - \$10	\$40 (forty dollars)	2,625 prizes
2 - \$20	\$40 (forty dollars)	2,625 prizes
1 - \$40	\$40 (forty dollars)	2,520 prizes
4 - \$25	\$100 (one hundred dollars)	420 prizes
1 - \$100	\$100 (one hundred dollars)	420 prizes
2 - \$1,000	\$2,000 (two thousand dollars)	18 prizes
1 - \$2,000	\$2,000 (two thousand dollars)	18 prizes

Total value of all prizes*: \$3,054,000

Prize payout: 60.60%

Overall odds: 1 in 4.80

*The number and total value of prizes in this game are based on a print quantity of approximately five million (5,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in Scratch-Off Game Number 809, Mad Money is April 30, 2007.

SECTION 10. This document shall expire May 31, 2007.

LSA Document #06-101(E)

Filed with Secretary of State: April 6, 2006, 3:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-102(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 074. Effective April 6, 2006.

SECTION 1. The name of the pull-tab game is “Pull-Tab Game Number 074, American Drive-In”.

SECTION 2. Pull-tab tickets in pull-tab game number 074 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Play Symbols: A pull-tab ticket in pull-tab game number 074 shall contain nine (9) play spots arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered with a tab. The play symbol captions in pull-tab game number 074 shall consist of the following possible play symbols:

WINNING Symbols:



NON-WINNING Symbols:



SECTION 4. How To Win: A prize winner in the American Drive-In Pull-Tab Game Number 074 is determined by opening three (3) tabs located on the back of pull-tab ticket. Match three (3) in a row (bisected by a green arrow) of the drive-ins, shakes, roller skates, or food, and the player is entitled to the prize amount as it appears in the red ink on a yellow box on the left side of the winning row(s). The prize structure and winning combinations are as follows:

Get	Win		Estimated No. of Prizes in Game*
3 – Drive-Ins	\$50	=	4,465
3 – Shakes	\$5	=	13,395
3 – Roller Skates	\$1	=	89,300
3 – Food	\$.25	=	428,640

Emergency Rules

Total value of all prizes*: \$486,685

Prize payout: 64.88%

Overall odds: 1 in 5.60

*The number and total value of prizes in this game are based on a print quantity of approximately three million (3,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

SECTION 5. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 6. The last day to claim prizes in pull-tab game number 074 shall be one (1) year after the end of the game.

LSA Document #06-102(E)

Filed with Secretary of State: April 6, 2006, 3:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-103(E)

DIGEST

Temporarily adds rules concerning scratch-off game number 802. Effective April 6, 2006.

SECTION 1. The name of the scratch-off game is "Scratch-Off Game Number 802, 6 Times The Money".

SECTION 2. Scratch-off tickets in scratch-off game number 802 shall sell for two dollars (\$2) per ticket.

SECTION 3. Play Symbols: Scratch-Off Ticket Game Number 802, 6 Times The Money shall contain twenty-two (22) play symbols. These include ten (10) play spots in the area labeled "YOUR NUMBERS", two (2) play symbols in the area labeled "WINNING NUMBERS", and ten (10) prize symbols each located directly under the corresponding "YOUR NUMBERS" play symbols. The play symbol captions correspond with and verify the play symbols as follows:

WINNING NUMBERS Play Symbols:

1	2	3	4	5	7	8	9	10	
ONE	TWO	THR	FOR	FIV	SVN	EGT	NIN	TEN	
11	12	13	14	15	16	17	18	19	20
ELVN	TWLV	THRTN	FORTN	FIFTN	SIXTN	SVNTN	EGHTN	NINTN	TWTY

YOUR NUMBERS Play Symbols:

1	2	3	4	5	6X	7	8	9	10
ONE	TWO	THR	FOR	FIV	SIX	SVN	EGT	NIN	TEN
11	12	13	14	15	16	17	18	19	20
ELVN	TWLV	THRTN	FORTN	FIFTN	SIXTN	SVNTN	EGHTN	NINTN	TWTY

SECTION 4. Prize Symbols: Each of the ten (10) prize symbols are located directly under the corresponding "YOUR NUMBERS" play symbols. Prize symbol captions correspond with and verify each of the prize symbols as follows:

\$1.00	\$2.00	\$4.00	\$5.00	\$6.00	\$10.00	\$20.00
ONE	TWO	FOUR	FIVE	SIX	TEN	TWENTY
\$25.00	\$40.00	\$100	\$500	\$1,000	\$6,000	\$26,000
THY FIVE	FORTY	ONE HUN	FIVE HUN	ONE THOU	SIX THOU	THY SIX THOU

SECTION 5. Retailer Validation Codes: The retailer validation code verifies instant winners of "\$2", "\$4", "\$6", "\$10", "\$20", "\$50", "\$100", "\$240", and "\$500". The retailer validation code which corresponds with and verifies each of these winners is as follows:

\$2 = TWO
 \$4 = FOR
 \$6 = SIX
 \$10 = TEN
 \$20 = TWY
 \$50 = FTY
 \$100 = HUN
 \$240 = HFY
 \$500 = FHN

SECTION 6. How to Win: A prize winner in the Scratch-Off Game Number 802, 6 Times The Money is determined by removing the entire scratch-off material from the play area on the front of the ticket to reveal twenty (20) play and prize spots in the area labeled "YOUR NUMBERS" and two (2) play symbols in the area labeled "WINNING NUMBERS". Neither the retailer validation code (nor any portion thereof), the pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If the ticket holder of the scratch-off game number 802 matches any of "YOUR NUMBERS" to either of the two (2) "WINNING NUMBERS", the holder is entitled to the prize that is representative of that number. If the "6X" symbol is revealed, the ticket holder is entitled to win six (6) times the amount of prize shown.

SECTION 7. Prize Structure: The possible winning prize combinations are as follows:

Get	Prize Amount	Estimated Number of Prizes in Game*
1 - \$2	\$2 (two dollars)	300,000 prizes
2 - \$1 + 1 - \$2	\$4 (four dollars)	180,000 prizes

Emergency Rules

1 - \$4	\$4 (four dollars)	60,000 prizes
1 - \$1 (6X)	\$6 (six dollars)	45,000 prizes
1 - \$6	\$6 (six dollars)	15,000 prizes
5 - \$2	\$10 (ten dollars)	22,500 prizes
10 - \$1	\$10 (ten dollars)	7,500 prizes
5 - \$1 + 1 - \$5	\$10 (ten dollars)	7,500 prizes
1 - \$10	\$10 (ten dollars)	7,500 prizes
10 - \$2	\$20 (twenty dollars)	7,500 prizes
5 - \$1 + 1 - \$5 + 1 - \$10	\$20 (twenty dollars)	3,750 prizes
1 - \$20	\$20 (twenty dollars)	3,750 prizes
1 - \$5 (6X) + 1 - \$20	\$50 (fifty dollars)	5,750 prizes
10 - \$10	\$100 (one hundred dollars)	1,000 prizes
1 - \$10 (6X) + 2 - \$20	\$100 (one hundred dollars)	1,000 prizes
1 - \$100	\$100 (one hundred dollars)	1,000 prizes
1 - \$40 (6X)	\$240 (two hundred forty dollars)	250 prizes
8 - \$25 + 1 - \$40	\$240 (two hundred forty dollars)	250 prizes
1 - \$500	\$500 (five hundred dollars)	250 prizes
1 - \$1,000 (6X)	\$6,000 (six thousand dollars)	25 prizes
1 - \$6,000	\$6,000 (six thousand dollars)	25 prizes
1 - \$26,000	\$26,000 (twenty-six thousand dollars)	5 prizes

6X = Win six times the prize

Total value of all prizes*: \$3,932,500

Prize payout: 65.54%

Overall odds: 1 in 4.48

*The number and total value of prizes in this game are based on a print quantity of approximately three million (3,000,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

Prizes subject to prior sales.

SECTION 8. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 9. The last day to claim a prize in Scratch-Off Game Number 802, 6 Times The Money is April 30, 2007.

SECTION 10. This document shall expire May 31, 2007.

LSA Document #06-103(E)

Filed with Secretary of State: April 6, 2006, 3:00 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #06-104(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 073. Effective April 6, 2006.

SECTION 1. The name of the pull-tab game is "Pull-Tab Game Number 073, Blue Hair Bingo".

SECTION 2. Pull-tab tickets in pull-tab game number 073 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. Play Symbols: A pull-tab ticket in pull-tab game number 073 shall contain five (5) play spots arranged in five (5) rows. Each row shall be covered with a tab with prize amounts located on the left side of the last play spot including red ink on a yellow box. The play symbol captions in pull-tab game number 073 shall consist of the following possible play symbols:

WINNING Symbols:

B-1	I-16	N-31	G-46	O-61
B-2	I-17	N-32	G-47	O-62
B-3	I-18	N-33	G-48	O-63
B-4	I-19	N-34	G-49	O-64
B-5	I-20	N-35	G-50	O-65
B-6	I-21	N-36	G-51	O-66
B-7	I-22	N-37	G-52	O-67
B-8	I-23	N-38	G-53	O-68
B-9	I-24	N-39	G-54	O-69
B-10	I-25	N-40	G-55	O-70
B-11	I-26	N-41	G-56	O-71
B-12	I-27	N-42	G-57	O-72
B-13	I-28	N-43	G-58	O-73
B-14	I-29	N-44	G-59	O-74
B-15	I-30	N-45	G-60	O-75

NON-WINNING Symbols:

B-1	I-16	N-31	G-46	O-61
B-2	I-17	N-32	G-47	O-62
B-3	I-18	N-33	G-48	O-63
B-4	I-19	N-34	G-49	O-64
B-5	I-20	N-35	G-50	O-65
B-6	I-21	N-36	G-51	O-66
B-7	I-22	N-37	G-52	O-67
B-8	I-23	N-38	G-53	O-68
B-9	I-24	N-39	G-54	O-69
B-10	I-25	N-40	G-55	O-70
B-11	I-26	N-41	G-56	O-71
B-12	I-27	N-42	G-57	O-72
B-13	I-28	N-43	G-58	O-73
B-14	I-29	N-44	G-59	O-74
B-15	I-30	N-45	G-60	O-75

SECTION 4. How To Win: A prize winner in the Blue Hair Bingo Pull-Tab Game Number 073 is determined by opening five (5) tabs located on the back of pull-tab ticket. If the letters B, I, N, G, and O are revealed, in any order, utilizing all five (5) rows, the holder is entitled to a prize amount shown as it appears in red ink on a yellow box located on the left side of the bottom play spot. The prize structure is based on the five (5) different background colors (blue, gray, red, purple, or green) as indicated below:

Prize Amount	Win		Estimated No. of Prizes in Game*
Bingo on Blue	\$100	=	2,679
Bingo on Gray	\$20	=	2,679
Bingo on Red	\$5	=	13,395
Bingo on Purple	\$1	=	91,086
Bingo on Green	\$.50	=	208,962

Total value of all prizes*: \$584,022

Prize payout: 64.88%

Overall odds: 1 in 5.65

*The number and total value of prizes in this game are based on a print quantity of approximately one million eight hundred thousand (1,800,000) tickets. Should the print quantity be changed for production of this game or subsequent reorders, the ratio of prizes and total value of all prizes to print quantity will be proportionately maintained and the overall odds and prize payout percentage will remain the same.

SECTION 5. Applicable Rules: Indiana Administrative Code: 65 IAC 4-205 Validation of Tickets.

SECTION 6. The last day to claim prizes in pull-tab game number 073 shall be one (1) year after the end of the game.

LSA Document #06-104(E)

Filed with Secretary of State: April 6, 2006, 3:00 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #06-88(E)

DIGEST

Temporarily amends 312 IAC 18-3 to regulate Brazilian elodea (*Egeria densa*) as a pest or pathogen. Effective March 28, 2006.

SECTION 1. (a) Brazilian elodea (*Egeria densa*) is an exotic plant that has infested lakes, rivers, and other waterways in Indiana.

(b) Brazilian elodea is a pest or pathogen regulated under this document. This regulation applies to any life stage of Brazilian elodea.

(c) Except as provided in subsection (e), in Indiana a person must not:

(1) Possess, sell, offer for sale, gift, barter, exchange, or distribute Brazilian elodea as an outdoor water plant.

(2) Allow Brazilian elodea to infest any:

(A) lake;

(B) river;

(C) pond;

(D) outdoor water garden; or

(E) waterway.

(3) Transport Brazilian elodea on or within any:

(A) boat;

(B) trailer;

(C) motor vehicle;

(D) bait bucket;

(E) fishing gear;

(F) creel;

(G) tackle;

(H) tackle box; or

(I) other aquatic appurtenance.

(d) A property owner who has Brazilian elodea in an outdoor environment must take lawful efforts to eliminate the species.

(e) Exempted from this document are the following:

(1) A retail or wholesale business that sells Brazilian elodea for use within an indoor aquarium.

(2) A person who possesses Brazilian elodea within an indoor aquarium.

(3) A person who possesses Brazilian elodea under a permit issued by the state entomologist for scientific research, a contained use, or education.

(4) A person engaged in a project approved by the state entomologist for the destruction of Brazilian elodea.

Emergency Rules

(f) The state entomologist may issue a permit to a qualified applicant to engage in scientific research, a contained use, or education. If appropriate to the purposes of this document, the state entomologist may issue an order to modify a permit issued under this subsection.

LSA Document #06-88(E)

Filed with Secretary of State: March 28, 2006, 12:40 p.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #06-81(E)

DIGEST

Temporarily adds provisions to Medicaid provider enrollment requirements to specify criteria for the Office of Medicaid Policy and Planning to enter into a provider agreement with a nursing facility and conditions for reimbursement when an existing provider makes changes in certified beds. Authority: IC 4-22-2-37.1(a)(19); IC 12-8-1-12; IC 12-15-11. Effective March 14, 2006.

SECTION 1. (a) As used in this document, “geographic region” or “geographic region of the state” means an area served by one (1) of Indiana’s area agencies on aging.

(b) The office shall rely on information obtained from the Indiana state department of health to determine the following:

- (1) The number of Medicaid certified beds that exist in a geographic region of the state as well as statewide.
- (2) The overall occupancy rate in a geographic region.

(c) The office may enter into a Medicaid nursing facility provider agreement only if one (1) or more of the following circumstances exists:

- (1) An existing nursing facility undergoes a change in ownership that does not result in an increase in the number of Medicaid certified beds eligible for reimbursement.
 - (2) An existing nursing facility closes a building and replaces it with a new building containing no more Medicaid certified beds than were contained in the previous building.
 - (3) The overall occupancy rate for all facilities in the geographic region is equal to or greater than ninety-five percent (95%).
 - (4) The nursing facility is owned by the state of Indiana.
 - (5) The nursing facility is under development on December 15, 2005, to add, construct, or convert certified beds.
- For purposes of this document, in determining whether the facility is under development on December 15, 2005, the office shall consider:

(A) whether:

- (i) architectural plans have been completed;
- (ii) funding has been received;
- (iii) zoning requirements have been met; and
- (iv) construction plans for the project have been approved by the state department of health and the department of fire and building safety; and

(B) any other evidence that the office determines is an indication that the nursing facility is under development.

(6) The nursing facility is part of a continuing care retirement community that is required to file a disclosure statement under IC 23-2-4.

(7) If an existing nursing facility decertifies any or all of its Medicaid beds, then another facility or facilities in the same geographic area may increase their total number of certified beds eligible for Medicaid reimbursement if the following conditions are met:

(A) the increase is less than the number of Medicaid beds decertified; and

(B) the increase occurs in the calendar quarter following the decertification.

SECTION 2. Unless the provider satisfies one (1) of the exceptions listed in SECTION 1(c) of this document, Medicaid reimbursement is not available to a Medicaid enrolled nursing facility for Medicaid certified beds that have been added after December 15, 2005, or for Medicaid certified beds that were converted from noncertified beds or acute care beds after the effective date of this document.

SECTION 3. This document expires June 12, 2006.

LSA Document #06-81(E)

Filed with Secretary of State: March 14, 2006, 10:51 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #06-84(E)

DIGEST

Temporarily adds a rule reducing Medicaid rate increases for HIV nursing facilities. Temporarily adds a rule reducing Medicaid rate increases for nursing facilities. Authority: IC 4-22-2-37.1(a)(19); IC 12-8-1-12(c). Effective March 22, 2006.

SECTION 1. Notwithstanding all other provisions of 405 IAC 1-14.5, for the period January 1, 2006, through June 30, 2007, HIV nursing facility rates that have been calculated pursuant to 405 IAC 1-14.5, shall be reduced by five dollars (\$5) per resident per day.

SECTION 2. Notwithstanding all other provisions of 405

IAC 1-14.6, for the period January 1, 2006, through June 30, 2007, nursing facility rates that have been calculated pursuant to 405 IAC 1-14.6, shall be reduced by five dollars (\$5) per resident per day.

SECTION 3. This document expires June 20, 2006.

LSA Document #06-84(E)

Filed with Secretary of State: March 22, 2006, 10:55 a.m.

TITLE 685 REGULATED AMUSEMENT DEVICE SAFETY BOARD

LSA Document #06-106(E)

DIGEST

Temporarily adds rules to regulate bungee jumping and bungee jump facilities as provided in P.L.32-2006. Authority: SEA 81-2006, SECTION 4 (P.L.32-2006). Effective May 1, 2006.

SECTION 1. (a) The purpose of this document is to specify the:

- (1) site and site approval;
 - (2) testing of equipment;
 - (3) management of the operation;
 - (4) operating procedures;
 - (5) provisions; and
 - (6) emergency procedures;
- relating to bungee jump facilities and bungee jumping.

(b) Each bungee jump facility:

- (1) is subject to all other applicable provisions of 685 IAC 1; and
- (2) shall be considered a separate amusement device.

SECTION 2. The definitions in 685 IAC 1-3 and the following shall apply throughout this document:

- (1) "Binding – ankle" means material used to wrap and hold together the jumpers' ankles. The binding is tied together and attached to the bungee cord.
- (2) "Binding of cord" means material used to:
 - (A) hold the cord threads in place; and
 - (B) protect the cord threads from damage.
- (3) "Board" means the regulated amusement device safety board established under IC 22-12-4.5.
- (4) "Breaking load" means the stress or tension:
 - (A) steadily applied; and
 - (B) just sufficient to break or rupture.
- (5) "Bumper" means a padded sleeve or covering on the:
 - (A) bungee cord; and
 - (B) connecting straps or devices;to prevent the jumper from contacting or becoming entangled in the bungee cord or connecting straps or devices.

(6) "Bungee catapulting" or "reverse bungee jumping" means the sport, activity, or practice whereby a person is attached to a bungee cord that is stretched and then released, thus catapulting or otherwise launching the jumper into the air from a fixed position. The term does not:

(A) include the sport, activity, or practice whereby a participant is:

- (i) strapped into a bungee harness on the ground;
- (ii) attached to a bungee cord; and
- (iii) lifted directly from the ground into the air without the use of:

(AA) a catapult;

(BB) a slingshot; or

(CC) another similar device; or

(B) apply to other amusement devices or amusement attractions that may utilize a bungee cord as a component and:

- (i) the patron or patrons are contained in a rigid structural carrier; and
- (ii) no overhead obstruction exists that may impact or otherwise strike the carrier or patron, thereby posing a hazard.

"Ground", as used in this subdivision, includes the ground, an air bag or air cushion, a launch pad, or other similar object from which the participant is lifted or released.

(7) "Bungee cord" means the elastic rope made of rubber, latex, or other elastic-type materials, whether natural or synthetic:

(A) to which the jumper is attached; and

(B) that lengthens and shortens and thus produces a bouncing action.

(8) "Bungee jumping" means a fall or jump from a height by an individual who is attached to an elastic cord that prevents the individual from hitting:

(A) the ground;

(B) water; or

(C) another solid, semisolid, liquid, or elastic surface.

(9) "Department" means the department of homeland security established under IC 10-19.

(10) "Division" means the division of fire and building safety of the department.

(11) "Dynamic loading" means the load placed on the rigging and attachments by the:

(A) initial free fall of the jumper; and

(B) bouncing movements of the jumper.

(12) "Equipment" means each component that is utilized in a bungee jump facility, including power or manually operated devices to:

(A) raise;

(B) lower; and

(C) hold;

loads.

(13) "Incident" means an event that could or does result in:

Emergency Rules

- (A) injury to a person;
 - (B) damage to equipment; or
 - (C) the interruption or stopping of bungee jump facility activities.
- (14) "Jump assistant" means a person who does the following:
- (A) Assists the jump operator in preparing a jumper for jumping.
 - (B) Operates the lowering system whereby the jumper is lowered to the landing pad.
- (15) "Jump direction" means the direction in which a jumper is aimed when jumping from the jump point.
- (16) "Jumper" means the person who falls from a height attached to a bungee cord.
- (17) "Jumper harness" means an assembly to be:
- (A) worn by a jumper; and
 - (B) attached to a bungee cord.
- A jumper harness is designed to prevent the jumper from becoming detached from the bungee cord.
- (18) "Jumper weight" means the weight of the jumper only.
- (19) "Jump height" means the distance from where the jumper begins to fall to the bottom of the jump zone.
- (20) "Jump master" has the same meaning as jump operator.
- (21) "Jump operator" means a person who:
- (A) has responsibility for managing the bungee jump facility;
 - (B) takes a jumper through the final stages to the actual jump or release; and
 - (C) has direct control of the starting, stopping, or speed of the bungee jump facility.
- (22) "Jump point" means the position from which the jumper falls or begins to fall.
- (23) "Jump space" means the jump zone plus the safety space.
- (24) "Jump zone" means the space bounded by the maximum designed movements of the jumper or any part of the jumper.
- (25) "Karabiner" means a shaped metal or alloy device used to connect sections of any of the following:
- (A) Jump rigging.
 - (B) Equipment.
 - (C) Safety gear.
- (26) "Landing area" means either of following:
- (A) The surface area directly under the jump space.
 - (B) Where the lifting appliance moves the jumper so that landing occurs away from the jump space, the area covered by the movement of the lifting appliance or part of it, including the area where the jumper lands.
- (27) "Landing pad" means the padded area on which the jumper is off-loaded by means of the lowering appliance or equipment after jumping.
- (28) "Lateral direction" means the movement of the jumper measured at ninety (90) degrees to the designed jump direction.
- (29) "Launch" means a propelled jump.
- (30) "Launch point" means the point from which the jumper is launched.
- (31) "Loaded length" means the length of the bungee cord when extended to its fullest designed length when jumping.
- (32) "Moused" means the process of binding around the point and shank of a hook, pin, or shackle to prevent any load from slipping off.
- (33) "Operating manual" means the document that contains the procedures and forms for the operation of the bungee jump facility and equipment on the stated site.
- (34) "Operating system" means the system of processing a jumper through the jump methods used on a particular site. The term includes the following:
- (A) Registration.
 - (B) Preparation.
 - (C) Getting to the jump point.
 - (D) Methods of attachment.
 - (E) Jumping.
 - (F) The rigging and lowering system.
 - (G) The landing recovery method.
- (35) "Platform catapult" means the area on the ground from which the jumper is catapulted to a height from which the jumper falls.
- (36) "Platform mobile" means the apparatus attached to a lifting appliance from which the jumper falls or jumps.
- (37) "Platform permanent" means the apparatus attached to a fixed structure from which the jumper falls or jumps.
- (38) "Preparation area" means the area where the jumper is prepared for jumping that is any of the following:
- (A) A separate area on the ground.
 - (B) The support structure.
 - (C) Part of the platform.
- (39) "Professional engineer" has the meaning set forth in IC 25-31-1-2(b).
- (40) "Recovery area" means an area adjacent to the landing area where the jumper may recover from the jump before returning to the public area.
- (41) "Rigging system" means a combination of components that connects the jumper through the bungee cord to an attachment point on the structure, lifting appliance, or platform. The rigging system includes, but is not limited to, the following:
- (A) Ropes.
 - (B) Pulleys.
 - (C) Karabiners.
 - (D) Shackles.
 - (E) Lowering equipment.
- (42) "Safety belt" means a belt:
- (A) designed to fit around the waist of a person; and
 - (B) that can be attached to either:
 - (i) an anchor point; or
 - (ii) a safety lifeline.
- (43) "Safety factor" means the ratio obtained by dividing the breaking load of any piece of equipment by its safe working load.

(44) "Safety harness" means an assembly to be worn by an employee of the owner or jumper. A safety harness is designed to:

- (A) be attached to a safety line; and
- (B) prevent the wearer from becoming detached from the safety line.

(45) "Safety line" means a line used to connect the safety harness or belt to an anchorage point or rail in situations where there is a risk of free fall.

(46) "Safety space" means the space extending beyond the jump zone as a safety factor, that is, the space beyond the maximum designed movements of the jumper.

(47) "Safe working load" or "SWL" means the maximum rated load that can be safely handled under specified conditions by a machine, equipment, or component of the rigging.

(48) "Structure" means a permanent or temporary:

- (A) building;
- (B) bridge;
- (C) tower; or
- (D) similar erection;

that is used, or proposed to be used, for bungee jumping.

(49) "Thread" means a single strand of material used in a bungee cord.

(50) "Unloaded length" means the length of the bungee cord lying on a horizontal flat surface without load or stress applied.

SECTION 3. (a) The owner shall obtain written approval for each site from the division before commencing the use of any bungee jump facility.

(b) The approval of the division shall be obtained annually for each location at which a bungee jump facility is to be operated.

SECTION 4. (a) Before commencing the use of any bungee jump facility, the owner shall submit to the division a professional engineer's report certifying that the design and construction of the structures, equipment, access ways, and operating areas meet the requirements of the 685 IAC 1 and one (1) or more nationally recognized standards developed to apply to bungee jump facilities and are certified by a professional engineer to be suitable for a bungee jump facility. The engineer's report shall also contain the following:

- (1) Site plans.
- (2) Safety zones, drawings, and specifications of equipment and structures.
- (3) Certification of the following:
 - (A) Safety air bag.
 - (B) The jumper safety harness.
 - (C) The jump worthiness of the bungee cords to be used.
 - (D) That the methods of attachment and location of attachment are the safest available.

(4) An affidavit as set forth in SECTION 39 of this document.

(b) Engineering inspections by a professional engineer

shall be conducted each and every time a bungee jump facility is substantially:

- (1) rebuilt; or
- (2) modified.

An inspector shall conduct an inspection annually and each time a bungee jump facility is relocated.

(c) The owner shall submit an affidavit of compliance that the amusement ride:

- (1) was inspected in person by the affiant; and
- (2) is in compliance with:

- (A) the requirements of this SECTION; and
- (B) all applicable rules adopted by the board.

The affidavit must be executed by a professional engineer not earlier than sixty (60) days before, but not later than, the date of the filing of the application with the division. The engineer's report shall be as set forth in SECTION 39 of this document.

(d) The owner shall have and maintain liability insurance in an amount of not less than one million dollars (\$1,000,000) per occurrence insuring the owner or lessee against liability for injury to person arising out of the use of a bungee jump facility. The owner shall provide written proof of insurance from the insurance carrier to the division not later than five (5) business days before commencing the use of any bungee jump facility in this state and upon request of the division. When:

- (1) a claim in excess of; or
- (2) a combination of claims exceeding;

one million dollars (\$100,000) [*sic.*] is made, the owner shall close the bungee jump facility until there is a reinstatement of insurance value and shall notify the department.

(e) Each and every professional engineer executing an affidavit as set forth in this document shall have and maintain professional liability insurance against liability for design and inspection of the bungee jump facility. The professional engineer shall provide to the owner and to the department a certificate of insurance documenting that the insurance policy:

- (1) has a minimum limit of one million dollars (\$1,000,000) per claim; and
- (2) does not exclude coverage for design of bungee jump facilities.

The certificate shall list the bungee jump facility owner as an additional insured and shall not be terminated without thirty (30) days prior notice to the owner. Upon notice of termination of any professional liability policy, the owner shall immediately notify the department and close the bungee jump facility until there is a reinstatement of insurance.

SECTION 5. (a) The owner shall allow bungee jumping to be conducted only under the direct control of a jump operator.

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(b) The jump operator shall immediately stop all bungee jumping operations when the wind speed exceeds the maximum wind speed as determined by a professional engineer for the safe operation of the bungee jump facility. The owner shall provide a method for constant monitoring of wind velocities at the jump site during any bungee jumping.

(c) Adjustments for the weight of each jumper shall be made by the jump operator's selection of bungee cord.

(d) In a bungee jump facility that utilizes a crane, the jumper shall be secured on the platform by a safety belt and lifeline at all times until the jump point is reached.

(e) In a bungee jump operation that utilizes a tower, the jumper shall be secured by a safety belt, lifeline, or bungee cord before reaching the jump point.

(f) All shackles shall be moused.

(g) In a bungee jump facility that utilizes a crane, at least two (2) employees of the owner, one (1) of whom must be a jump operator, shall accompany the jumper in the working platform or cage.

(h) In a bungee jump operation that utilizes a tower, at least two (2) employees of the owner, one (1) of whom must be a jump operator, shall accompany the jumper from the point of preparation at the jump platform to the jump point.

(i) The jumper shall be allowed to recover before being moved from the landing pad.

(j) The position of the jump point in relation to the tower or crane shall be constructed and maintained so as to prevent the jumper from coming into contact with any part of the tower or crane during the jump.

(k) Only:

(1) employees of the owner; and

(2) the jumper;

shall be allowed on the platform.

SECTION 6. (a) The owner shall provide a safety air bag for each bungee jump. The safety air bag shall cover the entire surface area of the jump space, including the area necessary for all rebound angles of the jumper. A professional engineer shall certify the height, width, and length of the safety air bag for the height of each bungee jump and the area necessary for all rebound angles. Each bungee jump facility shall be designed and operated in order to prevent a jumper from coming into contact with the safety air bag during the course of an incident-free jump. When a person comes into contact with the safety air bag during a jump, the owner shall do the following:

(1) Close the bungee jump facility.

(2) Redesign the bungee jump facility to prevent contact with the safety air bag.

(3) Provide a reinspection of the bungee jump facility by a professional engineer.

(4) Request a reinspection by the division before reopening the bungee jump facility.

(b) The safety air bag height shall be certified or rated by the air bag manufacturer for the height of the bungee jump.

(c) No bungee jump in this state shall exceed a height of one hundred (100) feet measured from the bottom of the jump point to the surface.

SECTION 7. (a) The platform permanent shall be operated with a minimum SWL reflecting a safety factor of not less than five (5), as determined by the maximum load for which the platform is designed and constructed. If the jump equipment is attached to the platform as distinct from the structure, the dynamic load factor shall be added to the platform load factor.

(b) Where the platform is not an integral part of the structure, the attachment devices and the part of the structure to which they are attached shall have a minimum safety factor of at least five (5) over the total design load.

(c) The platform shall:

(1) have:

(A) a slip-resistant floor surface;

(B) sufficient working space for a minimum of three (3) people; and

(C) anchor points or rails for safety harnesses that are designed and positioned so as not to impede the jump operator's movements; and

(2) be fitted with a permanent enclosure to contain the jumper during preparation.

(d) The jumpers shall be prepared for jumping in a place separated from the jump point.

(e) There shall be a gate across the jump point equipped with a locking system to prevent accidental opening when there is not a jumper present on the jump point.

(f) The top end of all bungee cords on the platform shall be securely attached to the rigging bar or to the rigging before:

(1) each jumper is prepared for jumping; and

(2) jumping occurs.

(g) There shall be a plate or permanent marking on each platform indicating the following:

(1) The maximum capacity of the platform.

(2) The rated workload capacity or maximum intended load.

(h) Each jump operator and jump assistant on the platform permanent shall wear a safety harness or safety belt.

(i) The following shall wear safety belts:

- (1) All employees of the owner.
- (2) The jumper.

SECTION 8. The owner shall provide the following:

(1) A system for lowering the jumper to the landing pad, which shall be a mechanically powered system:

- (A) not capable of free fall; and
- (B) operated by the jump operator or the jump master.

(2) A second person to monitor the lowering of all jumpers who shall be capable of stopping the process if necessary to avoid injuries to the jumper.

(3) An alternative method for lowering the jumper in the event the main lowering system fails.

SECTION 9. (a) The platform mobile or cage used for lifting employees or jumpers shall be as follows:

- (1) Designed by a professional engineer.
- (2) Have a guardrail system sufficient to enclose all passengers during the hoisting or lowering of employees or jumpers.
- (3) Have adequate overhead protection and headroom to guard against injuries to passengers.
- (4) Have a plate or permanent marking indicating the following:
 - (A) The weight of the platform.
 - (B) The rated workload capacity or maximum intended load.
- (5) Designed and maintained with an access gate that:
 - (A) opens to the inside of the platform; and
 - (B) has a safety lock or restraining device to prevent accidental opening.
- (6) Free of any rough or exposed edges.
- (7) Designed and attached to the hoisting cables of the crane or derrick in such a manner so as to ensure the load is evenly balanced during hoisting or lowering.

(b) All attachment assemblies related to the platform mobile or cage shall be designed and maintained to close and lock in such a manner that prevents accidental opening while the platform mobile or cage is attached to the hoisting cable.

(c) The jump rigging shall:

- (1) not be attached directly to the platform mobile; and
- (2) pass through or around the platform in such a way as to eliminate damage to the jump rigging.

(d) The owner shall position the platform mobile at a constant height above the safety air bag for each jump.

(e) Adjustments for the weight of each jumper shall be made by the jump operator's selection of bungee cord.

(f) The platform mobile shall be as follows:

(1) Operated with a minimum SWL reflecting a safety factor of not less than five (5), as determined by the maximum weight for which the platform is designed and constructed.

(2) Have a slip-resistant floor surface.

(3) Have sufficient working space for a minimum of three (3) people.

(g) The jumper and all employees shall be completely enclosed on the platform mobile until the platform mobile reaches the jump point.

(h) The jumper shall be secured by a safety belt or lifeline on the platform mobile until the jump point is reached.

(i) The platform mobile shall have anchor points for safety harnesses or safety belts for all persons carried on the platform.

(j) Each jump operator and jump assistant on the platform mobile shall wear a safety harness or safety belt.

(k) The following shall wear safety belts:

- (1) All employees of the owner.
- (2) The jumper.

(l) The owner shall provide an alternative method for lowering the jumper from the platform in the event the main lowering system fails.

(m) The platform and support straps shall be designed and operated to provide for maximum stability of the platform.

(n) All shackles shall be moused.

(o) The platform mobile or cage shall be designed and operated for use with a stabilizing bar or cable so that the platform mobile shall be attached in a fixed position to the crane or derrick to prevent swaying or rocking during a jump.

SECTION 10. The maximum wind speed during which a bungee jump facility may safely operate shall be:

- (1) determined by a professional engineer; and
- (2) stated in the operating manual.

No person shall operate a bungee jump facility when the wind speed exceeds the maximum wind speed stated in the operating manual.

SECTION 11. No person shall operate a bungee jump facility that utilizes a crane or derrick unless the following criteria are expressly met:

- (1) The owner must possess a current certificate to operate issued by the division for each crane or derrick used in a bungee jump facility.

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(2) The owner shall submit to the division a professional engineer's affidavit certifying the crane or derrick to be suitable for use in a bungee jump facility.

(3) The crane or derrick shall be operated as follows:

(A) By a person who:

(i) has a minimum of two (2) years experience in mixed type operating cranes; and

(ii) holds a certificate of training issued by a crane inspection company recognized by the United States Department of Labor specializing in certification of crane operators and personnel handling.

The crane or derrick operator shall be recertified annually.

(B) With a minimum SWL reflecting a safety factor of not less than ten (10).

(4) The owner shall comply with the crane or derrick manufacturer's operating manual or instructions, except as modified by the professional engineer who certifies the crane or derrick as suitable for use in bungee jumping facilities.

(5) The crane or derrick shall be equipped with the following:

(A) An attached plate or permanent marking indicating:

(i) the rated load capacity;

(ii) the recommended operating speed;

(iii) special hazard warnings; and

(iv) special operating instructions for operation;

of the crane or derrick.

(B) An operational anti-two block device that shall be as follows:

(i) Capable of eliminating all power to the crane or derrick hoisting cable.

(ii) Positioned a minimum of six (6) feet from the end of the crane or derrick boom or jib.

(6) Wire rope used for hoisting or lowering the platform mobile or cage shall be rotation resistant. Wire rope shall be taken out of service when any of the following conditions exist:

(A) In running ropes:

(i) six (6) randomly distributed broken wires in one (1) lay; or

(ii) three (3) broken wires in one (1) strand in one (1) lay.

(B) Wear of one-third ($\frac{1}{3}$) the original diameter of outside individual wires.

(C) Kinking, crushing, bird caging, or any other evidence of damage resulting in distortion of the rope structure.

(7) The crane or derrick shall be equipped with the following:

(A) Operational stabilizer bars or cables that stabilize the platform mobile or cage during a bungee jump to ensure a consistent jump space.

(B) A swing lock mechanism to limit the rotation of the crane or derrick to the operational limits of the bungee jump.

(C) A load moment indicator.

(D) An appropriate safety mechanism or device that prevents free fall capability.

(8) The crane or derrick shall be set up and maintained in a level manner on firm footing. All outriggers shall be fully extended.

(9) During the hoisting or lowering of employees or jumpers, the hoisting or lowering speed shall not exceed one hundred (100) feet per minute.

(10) The owner shall do the following:

(A) Provide for detailed daily inspections of the following:

(i) The crane or derrick.

(ii) The working platform.

(iii) The hoisting mechanism.

(B) Maintain detailed written inspection records that indicate the following:

(i) The date of inspection.

(ii) The name of the inspector.

(iii) A list of items inspected.

(iv) Deficiencies found during the inspection.

(v) Actions taken to correct the deficiencies found.

(vi) Certification that all deficiencies have been corrected before further use of the bungee jump facility.

The daily inspections shall be conducted by the crane or derrick operator.

(11) The crane or derrick shall be inspected every six (6) months by a person who has a minimum of two (2) years of experience in inspecting mixed type operating cranes and holds a certificate of registration issued by the United States Department of Labor. The owner shall maintain detailed written inspection records that indicate the following:

(A) The date of inspection.

(B) The name of the inspector.

(C) A list of items inspected.

(D) Deficiencies found during the six (6) month inspection.

(E) Actions taken to correct the deficiencies found.

(F) Certification that all deficiencies have been corrected before further use of the bungee jump facility.

(12) The owner shall provide training to the following:

(A) The crane or derrick operator.

(B) The jump operator.

(C) Ground personnel who assist jumpers in hooking up and unhooking.

(D) Persons who dismantle or erect the crane.

(E) Persons who have any rigging duties.

Training conducted must meet the minimum requirements set forth 685 IAC 1-2-4.

(13) The crane operator shall not leave the operator's position during any phase of:

(A) hoisting or lowering the platform mobile or cage; or

(B) jumping.

(14) The owner shall provide that a professional engineer determine in writing the following:

(A) The maximum allowable wind velocities during which bungee jumping shall take place at the site.

(B) The maximum wind velocity during which the crane or derrick can be operated in a bungee jump facility.

This information shall be maintained at the site and made available for review by the division within two (2) hours of a request by any employee of the division. The owner shall provide a method for constant monitoring of wind velocities at the jump site during any bungee jumping.

(15) The jump rigging shall be as follows:

(A) Attached directly to the lifting hook of the crane or derrick.

(B) Pass through or around the working platform in such a way as to eliminate damage to the jump rigging.

(16) The crane or derrick operator shall at all times maintain direct communication with the person directing the crane or derrick during the lifting and lowering of jumpers.

SECTION 12. No bungee jump facility in this state shall use any of the following:

(1) Hot air balloons.

(2) Blimps.

(3) Similar type vessels.

SECTION 13. (a) The bungee cord shall be as follows:

(1) Designed and tested to perform within prescribed limits of stretch and load as stated in this SECTION.

(2) Made from natural or synthetic rubber or blends thereof that may be of various dimensions.

(b) The materials used in the construction of the bungee cord shall be such that the stretched length is consistent each time the same loading is applied.

(c) The following requirements apply to cord binding:

(1) The binding shall hold the cord threads together in their designed positions.

(2) The binding material shall have characteristics or specifications similar to those of the bungee cord material.

(3) The cord bindings shall be intact.

(4) Where bindings break during a day's operation, the cord shall be withdrawn from use until the bindings are replaced.

(d) The following requirements apply to bungee cords:

(1) The cord shall stretch in the jump to at least two and five-tenths (2.5) times its unloaded length in its designed jumper weight range.

(2) The unloaded length of the rigging system shall be less than one-half ($\frac{1}{2}$) the designed extended length.

(3) The operating length of a bungee cord at its maximum designed dynamic load shall not exceed four (4) times its unloaded length.

(e) Testing of a new design of bungee cord shall be conducted as follows:

(1) Each owner desiring to utilize a new design of bungee cord shall submit to a professional engineer for testing one (1) bungee cord that has been constructed using their standard method of manufacture, including the bungee and all attachments, and two (2) three (3) foot lengths of bungee cord with end attachments to the same specifications. Specifications for each bungee cord shall also be submitted to the engineer and shall include the following:

(A) The type of material used in the manufacture of the cord.

(B) Thread specifications, including stress at three hundred percent (300%) elongation, tensile strength, and elongation at breaking point.

(C) Dimensions and number of threads in a cross section of the cord.

(D) Method of the following:

(i) Construction.

(ii) Binding.

(E) Jumper weight range for size of cord submitted for testing to produce the extension from two and five-tenths (2.5) times to a maximum of four (4) times the unloaded length of the cord.

(F) Operational range of dynamic loadings.

(2) The engineer shall do the following:

(A) Test the bungee cord and certify that the cord meets the cord specifications as submitted. The full length cord shall be subjected to the following:

(i) At least three (3) repeat tests for loading versus extension in order to establish consistency of extension within the cord range of loading.

(ii) A loading of five (5) times the maximum dynamic load for a period greater than five (5) minutes.

(iii) Checked for signs of thread breakage or other deterioration.

This will establish a minimum safety factor of five (5).

(B) The engineer shall carry out a cycle frequency test until either of the following occurs:

(i) The dynamic load at three hundred percent (300%) extension or four (4) times unloaded length reduces to less than the maximum dynamic load.

(ii) Evidence of more than ten percent (10%) of threads exhibiting wear or five percent (5%) of the threads broken of the total number over the length of cord.

(3) Upon completion of the testing required in this SECTION, the engineer shall destroy the full length cord.

(4) For purposes of this SECTION, a new design shall mean a change in any of the following:

(A) Bungee thread specifications that affect the performance of the bungee threads or cord.

(B) The end attachments.

(C) The manufacturing methods or equipment.

(5) Each end of the bungee cord shall have an end attachment to connect the cord to the rigging and the jumper. The end attachments shall be as follows:

(A) Tested by a professional engineer.

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(B) Of sufficient size and shape to allow easy attachment to the jumper harness and to the rigging.

(C) Have a maximum breaking load of at least four thousand four hundred (4,400) pounds.

(f) The maximum allowable life of the cord shall not exceed:

- (1) one-fifth ($\frac{1}{5}$) the tested number of extensions; or
- (2) two hundred (200) jumps;

whichever is lower.

(g) A cord and its nonmetallic connectors shall be immediately withdrawn from use when any of the following occur:

- (1) Exposure to daylight exceeds two hundred fifty (250) hours, except where a cord cover or sleeve fully protects all of the cord from visible and ultraviolet exposure.
- (2) The bungee cord has been in existence for a period of six (6) months from the date of manufacture.
- (3) The bungee cord material reaches:
 - (A) the manufacturer's recommended life span; or
 - (B) two hundred (200) days;

whichever is less.

(4) There is evidence of threads exhibiting wear, such as any of the following:

- (A) Bunched threads.
- (B) Uneven tension between threads.
- (C) Thread bands.

(5) There are broken threads.

(6) As the bungee cord stretches over the course of its jump life, the dynamic load required to extend the bungee to four (4) times its unloaded length will reduce. When this dynamic load reduces to less than the maximum designed dynamic load, the cord shall be discarded.

(7) The cord comes into contact with any of the following:

- (A) Solvents.
- (B) Corrosive substances.
- (C) Abrasive substances.

(8) Any incident occurs that could result immediately or in due course in substantial substandard performance of the bungee cord or its attachments.

When any discolorations or other flaws are found or the date of manufacture of the bungee cord or each item of material that is a component part of the bungee cord cannot be documented on the site by reference to the identification tag required by SECTION 21 *[of this document]*, the bungee cord shall be destroyed.

(h) A bungee cord withdrawn from use shall be destroyed in the presence of a division inspector. The bungee cord is considered to be destroyed when it is cut into lengths of less than three (3) feet. When a bungee cord is ready for destruction, the owner shall request, in writing, a division inspector to witness the destruction.

(i) Before starting and during the day's operations, the jump operator shall perform the following:

(1) A visual inspection of the entire length and circumference of the bungee cord for signs of wear. The inspection shall be:

(A) repeated at least four (4) times during a full day's operation; and

(B) recorded in the daily log.

(2) An inspection of the bungee cord if the extended dynamic or static length changes during jumping.

The bungee cord shall be immediately replaced in the event unexpected changes in the cord's extended performance occur.

(j) The owner shall ensure that a bumper is used to cover the end of the bungee cord and all connecting straps and devices, where attached to the jumper. The bumper shall be as follows:

(1) At least:

- (A) six (6) inches in diameter; and
- (B) five (5) feet in length.

(2) Fastened in such a manner so as to prevent its slipping up and down the bungee cord.

(k) All bungee cords used at a bungee jump facility shall be designed as to their thickness and length for the height of the jump so as to prevent the looping of the cord around any part of the jumper's body during a jump. The owner shall submit to the division a professional engineer's report certifying the bungee cords to be used, in relation to the height of the jump, will not loop around any part of the jumper's body during a jump.

SECTION 14. (a) No bungee jump shall be operated unless the owner provides and requires each jumper to use a jumper harness that meets the following requirements:

(1) A jumper harness shall be as follows:

- (A) Full body, designed either as a full body harness or a sit harness with shoulder straps.
- (B) Certified by a professional engineer as being in accordance with the requirements of one (1) or more nationally recognized standards developed for the use of jumper harnesses.
- (C) Available to fit the range of person sizes accepted for jumping.
- (D) Properly adjusted and fitted on each jumper.
- (E) Certified by a professional engineer as appropriate for use in bungee jumping.
- (F) Have a safety factor of not less than five (5).

(2) A professional engineer shall certify that the method of attachment and location of attachment for the jumper harness is the safest available.

(b) The use of an ankle strapping or ankle harness in bungee jump facilities is hereby prohibited.

SECTION 15. All ropes for holding or lowering the jumper shall be as follows:

- (1) Have a breaking load of at least four thousand nine hundred (4,900) pounds.

(2) Certified by a professional engineer as being in accordance with the requirements of one (1) or more nationally recognized standards developed for the life safety ropes.

SECTION 16. (a) Karabiners shall be as follows:

(1) Of the steel screw gate type with a breaking load of at least four thousand four hundred (4,400) pounds.

(2) Certified by a professional engineer as being in accordance with the requirements of one (1) or more nationally recognized standards developed for the use of:

- (A) life safety ropes;
- (B) safety belts;
- (C) harnesses; or
- (D) lanyards.

(b) Pulleys and shackles shall be as follows:

(1) Have a minimum breaking load of at least four thousand four hundred (4,400) pounds.

(2) Certified by a professional engineer as being in accordance with the requirements of one (1) or more nationally recognized standards developed for the use of:

- (A) life safety ropes;
- (B) safety belts;
- (C) harnesses; or
- (D) lanyards.

(c) All pulleys shall be compatible with the rope size.

(d) Webbing shall be of flat tubular mountaineering webbing or equivalent with a minimum breaking load of at least four thousand four hundred (4,400) pounds.

(e) Tape knots shall be used on all webbing, and the ends shall be either:

- (1) stitched down; or
- (2) greater than twice the width of the tape.

SECTION 17. (a) Lifelines shall be as follows:

(1) Attached to all bungee personnel while on the working platform.

(2) Have a minimum breaking load of at least four thousand nine hundred (4,900) pounds.

(b) In a bungee jump facility that utilizes a crane, safety belts shall be worn by the jumper while on the working platform. In a bungee jump facility that utilizes a tower, the jumper shall be attached to a safety belt or bungee cord before reaching the jump point.

(c) A safety harness and lifeline attached to the platform shall be worn by all bungee personnel while on the working platform. The harness shall be either a:

- (1) sit harness; or
- (2) full body harness.

SECTION 18. The jump operator shall ensure the following daily:

(1) The bungee jump facility has a current certificate to operate issued by the division.

(2) The hoist wire rope has sufficient length for the working heights. The crane or derrick operator shall run out the rope, and the rope shall be given a visual inspection.

(3) All shackles and pins are moused.

(4) All outriggers are fully extended.

(5) There are established lines of communication between the following:

(A) The jump cage and the crane or derrick operator.

(B) The crane or derrick operator and the ground team.

(6) The hand signals required for visual communication between the person directing the crane or derrick and the crane or derrick operator are known by all parties.

(7) All protective equipment is inspected.

SECTION 19. (a) The owner shall ensure the following testing and inspections are performed:

(1) All jump rigging, harnesses, lowering or braking systems, and safety gear shall be as follows:

(A) Regularly inspected and tested as set out in the operating manual and in this document. The owner shall maintain detailed written inspection records that indicate the following:

(i) The date of inspection.

(ii) The name of the inspector.

(iii) A list of items inspected.

(iv) Deficiencies found during the inspection.

(v) Actions taken to correct the deficiencies found.

(vi) Certification that all deficiencies have been corrected before further use of the bungee jump facility.

(B) Of a load rating at least equal to the standards stated in this document.

(2) Before commencing each day's operations, the crane or derrick and platform mobile shall be raised and lowered with appropriate test weights to ensure proper operation.

(b) The owner shall replace any:

(1) rigging or hardware; and

(2) ropes;

that have become damaged.

(c) All ropes, webbing, and bindings shall be inspected visually and by feel for signs of wear, fraying, or corrosive or damaging substances. Criteria for the following shall be included in the operating manual:

(1) Planned inspection.

(2) The periodic replacement of the following:

(A) Ropes.

(B) Webbing.

(C) Harnesses.

(D) Hardware.

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SECTION 20. (a) At the beginning of each day's operation, replacements of at least the following shall be available on site:

- (1) Bungee cord or cords.
- (2) All ropes.
- (3) Rigging hardware.
- (4) Body safety harness for jumpers and staff.
- (5) Lifelines and connecting devices.

(b) Any item of equipment, rigging, or personal protective equipment found to be substandard shall be replaced immediately.

(c) Jumping shall cease immediately when a substandard item cannot be replaced.

SECTION 21. (a) Each item of rigging, bungee, and safety equipment shall have its own unique permanent identification number.

(b) An identification tag shall be sewn, woven, or permanently attached to each bungee cord in such manner as will not interfere with the safety or performance of the bungee cord. The tag shall contain the following information:

- (1) The manufacture dates of the following:
 - (A) The bungee cord.
 - (B) Each item of material that is a component part of the bungee cord.
- (2) The weight class for which the bungee cord is designed as required by this document.

(c) The identification of each item shall be as follows:

- (1) Not harm the material of the item.
- (2) Clearly visible to the staff members during daily operations.
- (3) Recorded in the item's log sheet.

(d) The owner shall provide in the operating manual the color codes for the bungee cords being used at the bungee site that correspond to different weight classes. There shall be a minimum of four (4) weight classes or progressions at each bungee site.

SECTION 22. The owner shall comply with the following as to the landing area, recovery area, and jump space:

- (1) The areas shall be free of the following:
 - (A) Spectators at all times.
 - (B) Any equipment or staff:
 - (i) when a jumper is being prepared on the jump point; and
 - (ii) until the bungee cord is at its static extended state.
- (2) The off-loading landing pad and air bag shall be positioned before jumper preparation commences on the platform.
- (3) The landing pad shall be a clean, smooth, padded surface.
- (4) The jumper shall be allowed to recover before being

moved from the landing pad.

(5) The owner shall provide a recovery area for the jumper to sit and recover adjacent to the landing area.

SECTION 23. (a) The owner shall do the following:

(1) Maintain a fence designed and constructed to restrict people, animals, and objects from entering the following:

- (A) The crane or tower area.
- (B) The preparation area.
- (C) The surface area of the jump space.
- (D) All areas specified by the engineer who certifies the bungee operation.

(2) Ensure that all areas in which persons may be endangered shall be:

- (A) fenced;
- (B) barricaded; or
- (C) otherwise effectively guarded against contact.

(3) Comply with all state and local laws with regards to fences or barricades.

(b) Before commencing bungee jump operations, the owner shall submit to the department a professional engineer report certifying that the design and construction of the fences or barricades:

- (1) meet the requirements of the rules of the fire prevention and building safety commission; and
- (2) are certified by the engineer to be suitable for a bungee jump facility operation.

SECTION 24. The owner shall provide storage to protect equipment from physical, chemical, and ultraviolet ray damage. The storage shall be as follows:

- (1) Provided for current, replacement, and emergency equipment.
- (2) Organized for easy and orderly access.
- (3) Secured against unauthorized entry.

SECTION 25. (a) The owner shall provide and maintain at each bungee site, at a minimum, the following:

- (1) A public address system.
- (2) A radio communication link or closed telephone circuit in the following situations:
 - (A) On crane sites, a hookup between the:
 - (i) crane operator; and
 - (ii) platform.
 - (B) On permanent platform sites, a hookup between the:
 - (i) platform; and
 - (ii) landing and recovery areas.

(b) Bungee jump personnel shall be easily identified by other staff and the public. A uniform or similar clothing shall be worn by bungee staff.

(c) Instructions to jumpers and the public shall be put in positive terms to avoid misinterpretation and mistakes.

SECTION 26. The owner shall provide and maintain a

telephone communication link to 911 or similar emergency service within two hundred (200) feet of the bungee operation.

SECTION 27. The owner shall provide for and maintain the following for safety and loss control management:

- (1) At least one (1) jump master shall be as follows:
 - (A) Designated the safety, health, and loss control coordinator.
 - (B) Certified in first aid by the American Red Cross or an equivalent certification authority. The first aid certification shall include cardiopulmonary resuscitation (CPR).
- (2) A comprehensive emergency plan shall be:
 - (A) developed;
 - (B) practiced;
 - (C) maintained; and
 - (D) posted;at each bungee jump facility.
- (3) The jump master shall inspect and review daily the site, equipment, and procedures as outlined in the emergency plan.
- (4) The reporting and investigation of injuries, damages, and near-miss events shall be analyzed and reviewed by management on a regular basis. The owner shall make changes to:
 - (A) procedures;
 - (B) equipment;
 - (C) rigging; or
 - (D) structures;as needed to reduce the likelihood of any incidents recurring.
- (5) The emergency plan shall be included in the operating manual.
- (6) Training shall be provided to all bungee staff relative to emergency procedures. A record of training shall be kept.

SECTION 28. (a) The owner shall maintain at least the following staff at each bungee jump facility:

- (1) A jump master. To be qualified as a jump master, a person shall be at least eighteen (18) years of age and shall have had a minimum of two hundred fifty (250) hours and one thousand two hundred fifty (1,250) jumps of incident-free experience as a jump assistant under the supervision of a qualified jump master at a bungee jump facility. A jump master shall be responsible for the following:
 - (A) At least one (1) jump master at each bungee jump facility shall be as follows:
 - (i) Designated as having complete control over the operation and accountable for the operation and control of the bungee jump facility.
 - (ii) Have a thorough knowledge of the bungee jump facility and its:
 - (AA) equipment;
 - (BB) operating manual;

- (CC) procedures; and
 - (DD) staff.

(B) The jump master shall do the following:

- (i) Select the bungee cord and adjust the rigging appropriately for each jumper.
 - (ii) Take the jumper through the final stages to the jump takeoff.

- (iii) Be present at the jump point during each jump.

(C) For crane operations, at least two (2) staff members, one (1) of whom must be a jump master, shall escort the jumper from the preparation area to the jump point. However, when all connections are made while on the ground and checked by two (2) staff members, one (1) of whom is a jump master, only one (1) staff member must escort the jumper to the jump point.

(D) The training of other bungee staff. All training shall be conducted by or under the direct supervision of a jump master.

(E) The jump master shall do the following:

- (i) Ensure that the number of jumps being conducted at a site does not prohibit the bungee staff from carrying out all procedures and duties for each job as set out in the manual.

- (ii) Directly supervise all staff who are in training.

(2) A jump assistant. The owner or jump master shall designate a jump assistant at each bungee jump facility with at least the following duties:

- (A) Assisting the jump master to prepare the jumper.
 - (B) Attaching the jumper to the harness.
 - (C) Assisting in attaching the jumper to rigging.
 - (D) Carrying out check procedures.
 - (E) Operating the lowering system.
 - (F) In crane operations, the jump assistant may assist in landing or recovery procedures.
 - (G) Assisting in controlling the public.

(3) A landing or recovery operator. The owner or jump master shall designate a landing or recovery operator at each landing area with at least the following duties:

- (A) Assisting the jumper to the following:
 - (i) The landing pad.
 - (ii) The recovery area.
 - (B) Overseeing the recovery of jumpers.
 - (C) Assisting in controlling the public.

(4) A registration clerk. The owner or jump master shall designate a registration clerk at each bungee site with at least the following duties:

- (A) Registering the jumper.
 - (B) Providing all notices and warnings to potential jumpers as required under this document.
 - (C) Weighing and marking of the weight on the jumper.
 - (D) Controlling movement of jumpers to jump platform.
 - (E) Assisting in controlling the public.
 - (F) Handling the payment process.

(b) The owner shall provide and maintain an operating team for each bungee jump facility operation. Each operat-

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ing team shall have a minimum of four (4) staff members, one (1) of whom must be a jump master.

SECTION 29. (a) If an accident involving a bungee jump results in death or serious injury, the owner shall immediately do the following:

- (1) Report the accident to the division.
- (2) Close the bungee jump facility until authorization to reopen the bungee jump facility is received from the division.

(b) All accidents relating to a bungee jump operation shall be reported in writing to the division within twenty-four (24) hours of the accident.

(c) Owners shall record all injuries, damage, or near-miss events in a daily log.

SECTION 30. The owner is responsible for ensuring that staff shall take regular breaks to ensure that fatigue does not downgrade the staff's ability to operate an incident-free operation. If continuous operation is planned, then backup staff shall be available to allow adequate breaks to take place.

SECTION 31. The owner shall comply with the following jumper restrictions:

- (1) The minimum age for jumping shall be twelve (12) years of age. The owner shall secure the consent of a parent or guardian for any jumper who is under eighteen (18) years of age. The parent or guardian shall:
 - (A) be at least eighteen (18) years of age; and
 - (B) sign an authorization stating he or she is:
 - (i) the jumper's parent or guardian; and
 - (ii) consenting to the bungee jumping.

In addition, the parent or guardian shall be present at the bungee jump facility during the bungee jumping. The authorization shall be executed at the bungee jump facility in the presence of bungee jump facility staff. The authorization shall be permanently retained by the owner with the daily log.

(2) The owner shall disclose to each jumper all medical conditions that may be adversely affected by jumping, including, at a minimum, the following medical conditions:

- (A) Pregnancy.
- (B) High blood pressure.
- (C) Heart conditions.
- (D) Neurological disorders.
- (E) Epilepsy.

(3) Any jumper who, in the opinion of the bungee staff, represents a danger to himself or herself or others shall not be allowed:

- (A) onto the platform; or
- (B) to jump.

(4) Jumpers in an intoxicated state shall not be allowed to jump.

SECTION 32. (a) The owner shall provide for signs, erected and containing the following information, at each bungee jump facility location:

(1) A warning that:

(A) bungee jumping may:

(i) be a dangerous activity; and

(ii) result in serious injury or death to the jumper; and

(B) injuries and death have occurred relating to bungee jumping activities.

(2) A statement in bold capital letters that the department does not:

(A) endorse this activity; and

(B) guarantee or warrant the safety of bungee jumping.

(3) The medical, weight, and age restrictions for jumpers.

(b) The owner shall maintain and position signs with the information required in subsection (a) at the:

(1) bungee jump entrance; and

(2) preparation area.

(c) Separate signs shall be erected that identify the color codes of the bungee cords for the corresponding weight classes, in accordance with the color code set forth in the operating manual. The owner shall maintain and position a sign reflecting this information at each weighing area.

(d) All signs required under this SECTION shall be in bold type and conspicuous lettering of sufficient dimensions to accommodate the language required in this SECTION except that the word "WARNING" shall be in lettering at least two (2) inches in height.

SECTION 33. (a) The owner shall provide and maintain an operating manual at each bungee jump facility site that describes the system of operation to be used and addresses, but is not limited to, the following elements:

(1) A site plan showing the following:

(A) A plan view of the site with all components in place including the following:

(i) Fencing.

(ii) Site furniture and equipment.

(iii) The jump zone.

(iv) Safety space.

(v) The jump area.

(vi) The jump direction defined.

(B) A profile of the site defining the following:

(i) The jump platform and its supporting structure.

(ii) The jump area.

(iii) The jump zone.

(iv) The safety space.

(2) A complete description of the following:

(A) All components in the rigging system, which shall include the manufacturers' specifications or a laboratory test certificate of each component.

(B) All bungee staff, jumper, and passenger safety equipment with instructions for proper usage.

(C) All rescue equipment.

(3) A complete job description of all personnel employed on the site with the following:

(A) Minimum qualifications of each person.

(B) Complete detail of work periods required.

(4) A complete description of the following:

(A) Emergency procedures to be taken in all possible scenarios that may occur.

(B) Standard operating procedures of every person employed in the processing of the bungee jumper.

(C) The procedure for reporting to authorities incidents resulting in injury or death.

(D) The reporting procedure for any incidents that do not result in injury but that were not in accordance with normal operational procedures.

(E) Equipment inspection procedures and the recording of those inspections.

(F) The method of recording verified qualifications of jump masters employed on the site.

(G) Staff selection procedures.

(H) The criteria for the periodic replacement of the following:

(i) Rigging.

(ii) Hardware.

(iii) Bungee cords.

(iv) Harnesses.

(v) Lifelines.

(b) The owner and each member of the operating staff shall have a thorough knowledge of the operating manual.

(c) Noncompliance with any of the criteria or procedures contained in the operating manual is cause for the closure of any affected bungee jump facility.

(d) A copy of the operating manual shall be maintained at all times on the bungee jump facility site during operating hours.

SECTION 34. (a) The owner shall provide and maintain a written checklist for the daily operating procedures, which shall include at least the following:

(1) Setting up the site equipment and public amenities.

(2) Inspecting and testing of the following:

(A) All equipment before beginning operations.

(B) Protective equipment including the following:

(i) Gloves.

(ii) Harnesses.

(iii) Lifelines.

(C) The communication system for proper operation.

(D) The jump equipment and rigging.

(3) Review of the following:

(A) Jump procedures with all bungee staff.

(B) All emergency procedures with all bungee staff.

(4) Conducting test jumps with appropriate weights on all bungee cords to be used that day.

(5) Designating the jump master who is in charge of the entire operation that day.

(b) The procedures outlined in subsection (a) shall be performed each day before beginning bungee jumping operations.

(c) Failure to complete each daily operating procedure outlined in this SECTION shall constitute cause for the closure of any affected bungee jump facility.

SECTION 35. (a) The owner shall provide and maintain written jump procedures, which shall include at least the following procedures:

(1) Exclusion of all unauthorized persons from the operating areas.

(2) Registration of jumpers to include the following:

(A) Name.

(B) Age.

(C) Two (2) separate weighings on two (2) separate scales by two (2) different staff members on each jumper.

(D) Jumper briefing.

(E) Removal of loose objects from the jumper.

(F) Preparation of the jumper, which shall include the following:

(i) Harness or binding attachment.

(ii) Instructions to the jumper.

(iii) Selection and adjustment of the bungee cord.

(iv) Connection of the jumper to the rigging.

(v) Recheck of all connections and harness attachments.

(vi) Final inspection by the jump master.

(vii) Final instructions to the jumper.

(viii) Countdown to jump.

(ix) Observation of jump.

(G) Landing and recovery of jumper.

(H) Off-loading of jumper.

(I) Return of jumper to the public area.

(J) Retrieval of the bungee to the platform.

(b) There shall be a written prejump checklist for each jumper for the procedures contained in subsection (a). The prejump checklist shall contain the jumper's name, and the jump master shall sign and date the checklist certifying all procedures were performed. The prejump checklist shall be permanently maintained as part of the daily log.

(c) The procedures outlined in this SECTION shall be performed for each bungee jump.

(d) Failure to complete each procedure outlined in this SECTION shall constitute cause for the closure of any affected bungee jump facility.

SECTION 36. (a) The owner shall provide and maintain a written checklist for the close down procedures, which shall

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include at least the following:

- (1) Equipment cleaning and inspection.
- (2) Completion of written records as required under this document.
- (3) The necessary daily maintenance of equipment, structures, and facilities.
- (4) The storage of equipment.
- (5) The disposal of rubbish.
- (6) Security checks and lockup.
- (7) Debriefing of staff on critical incidents and events occurring that day.
- (8) Equipment, rigging, and bungee changes required before the next day operations start.
- (9) Maintenance work not completed but required before the next day operations.

(b) The procedures outlined in this SECTION shall be performed for each bungee jump facility.

(c) Failure to complete each procedure outlined in this SECTION shall constitute cause for the closure of any affected bungee jump facility.

SECTION 37. (a) The owner shall maintain a permanent log of the following daily activities for each bungee site:

- (1) Confirmation that daily operating procedures were performed and compilation of the corresponding check-list.
- (2) Compilation of the checklists on jump procedures.
- (3) Confirmation that the closedown procedures were performed and compilation of the corresponding check-list.
- (4) The number of jumps made on each bungee cord. This shall be done by referencing the permanent identification number of each cord used.
- (5) Compilation of the information required in SECTION 13(f) and 13(g) of this document. The log shall contain notation as to whether each bungee cord should or should not be withdrawn from use because of each factor listed in SECTION 13(f) and 13(g) *[of this document]*.

(b) The daily log shall be signed by the jump master who is in charge of the daily operation.

(c) The owner shall maintain a separate bungee cord log, which shall contain for each bungee cord in the possession of the owner the following information:

- (1) The expiration date of the life of:
 - (A) the cord; or
 - (B) its materials;whichever is shorter.
- (2) The lot number and date of manufacture of all materials that are a component of the bungee cord.
- (3) The date of manufacture of the bungee cord.

(d) The owner shall also retain for the useful life of each cord and for a period of one (1) year thereafter all:

- (1) invoices;
- (2) bills of sale;
- (3) checks for payment; and
- (4) other documents;

that indicate the purchase, sale, testing, and manufacturing of any bungee cord or any component materials used to manufacture a bungee cord.

(e) Owners shall obtain from the manufacturer of any materials to be used for the manufacture of bungee cords the lot number and date of manufacture of the materials in writing. The documentation shall be maintained by the owner for:

- (1) the useful life of each cord; and
- (2) a period of one (1) year thereafter.

(f) Failure to comply with this SECTION shall constitute cause for the closure of any affected bungee jump facility.

SECTION 38. (a) The owner shall provide and maintain emergency procedures for each bungee jump facility site that meet at least the following:

- (1) Each site shall have an emergency plan.
- (2) The following shall be held on site:
 - (A) A medium first aid kit.
 - (B) A stretcher.
 - (C) A back board.
 - (D) Blankets.
- (3) All jump masters shall:
 - (A) have current first aid certificates; and
 - (B) complete an annual refresher course.

(b) The operating manual shall specify the rescue training and qualifications required for all staff on the site.

(c) Adequate lighting shall be provided at all jump sites that operate after sunset. The lighting system shall illuminate the:

- (1) jump point;
- (2) jump space; and
- (3) landing area.

There shall be an emergency lighting system having its own power source.

SECTION 39. (a) Any bungee jump operation that is not in compliance with this document or 685 IAC is subject to closure by the department. In the event a bungee jump operation is closed by the department, the bungee jump shall remain closed until written authorization to reopen is issued by the department.

(b) The owner shall not use the name of or a reference to the department for the purpose of promoting a bungee jump operation in any of the following:

- (1) Advertisements.
- (2) Brochures.
- (3) Commercials.

- (4) TV or radio shows.
- (5) Newspapers.
- (6) Any other public manner by the owner.

SECTION 40. Before operating a bungee jump facility in this state, the owner shall provide to the department an affidavit or affidavits executed by a professional engineer or professional engineers containing the following information:

- (1) The engineer making affidavit:
 - (A) certifies that he or she holds a valid license as a professional engineer issued by the state of Indiana; and
 - (B) shall sign, date, and affix their seal to each affidavit.
- (2) The engineer certifies the following:
 - (A) That the design of the bungee jump facility has been completed by them, or under their responsible control.
 - (B) That the design is in accordance with the following:
 - (i) 685 IAC 1.
 - (ii) The Indiana Building Code.
 - (iii) Other local, state, and federal rules and regulations.
 - (C) The crane or structure for use in bungee jump operations.
 - (D) All safety equipment for use in bungee jump operations, including the following:
 - (i) Harnesses.
 - (ii) Connecting straps.
 - (iii) Safety lines.
 - (iv) Attachments.
 - (v) Karabiners.
 - (E) That the bungee cords to be used in the bungee jump operation, as well as the manufacturing process for the bungee cords, including quality control methods, have been personally examined and reviewed.
 - (F) That the engineer found all types of bungee cords and the manufacturing process to conform in all applicable respects to nationally recognized standards.
 - (G) That the bungee cords tested and certified under this SECTION were manufactured by the same manufacturing process as those cords that are to be used in the bungee jump facility operations.
 - (H) The safety air bag for use in bungee jump facility operations.
 - (I) The rigging system for use in bungee jump facility operations.
 - (J) The:
 - (i) jump space;
 - (ii) jump zone; and
 - (iii) jump height;are appropriate for the bungee jump facility operation.
- (3) The engineer has reviewed the:
 - (A) daily operating procedures;
 - (B) jump procedures; and
 - (C) closedown procedures;and certifies them as appropriate for the bungee jump

facility operation.

(4) The engineer certifies that the bungee jump facility operation:

- (A) has been inspected;
- (B) is in compliance with this document; and
- (C) has undergone some form of nondestructive testing for metal fatigue:
 - (i) recognized by the American Society for Non-Destructive Testing; and
 - (ii) as recommended by the engineer responsible for the design and maintenance of the bungee jump facility.
- (D) That he or she has and maintains a professional liability insurance policy as set forth in SECTION 4 of this document.

SECTION 41. (a) The practice of bungee catapulting or reverse bungee jumping is hereby prohibited in this state.

(b) Only one (1) jumper shall jump from any bungee jump facility at any one (1) time.

SECTION 42. SECTIONS 1 through 41 of this document take effect May 1, 2006.

LSA Document #06-106(E)

Filed with Secretary of State: April 10, 2006, 8:30 a.m.

TITLE 750 DEPARTMENT OF FINANCIAL INSTITUTIONS

LSA Document #06-80(E)

DIGEST

Amends 750 IAC 1-1-1 to change the dollar amounts in the Uniform Consumer Credit Code. Authority: IC 4-22-2-37.1(a)(6). Effective July 1, 2006.

750 IAC 1-1-1

SECTION 1. 750 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

750 IAC 1-1-1 Dollar amounts in consumer credit code

Authority: IC 24-4.5-1-106; IC 24-4.5-6-107

Affected: IC 24-4.5; IC 24-9-2-8

Sec. 1. The dollar amounts in the Indiana Uniform Consumer Credit Code which are required to be changed by IC 24-4.5-1-106, as amended, shall, on July 1, ~~2004~~, **2006**, be as set forth in each of the following Indiana Uniform Consumer Credit Code sections:

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IC 24-4.5 as Amended	Dollar Amounts	Provision Relating To:
2-201(7)	990/3,300 1,020/3,400	Graduated rate scale (sales)
2-201(8)	39	Minimum credit service charge
2-203.5(5)	+6.50 17	Delinquency charge (sales)
2-407(4)	990/3,300 1,020/3,400	Security interest (sales or leases)
3-201(7)	39	Minimum loan finance charge
3-203.5(5)	+6.50 17	Delinquency charge (loans)
3-508(6)	990/3,300 1,020/3,400	Graduated rate scale (supervised loans)
3-508(6)	39	Minimum loan finance charge
3-510(2)	3,300 3,400	Land as security (loans)
3-511(2)	990/3,300 1,020/3,400	Maximum loan term
4-301(4)	990 1,020	Property insurance
5-103(7)	3,300 3,400	Deficiency judgment
IC 24-9-2-8	40,000	High cost home loan

(Department of Financial Institutions; Uniform Consumer Credit Reg No. 1, Sec I; filed Jul 6, 1978, 9:30 a.m.: 1 IR 393, eff Jul 1, 1978; filed Oct 15, 1980, 2:30 p.m.: 3 IR 2189, eff Jul 1, 1980; filed Apr 20, 1982: 5 IR 1194, eff Jul 1, 1982; filed Apr 11, 1984, 2:45 p.m.: 7 IR 1257, eff Jul 1, 1984; emergency rule filed Apr 25, 1986, 3:40 p.m.: 9 IR 2210, eff Jul 1, 1986; emergency rule filed Sep 5, 1986, 10:05 a.m.: 10 IR 81, eff Sep 5, 1986; filed Jan 6, 1987, 10:10 a.m.: 10 IR 1083; emergency rule filed Mar 28, 1988, 1:37 p.m.: 11 IR 2905, eff Jul 1, 1988; emergency rule filed May 14, 1992, 2:00 p.m.: 15 IR 2267, eff Jul 1, 1992; emergency rule filed Mar 21, 1994, 10:30 a.m.: 17 IR 1917, eff Jul 1, 1994; emergency rule filed Mar 18, 1996, 10:05 a.m.: 19 IR 2092, eff Jul 1, 1996; emergency rule filed Mar 17, 1998, 11:20 a.m.: 21 IR 3026, eff Jul 1, 1998; emergency rule filed Mar 14, 2002, 1:38 p.m.: 25 IR 2540, eff Jul 1, 2002; emergency rule filed Feb 16, 2004, 11:24 a.m.: 27 IR 2297, eff Jul 1, 2004; emergency rule filed Mar 13, 2006, 1:25 p.m.: 29 IR 2583, eff Jul 1, 2006)

SECTION 2. Under IC 24-4.5-6-107, the department of financial institutions declares an emergency to exist and issues this document accordingly for the following reasons:

(1) The dollar amounts of the Uniform Consumer Credit Code shall change as of July 1 of each even-numbered year as provided by IC 24-4.5-1-106(2).

(2) The information and date necessary to calculate the changes in the dollar amounts are not obtainable from the Department of Labor in time to promulgate such rule according to the procedures set forth in IC 4-22-2 and have such rule in effect by July 1. The department of financial institutions is exempt from such procedures by IC 4-22-2-37.1.

(3) Therefore, the department deems the utilization of this emergency provision provided them by IC 4-22-2-37.1.

LSA Document #06-80(E)

Filed with Secretary of State: March 13, 2006, 1:25 p.m.

**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

LSA Document #05-294

Under IC 12-8-3-4.4, LSA Document #05-294, printed at 29 IR 1989, was adopted by the Secretary of Family and Social Services Administration on April 7, 2006. This rule adds 405 IAC 5-4-4 to specify criteria for the Office of Medicaid Policy and Planning to enter into a provider agreement with a nursing facility and conditions for reimbursement when an existing provider makes changes in certified beds. The rule that was adopted is a different version than the proposed rule that was published in the Indiana Register on March 1, 2006.

Change in Notice of Public Hearing

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #05-143

The Indiana Department of Local Government Finance gives notice that the date of the public hearing for LSA Document #05-143, printed at 29 IR 1599, 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 **May 25, 2006 at 9:00 a.m.**, at the **Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B)**, Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on LSA Document #05-143, a proposed rule repealing 50 IAC 12 and adding 50 IAC 23, to establish a uniform and common property tax management system among all counties.*

This proposed rule does not impose any requirement or costs on a regulated entity not expressly required by state or federal law. The implementation of an integrated statewide property tax management system in every county by the next general reassessment is required by state law.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B) and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Dart
General Counsel
Department of Local Government Finance

TITLE 42 OFFICE OF THE INSPECTOR GENERAL

LSA Document #06-94

Under IC 4-22-2-23, the Office of the Inspector General intends to adopt a rule concerning the following:

OVERVIEW: To amend the Indiana code of ethics. Statutory authority: IC 4-2-7-3; IC 4-2-7-5.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Denise C. Young
150 West Market Street, Suite 414
Indianapolis, IN 46204
(317) 232-3850
dyoung@ethics.in.gov

TITLE 140 BUREAU OF MOTOR VEHICLES

LSA Document #06-126

Under IC 4-22-2-23, the Bureau of Motor Vehicles intends to adopt a rule concerning the following:

OVERVIEW: To provide requirements for commercial driver training school and instructors and to provide requirements for the use of interim plates. Written comments should be addressed to Dave Certo, Chief Legal Counsel, Bureau of Motor Vehicles, 100 N. Senate Avenue, Room N440, Indianapolis, IN 46204. Statutory authority: IC 9-14-2-2.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Mike Barnhart
Legislative Liaison
Bureau of Motor Vehicles
Indiana Government Center-North
100 N. Senate Avenue, Room N440
Indianapolis, IN 46204
(317) 233-1218
jmbarnhart@bmV.in.gov

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #06-92

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

OVERVIEW: Adds 312 IAC 10.5 governing the regulation of dams. Clarifies definitions for the implementation of IC 14-27-7.5. Implements the legislative mandate in IC 14-27-7.5-8 for the Department of Natural Resources to establish, by rule,

the criteria for assigning a hazard classification to a structure that is based on the potential consequences resulting from the uncontrolled release of the structure's contents due to a failure of the structure. Includes the required classifications of high hazard, significant hazard, and low hazard and mirrors current practice for terms used in IC 14-27-7.5. 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, by e-mail at slucas@nrc.in.gov, or by telephone at (317) 233-3322. Statutory authority: IC 14-10-2-4; IC 14-27-7.5-8.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Kenneth Smith
Department of Natural Resources
Division of Water
Indiana Government Center-South
402 West Washington Street, Room W264
Indianapolis, IN 46204
(317) 232-4224
kesmith@dnr.in.gov

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #06-107

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

OVERVIEW: IC 14-10-2-2(a)(2)(C) specifies that the administrative law judges of the Natural Resources Commission may be removed for cause for violations of the applicable provisions of the Code of Judicial Conduct (the "Code"). As this specification also applies to the environmental law judges in the Office of Environmental Adjudication, the OEA and NRC are preparing parallel rules for its implementation. The intention of the OEA and NRC in drafting rules is to specifically identify those parts of the Code that are applicable. 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.

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

Notice of Intent to Adopt a Rule

TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION

LSA Document #06-91

Under IC 4-22-2-23, the Office of Environmental Adjudication intends to adopt a rule concerning the following:

OVERVIEW: IC 4-21.5-7-6(b)(3) specifies that the environmental law judges of the OEA may be removed for cause for violations of applicable provisions of the Code of Judicial Conduct (the "Code"). As this also applies to the administrative law judges in the Natural Resources Commission, the OEA and NRC are preparing parallel rules to implement this provision. The intention of the OEA and NRC in drafting the administrative rule is to specifically identify those parts of the Code that are applicable. Written comments may be submitted to the Office of Environmental Adjudication, Attention: Catherine Gibbs, Indiana Government Center-North, 100 North Senate Avenue, Room N1049, Indianapolis, Indiana 46204 or by electronic mail to cgibbs@oea.in.gov. Statutory authority: IC 4-21.5-7-7.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Catherine Gibbs
Office of Environmental Adjudication
Indiana Government Center-North
100 North Senate Avenue, Room N1049
Indianapolis, IN 46204
(317) 232-8527
cgibbs@oea.in.gov

TITLE 318 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

LSA Document #06-125

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

OVERVIEW: Adds 318 IAC concerning the inspection and cleanup of properties contaminated by chemicals used in the illegal manufacture of a controlled substance as required by IC 13-14-1-15. This rulemaking includes a listing of persons qualified to inspect and clean contaminated property, the qualification and certification of persons who inspect and clean contaminated property, and standards and criteria for inspection and remediation of contaminated property. The Indiana Attorney General has determined that IC 13-14-1-15 directs IDEM to adopt this rule using the rulemaking procedures in IC 4-22-2. On August 1, 2005, IDEM initiated action on this subject matter under IC 13-14-9 in LSA Document #05-182. This rulemaking will be based on the previous rule. Previous publications on this subject matter can be found in the Indiana Register at 28 IR 3359 (August 1, 2005) and 29 IR 1396 (January 1, 2006).

Written comments should be addressed to Steve Mojonnier, Office of Land Quality, Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2241, (317) 233-1655. Statutory authority: IC 13-14-1-15, as added by P.L.192-2005.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

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

TITLE 455 DIVISION OF AGING

LSA Document #06-129

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

OVERVIEW: Adds 455 IAC concerning the Division of Aging's adult foster care services program under the Family and Social Services Administration. Included are sections regarding provider requirements, including eligibility, enrollment, certification, training, and care and service standards. The rule provides for consumer eligibility requirements, both medical and financial, as well as provisions regarding an assessment tool and consumer rights. The rule addresses case manager responsibilities. It also includes sections for quality assessment, monitoring and provider compliance. Necessary definitions are also part of the rule. Written comments may be submitted to the Small Business Regulatory Coordinator for the rule. Statutory authority: IC 12-8-8-4; IC 12-9.1-2-3 (as added by P.L.141-2006, SECTION 38).

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Kathryn Tewanger
Program Consultant
Indiana Division of Aging
Family and Social Services Administration
Indiana Government Center-South
402 W. Washington Street, Room W454
Indianapolis, IN 46204
(317) 232-7148
kathryn.tewanger@fssa.in.gov

TITLE 455 DIVISION OF AGING

LSA Document #06-130

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

Notice of Intent to Adopt a Rule

OVERVIEW: Adds new articles to 455 IAC concerning Division of Aging programs. The first article concerns the nursing home prescreening, adult protective services, residential care assistance program reimbursement, the residential care assistance program, the community and home options to institutional care for the elderly and disabled program, the adult guardianship services program, the Alzheimer's disease and related senile dementia program, the Indiana long term care ombudsman program, and personal services attendant for individuals in need of self-directed in-home care. This article will replace the current administrative code article under a different title concerning the same programs with the same provisions. Another article concerns home and community based services. This article will replace an article being promulgated under a different title concerning the same program with the same provisions. Another article concerns assisted living and Medicaid waiver services. This article will replace the current administrative code article under a different title concerning the same program with the same provisions. Written comments may be submitted to the Small Business Regulatory Coordinator for the rule. Statutory authority: IC 12-8-8-4; IC 12-9.1-2-3 (as added by P.L.141-2006, SECTION 38); IC 12-10-4-6; IC 12-10-6; IC 12-10-7-7; IC 12-10-10-6; IC 12-10-17.1-20; IC 12-10-17.1-21; IC 12-10.5-2-2; P.L.37-2005, SECTION 6.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Kevin Wild
Staff Attorney
Family and Social Services Administration
Indiana Government Center-South
402 W. Washington Street, Room W451
Indianapolis, IN 46204
(317) 233-2582
kevin.wild@fssa.in.gov

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

LSA Document #06-122

Under IC 4-22-2-23, the Board of Firefighting Personnel Standards and Education intends to adopt a rule concerning the following:

OVERVIEW: The proposed rule will amend 655 IAC 1-2.1 for the purpose of updating certain National Fire Protection Association Standards and amending instructor certifications. Public comments are invited and may be directed to the Indiana Department of Homeland Security, Code Services Section, Attn: Mara Snyder, Indiana Government Center-South, 302 West Washington Street, Room E243, Indianapolis, Indiana

46204. Statutory authority: IC 22-12-7-7; IC 22-14-2-7.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Mara J. Snyder
Director, Legal and Code Services
Indiana Department of Homeland Security
302 West Washington Street, Room E243
Indianapolis, IN 46204
(317) 233-5341
msnyder@dhs.in.gov

TITLE 680 BOILER AND PRESSURE VESSEL RULES BOARD

LSA Document #06-124

Under IC 4-22-2-23, the Boiler and Pressure Vessel Rules Board intends to adopt a rule concerning the following:

OVERVIEW: The proposed rule will amend 680 IAC 2-1 for the purpose of adding certain exemptions. Public comments are invited and may be directed to the Indiana Department of Homeland Security, Code Services Section, Attn: Mara Snyder, Indiana Government Center-South, 302 West Washington Street, Room E243, Indianapolis, Indiana 46204. Statutory authority: IC 22-13-2-8.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Mara J. Snyder
Director, Legal and Code Services
Indiana Department of Homeland Security
302 West Washington Street, Room E243
Indianapolis, IN 46204
(317) 233-5341
msnyder@dhs.in.gov

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #06-109

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

OVERVIEW: To create a registration system and set standards for the conduct of medical discount card programs and to implement IC 27-17. Written comments should be addressed to Amy Strati, Chief Counsel, Department of Insurance, 311 W. Washington Street, Indianapolis, IN 46204. Statutory authority: IC 27-17-13-1, as added by P.L.73-2006.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Notice of Intent to Adopt a Rule

Amy Strati
Chief Counsel
Department of Insurance
311 W. Washington Street
Indianapolis, IN 46204
(317) 232-0143
astrati@doi.state.in.us

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #06-110

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

OVERVIEW: To create a registration system and set standards for the conduct of insurance trusts created by independent colleges or universities and/or public school corporations and to implement IC 27-1-39 and IC 21-10-2-1. Written comments should be addressed to Amy Strati, Chief Counsel, Department of Insurance, 311 W. Washington Street, Indianapolis, IN 46204. Statutory authority: IC 21-10-2-1, as added by P.L.191-2006 and amended by P.L.193-2006; IC 27-1-39, as added by P.L.38-2006.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Amy Strati
Chief Counsel
Department of Insurance
311 W. Washington Street
Indianapolis, IN 46204
(317) 232-0143
astrati@doi.state.in.us

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

LSA Document #06-118

Under IC 4-22-2-23, the Board of Registration for Architects and Landscape Architects intends to adopt a rule concerning the following:

OVERVIEW: Amends 804 IAC 1.1-3-1 concerning fees for examination, reexamination, application, issuance, renewal, reinstatement, replacement or duplicate certificates, reciprocity, verification of certification to another state or jurisdiction, proctoring, and fees for the registered architects and registered landscape architects investigative fund. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, Board of Registration for Architects and Landscape Architects, Indiana Government Center-South, 402 West Washington Street, Room

W072, Indianapolis, IN 46204-2700 or via e-mail at pla10@pla.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-1-8-6, as amended by SEA 333, P.L.157-2006; IC 25-4-1-3; IC 25-4-1-16, as amended by HEA 1220, P.L.177-2006; IC 25-4-1-32, as amended by HEA 1220, P.L.177-2006; IC 25-4-2-8, as amended by HEA 1220, P.L.177-2006.

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) 234-3048
ajones@pla.in.gov

TITLE 808 STATE BOXING COMMISSION

LSA Document #06-111

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

OVERVIEW: Amends 808 IAC 2-6-1 concerning licensure fees assessed by the Commission. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, State Boxing Commission, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla11@pla.in.gov. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-9-1-2.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Deborah Widemon
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3050
dwidemon@pla.in.gov

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

LSA Document #06-108

Under IC 4-22-2-23, the State Board of Cosmetology Examiners intends to adopt a rule concerning the following:

OVERVIEW: Repeals 820 IAC 6 concerning continuing education requirements, approved cosmetology educators, continuing education course requirements, and distance learning continuing education based on SEA 333-2006 (P.L.157-2006). Questions or comments concerning the proposed rule may be

directed to: Indiana Professional Licensing Agency, ATTENTION: Board Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204-2700 or by electronic mail at pla12@pla.state.in.us. Statutory authority: IC 25-8-3-22; IC 25-8-3-23; IC 25-8-4-19, as amended by SEA 333-2006, SECTION 38 (P.L.157-2006).

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Tracy Hicks
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3052
thicks@pla.in.gov

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

LSA Document #06-112

Under IC 4-22-2-23, the State Board of Funeral and Cemetery Service intends to adopt a rule concerning the following:

OVERVIEW: Amends 832 IAC 2-1-2 concerning the fees assessed by the board. Repeals 832 IAC 3-3-3 concerning temporary permit exceptions for reciprocal applicants. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, State Board of Funeral and Cemetery Service, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla12@pla.in.gov. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-15-9-8; IC 25-15-9-9.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Tracy Hicks
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3052
thicks@pla.in.gov

TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #06-119

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

OVERVIEW: This rulemaking action is based upon SEA 202, P.L.98-2006. Amends 856 IAC 1-28.1 concerning institutional

pharmacies and pharmacy services and concerning the maintenance, operation, or use of mechanical devices in which legend drugs or narcotic drugs are stored. Adds 856 IAC 1-41 concerning the operation of remote pharmacy locations. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Board Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at mallain@pla.in.gov. Statutory authority: IC 16-42-19-23; IC 25-26-13-4; IC 25-26-13-17.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Marty Allain
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-2020
mallain@pla.in.gov

TITLE 860 INDIANA PLUMBING COMMISSION

LSA Document #06-113

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

OVERVIEW: Amends 860 IAC 1-1-2.1 concerning the fee schedule. Amends 860 IAC 1-1-8 concerning the temporary plumbing contractor license. Amends 860 IAC 1-5-9 concerning compliance with other rules and standards by licensees who do plumbing work. Amends 860 IAC 2-1-6 concerning fees for registration as an apprentice plumber. Amends 860 IAC 2-1-7 and 860 IAC 2-1-8 concerning the approval and renewal of plumbing apprenticeship programs. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Commission Director, Indiana Plumbing Commission, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla10@pla.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-28.5-1-8; IC 25-28.5-1-23; IC 25-28.5-1-38; IC 25-28.5-2-2.1.

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) 234-3048
ajones@pla.in.gov

Notice of Intent to Adopt a Rule

TITLE 862 PRIVATE DETECTIVES LICENSING BOARD

LSA Document #06-114

Under IC 4-22-2-23, the Private Detectives Licensing Board intends to adopt a rule concerning the following:

OVERVIEW: Adds 862 IAC 1-1-11 concerning fees assessed by the board. Adds 862 IAC 1-1-12 concerning license renewal. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, Private Detectives Licensing Board, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla11@pla.in.gov. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-30-1-5.5; IC 25-30-1-17.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Deborah Widemon
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3050
dwidemon@pla.in.gov

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

LSA Document #06-123

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 1.1-3-4, 864 IAC 1.1-8-1, and 864 IAC 1.1-12-1 concerning fees for professional engineers and engineering interns charged and collected by the board for examination, application, issuance, renewal, reinstatement, replacement or duplicate certificates, verification of certification to another state or jurisdiction, proctoring, and fees for the registered professional engineers and registered engineering interns investigative fund. Amends 864 IAC 1.1-9-1 concerning the publication of a roster. 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.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-31-1-7; IC 25-31-1-13; IC 25-31-1-21; IC 25-31-1-26; IC 25-31-1-9 (as

amended by HEA 1220, P.L.177-2006); IC 25-31-1-15 (as amended by HEA 1220, P.L.177-2006); IC 25-31-1-35 (as amended by HEA 1220, P.L.177-2006).

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) 234-3048
ajones@pla.in.gov

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

LSA Document #06-115

Under IC 4-22-2-23, the State Board of Registration for Land Surveyors intends to adopt a rule concerning the following:

OVERVIEW: Amends 865 IAC 1-11-1 concerning fees charged and collected by the board for application, examination, reexamination, registration by comity, renewal, reinstatement of a lapsed license, duplicate certificates, duplicate pocket cards, proctoring, fees for continuing education provider applications for approval and renewal, and fees for the registered land surveyor and registered land surveyor-in-training investigative fund. Amends 865 IAC 1-14 concerning the application and renewal requirements for approval of 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 Land Surveyors, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla10@pla.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-21.5-2-14; IC 25-21.5-7-5; IC 25-21.5-3-4 (as amended by HEA 1220, P.L.177-2006); IC 25-21.5-8-6 (as amended by HEA 1220, P.L.177-2006); and IC 25-21.5-11-4 (as amended by HEA 1220, P.L.177-2006).

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) 234-3048
ajones@pla.in.gov

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

LSA Document #06-116

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

OVERVIEW: Amends 872 IAC 1-1-10 concerning fees for application, issuance, examination, reciprocity, renewal, reinstatement, replacement of duplicate certificates or pocket cards, and transfer of grades. Repeals 872 IAC 1-1-29 concerning fees for duplicate certificates or licenses. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, Indiana Board of Accountancy, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla11@pla.in.gov. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333, P.L.157-2006); IC 25-2.1-2-15.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Deborah Widemon
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3050
dwidemon@pla.in.gov

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #06-93

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: This rule makes changes regarding the practice of appraisers. Amends 876 IAC 3-3-21 to increase the validity of a temporary practice permit from six months to 12 months. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Commission Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at nrhoad@pla.in.gov. Statutory authority: IC 25-34.1-2-5; IC 25-34.1-3-8.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Nicholas Rhoad
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3046
nrhoad@pla.in.gov

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #06-95

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 876 IAC 3 to increase and otherwise revise the educational, examination, and experience requirements for licensure and certification as an appraiser in Indiana, to eliminate the licensed residential appraiser license, and to make other corresponding changes. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Commission Director, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204 or by electronic mail at nrhoad@pla.in.gov. Statutory authority: IC 25-34.1-3-8.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Nicholas Rhoad
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3046
nrhoad@pla.in.gov

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #06-98

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 876 IAC 2-18-1 concerning the fees related to prelicensing and licensure; fees for application, issuance, renewal, reinstatement, replacement or duplicate certificates verification of licensure to another state or jurisdiction, prelicensing course providers, and the real estate fraud and real estate appraisal fraud investigative fund. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Commission Director, Indiana Real Estate Commission, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla9@pla.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333-2006, SECTION 20 (P.L.157-2006)); IC 25-34.1-2-5; IC 25-34.1-2-6; IC 25-34.1-3-3.1; IC 25-34.1-3-9 (as amended by HEA 1220-2006 SECTION 11, (P.L.177-2006)); IC 25-34.1-3-4.1; IC 25-34.1-8-6 (as amended by HEA 1220-2006, SECTION 12 (P.L.177-2006)); IC 25-34.1-8-7.5.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Notice of Intent to Adopt a Rule

Nicholas Rhoad
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3046
nrhoad@pla.in.gov

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #06-120

Under IC 4-22-2-23, the Indiana Real Estate Commission intends to adopt a rule concerning the following:

OVERVIEW: This rule makes changes regarding licensure and certification of real estate appraisers. Amends 876 IAC 3-2-5 concerning reinstatement of expired licenses. Amends 876 IAC 3-2-7 concerning the fee schedule related to the real estate appraiser licensure and certification program, fees for prelicensure real estate schools and courses, fees for continuing education provider approval and renewal, and the real estate fraud and real estate appraisal fraud investigative fund. Amends 876 IAC 3-4-2 and 876 IAC 3-4-4 concerning application and content for prelicensing real estate appraiser course provider approval and renewal as required by IC 25-34.1-8-13 and IC 25-34.1-8-14. Amends 876 IAC 3-5-2 and 876 IAC 3-5-4 concerning application and content for real estate appraiser continuing education course provider approval and renewal. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, Attn.: Board Director, Indiana Real Estate Commission, Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700 or via e-mail at pla9@pla.state.in.us. Statutory authority: IC 25-1-8-2; IC 25-1-8-6 (as amended by SEA 333-2006, SECTION 20 (P.L.157-2006)); IC 25-34.1-3-8; IC 25-34.1-3-9 (as amended by HEA 1220-2006, SECTION 11 (P.L.177-2006)); IC 25-34.1-8-6 (as amended by HEA 1220-2006, SECTION 12 (P.L.177-2006)); IC 25-34.1-8-7.5.

For purposes of IC 4-22-2-28.1, the Small Business Regulatory Coordinator for this rule is:

Nicholas Rhoad
Indiana Professional Licensing Agency
Indiana Government Center-South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
(317) 234-3046
nrhoad@pla.in.gov

**TITLE 25 INDIANA DEPARTMENT OF
ADMINISTRATION**

Proposed Rule
LSA Document #06-54

DIGEST

Adds 25 IAC 7 to establish and implement a “Code Adam” safety protocol for locating lost or missing children in all buildings operated and maintained by the Indiana Department of Administration that are open to the public. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The proposed amendments will not impose requirements or costs on small businesses under IC 4-22-2.1-5.

25 IAC 7

SECTION 1. 25 IAC 7 IS ADDED TO READ AS FOLLOWS:

**ARTICLE 7. INDIANA GOVERNMENT CENTER
CODE ADAM SAFETY PROTOCOL**

Rule 1. Policy Statement

25 IAC 7-1-1 Policy statement

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 1. (a) The policy of the state is to provide a safe environment for children visiting the Indiana government center campus. The department shall act on behalf of the state to actively enforce, monitor, and promote its safety protocol for locating lost or missing children.

(b) This policy applies to all persons in the Indiana government center campus at the time of the “Code Adam” alert notification. (*Indiana Department of Administration; 25 IAC 7-1-1*)

Rule 2. Definitions

25 IAC 7-2-1 Definitions

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 1. The following definitions apply throughout this article:

- (1) “Code Adam” means a system for locating lost or missing children.
- (2) “Department” means the Indiana department of administration.
- (3) “Employee” means anyone employed by the state of Indiana.
- (4) “Indiana government center campus” means the

following:

- (A) The state capitol building.
- (B) The Indiana government center-north.
- (C) The Indiana government center-south.
- (D) The state library.
- (E) The Washington Street garage.
- (F) The Senate Avenue garage.
- (G) The Indiana historical society building and parking lot.
- (H) The land adjacent to these buildings that is owned and controlled by the state.

(*Indiana Department of Administration; 25 IAC 7-2-1*)

Rule 3. Code Adam Procedures

25 IAC 7-3-1 Notification

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 1. Any person may report to the capitol police that a child is missing or lost by calling (317) 232-6400. (*Indiana Department of Administration; 25 IAC 7-3-1*)

25 IAC 7-3-2 Duties of an employee

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 2. (a) Any employee to whom a missing child is reported shall immediately take all steps necessary to put the person reporting the missing child in contact with the capitol police, either in person or by telephone. This may include any of the following:

- (1) Directing the reporting person to the capitol police office.
- (2) Personally escorting the person to the capitol police office.
- (3) Helping the person locate a capitol police officer on the campus.
- (4) Calling the capitol police.

(b) If an employee finds the child after notifying the capitol police, the employee shall advise the capitol police. (*Indiana Department of Administration; 25 IAC 7-3-2*)

25 IAC 7-3-3 Duties of capitol police

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 3. The capitol police must comply with the following procedures when a person reports a missing child:

- (1) Record all information from the person reporting the missing child, including:
 - (A) the name; and
 - (B) all contact information; of the person reporting the missing child.
- (2) Record all identification information relating to the missing child, including the following:
 - (A) Name, including any nicknames.

Proposed Rules

- (B) Gender.
- (C) Race.
- (D) Age.
- (E) Physical description.
- (F) Type and color of clothes.
- (G) The location and time the child was last seen.
- (H) The agency from which the child is missing, including building, floor, and room number.
- (3) Dispatch all available officers to the building in which the child was lost to commence a search.
- (4) Contact facilities management at (317) 232-3156 or (317) 233-4807 and report all identification information presented by the person regarding the missing child.
- (5) Communicate with facilities management throughout the search to share the results of the effort.

(Indiana Department of Administration; 25 IAC 7-3-3)

25 IAC 7-3-4 Duties of facilities management

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 4. Facilities management must comply with the following procedures when the capitol police reports a missing child:

- (1) Record all identification information from the capitol police regarding the missing child.
- (2) Use radios to notify all facilities management staff of the missing child.
- (3) Send a staff member to make an announcement concerning the missing child.
- (4) Notify all receptionists in the appropriate building or buildings.
- (5) Search the building or buildings, beginning with the lowest floor and successively working up.
- (6) Notify the capitol police at (317) 232-6400 when the child is found.

(Indiana Department of Administration; 25 IAC 7-3-4)

25 IAC 7-3-5 Concluding the search for a missing child

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-20.5-6-9
Affected: IC 4-20.5-6-2

Sec. 5. (a) The capitol police and facilities management shall communicate and coordinate with each other throughout the search to share the results of their respective efforts.

(b) After the search concludes, the capitol police and facilities management shall conduct a debriefing to review the results and procedures. *(Indiana Department of Administration; 25 IAC 7-3-5)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 12, 2006 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Public Works Bid Room W467, Indianapolis, Indiana the Indiana Department of Administration

will hold a public hearing on the addition of 25 IAC 7 to establish and implement a "Code Adam" safety protocol for locating lost or missing children in all buildings operated and maintained by the Indiana Department of Administration that are open to the public.

The Department of Administration has authority to adopt these rules under IC 4-13-1-4(16) [Version b] (P.L.11-2005), IC 4-13-1-7, and IC 4-20.5-6-9 [Version b] (P.L.11-2005).

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W479 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Brian Renner
Deputy Commissioner
Indiana Department of Administration

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Proposed Rule LSA Document #05-252

DIGEST

Amends 50 IAC 4.2-4-3 to establish procedures for the valuation of computer application software in conformance with P.L.214-2005 (HEA 1120-2005). *NOTE: Under IC 4-22-2-40, LSA Document #05-252, printed at 29 IR 836, was recalled by the Department of Local Government Finance and resubmitted for publication.* 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 350 small businesses will be directly affected by the valuation of application software governed by this rule. The valuation provided under IC 6-1.1-31-7 and implemented by this rule will be available for businesses that possess and specifically identify application software as part of their Business Personal Property Return.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Department estimates the annual administrative costs that a small businesses may incur under this rule is one hundred dollars (\$100). The administrative cost or associated reporting or record keeping cost to a small business will depend on the specific valuation of application software owned, controlled, or possessed by the small businesses, and/or the employment of a professional appraiser in order to value application software. A small business seeking to value application software to isolate the cost in order to remove that cost from assessable computer equipment would have to file their annual personal property return as already required. The specific cost for a small

business will depend on the amount of application software and the valuation method provided in the rule that is chosen by the taxpayer.

Estimated Total Annual Economic Impact on Small Businesses:

The Department estimates that there will be minimal 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 may be some compliance costs, such as the employment of a professional appraiser, incurred by small businesses in connection with the filing of the required annual personal property return to remove the cost of application software. The costs of the rule are justified by the need of local officials to have this information in order to accurately assess personal property. However, removing the cost of application software from the assessable equipment value will reduce the taxpayer's overall assessment and tax liability. A small business may choose whether to incur the costs to value its application software based on the specific overall tax savings versus the valuation costs. A small business is not directly required to incur any costs under this proposed rule. The proposed rule only provides alternative methods of valuing application software for a small business to use.
- **Supporting Data, Studies, and Analyses:** The Department reviewed the Fiscal Impact Statement for House Enrolled Act 1120-2005 prepared by Legislative Services Agency. The Department has not relied on any other formal studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

A method for the valuation of computer application software is required by P.L.214 - 2005 (HEA 1120-2005), the Department has performed minimal analysis of alternatives to this proposed rule.

- **Explanation of Preliminary Determination:** The adoption of this rule was mandated by P.L.214-2005 (HEA 1120-2005) to identify the fair market value of application software.
- **Supporting Data, Studies, and Analyses:** The Department reviewed the Fiscal Impact Statement for House Enrolled Act 1120-2005 (P.L.214-2005), prepared by Legislative Services Agency. The Department did not rely on any other formal studies in its decision not to employ alternatives to rulemaking.

50 IAC 4.2-4-3

SECTION 1. 50 IAC 4.2-4-3 IS AMENDED TO READ AS FOLLOWS:

50 IAC 4.2-4-3 Fully depreciated, retired, or nominally valued property; computer equipment; report and valuation

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-11

Sec. 3. (a) Depreciable personal property, as defined in ~~50 IAC 4.2-1-1(h)~~; **50 IAC 4.2-1-1(i)**, that has not been retired from use must be reported for personal property assessment purposes whether or not the cost of ~~such the~~ property has been:

- (1) removed from; ~~the taxpayer's books and records; has been~~
- (2) recorded on; ~~the taxpayer's books and records; or has been~~
- (3) recorded at a nominal value on; ~~the taxpayer's books and records.~~

(b) ~~Restoration of depreciable personal property written off:~~ Any fully depreciated personal property that:

- (1) has been written off the taxpayer's books and records; and
- (2) is:
 - (A) on hand at the tax situs; and
 - (B) not permanently retired;
 on the assessment date; must be reported in the return. The cost of ~~such the~~ property must be clearly shown as an adjustment in the space provided on the tax return as provided in section 4 of this rule.

(c) ~~Permanently retired depreciable personal property defined:~~ "Permanently retired depreciable personal property" means depreciable personal property that has been removed from the manufacturing process on the assessment date, or has been removed from services other than manufacturing on the assessment date, and is awaiting disposition, and must be scheduled to be scrapped, removed, or disposed of and will be considered to be permanently retired providing the taxpayer actually scraps or sells such property.

~~Adjustment for permanently retired depreciable personal property:~~ (1) Depreciable personal property that is:

- (A) on hand at the tax situs on the assessment date, included in the cost per books as reported by the taxpayer in their return; and
 - (B) permanently retired on the assessment date as herein defined;
- is subject to an adjustment as herein provided if the taxpayer so elects.

~~Amount of adjustment:~~ (2) The cost per books of permanently retired depreciable property can be taken as an adjustment from book cost of depreciable property on the return provided the cost of ~~such the~~ property is included in the cost per books actually reported on the return.

~~Eligibility:~~ (3) In order to qualify for this adjustment, a taxpayer will need to substantiate that the property was:

- (A) permanently retired; and
- (B) not in use.

(d) ~~Valuation of permanently retired depreciable personal property:~~ Permanently retired depreciable personal property should be valued at its net scrap or net sale value. The valuation of this property:

- (1) should be shown separately on the tax return; and
- (2) will not be subject to the thirty percent (30%) limitation of original cost.

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(e) ~~Valuation of depreciable personal property with a nominal value.~~ Depreciable personal property recorded on the books and records at a nominal or no value must be recorded at its actual acquisition cost determined by reference to the insurable value in the year of acquisition for Indiana property tax assessment purposes. This category of property would include, but not be limited to, bulk purchase or the acquisition of a going business concern.

(f) Valuation of computer equipment. Computers are made up of three (3) elements:

- (1) hardware;
- (2) operational software; and
- (3) application software.

Computers (including hardware and operational software), must be reported at the actual acquisition cost regardless of how this property may be valued on the taxpayers books and records.

(g) Computers are made up of the following elements:

(1) Hardware. Hardware is composed of:

- (A) mechanical;
- (B) magnetic;
- (C) electrical; and
- (D) electronic;

devices and other components ~~which that~~ constitute the physical computer assembly.

(2) Operational software. The operational program:

- (A) controls the hardware; ~~and~~
- (B) actually makes the machine operational; ~~it~~
- (C) is fundamental and necessary to the functioning of the computer hardware itself; ~~and~~
- (D) performs such functions as loading, scheduling, supervision, and data management; ~~it~~
- (E) represents the internalized instruction codes that translate information into a form usable by the equipment; ~~and~~
- (F) controls the basic operations of the central processing unit to perform arithmetic ~~and/or or~~ logical operations, ~~or both~~, automatically by means of programmed instructions; ~~it and~~
- (G) is not normally accessible or modifiable by the user.

(3) Application software. The application program is a written sequence of instructions which details the operations the equipment is to perform in order to achieve a specific objective of the user.

(h) If the value recorded on the books and records reflects charges for customer support services such as educational services, maintenance, or application software that relate to future periods and not to the value of the tangible personal property, ~~such the~~ charges may be deducted as nonassessable intangible personal property (to the extent that a separate charge or value can be identified).

(i) **The true tax value at the time of acquisition of computer application software may be identified using the**

following:

(1) An independent, professional appraisal:

- (A) **must be made in conformance with generally accepted standards for appraisal practice;**
- (B) **shall not be based on a contingent fee arrangement;**
- (C) **shall include consideration of the cost, market, and income approaches; and**
- (D) **shall distinguish the boundary in the equipment between exempt intangible application software and nonexempt tangible operational software.**

The appraiser must have demonstrated competence in the valuation of software.

(2) In lieu of an independent professional appraisal, the taxpayer can evaluate existing assets already listed on its books and records and adjust them accordingly to reflect the software content using the valuation methods described in subdivision (1)(C).

~~(h)~~ (j) The allocation of interest incurred during construction and installation must be made (capitalized) for personal property tax purposes regardless of the fact that Section 263 of the Internal Revenue Code of 1986 is not applicable in certain cases. (*Department of Local Government Finance; 50 IAC 4.2-4-3; filed Dec 7, 1988, 9:35 a.m.; 12 IR 840, eff Mar 1, 1989; reinstated by IC 6-1.1-3-22, eff Jul 1, 2003*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 25, 2006 at 9:30 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room N1058(B), Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on a proposed amendment governing the valuation of computer application software.

There may be some compliance costs, such as the employment of a professional appraiser, incurred by a regulated entity in connection with the filing of the required annual personal property return to remove the cost of application software. The costs of the rule are justified by the need of local officials to have this information in order to accurately assess personal property. However, removing the cost of application software from the assessable value will reduce the taxpayer's overall assessment and tax liability. A regulated entity may choose whether to incur the costs to value its application software based on the specific overall tax savings versus the valuation costs. A regulated entity is not directly required to incur any costs under this proposed rule. The proposed rule only provides alternative methods of valuing application software for a regulated entity to use. The Department reviewed the Fiscal Impact Statement for House Enrolled Act 1120-2005 (P.L.214-2005), prepared by Legislative Services Agency. The Department did not rely on any other formal studies in its decision not to employ alternatives to rulemaking. Copies of the Fiscal Impact Statement for House Enrolled Act 1120-2005 (P.L.214-2005) are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B).

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B) and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Amber Merlau St. Amour
Staff Attorney
Department of Local Government Finance

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule
LSA Document #06-45

DIGEST

Amends 170 IAC 7-6-1 through 170 IAC 7-6-3 and adds 170 IAC 7-6-4 through 170 IAC 7-6-6 regarding disconnection of a local exchange carrier by another local exchange carrier, notice of bankruptcy, relinquishment of service, and revocation of certificate of territorial authority. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

No requirements or costs are imposed on a regulated entity that are not expressly required by Indiana statute or federal law. Indiana Code Section 8-1-2-4 requires every public utility to furnish reasonably adequate service and facilities. Based on Indiana Utility Regulatory Commission records, it is estimated that no more than sixty-two (62) small businesses in the telecommunications industry would be affected by this rule. The information to be provided under this rule is readily accessible to the affected public utilities and the cost of providing such information is minimal. In addition, over the past three (3) years, over \$1.3 million was owed to local exchange carriers by other local exchange carriers that were subject to disconnection. By setting out defined procedures with more reasonable time deadlines, this rule would save the disconnecting local exchange carriers valuable time and money, thereby reducing whatever minimal fiscal impact may result from this rule.

170 IAC 7-6-1	170 IAC 7-6-4
170 IAC 7-6-2	170 IAC 7-6-5
170 IAC 7-6-3	170 IAC 7-6-6

SECTION 1. 170 IAC 7-6-1 IS AMENDED TO READ AS FOLLOWS:

Rule 6. Disconnection of a Local Exchange Carrier by Another Local Exchange Carrier; Notice of Bankruptcy; Relinquishment of Service; Revocation of Certificate of Territorial Authority

170 IAC 7-6-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-2-34.5
Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 1. (a) This rule is intended to establish a procedure for providing notice to customers when ~~an alternative local exchange carrier~~: **a LEC:**

- (1) is disconnected from ~~an incumbent local exchange carrier~~: **another LEC;**
- (2) **files for bankruptcy; or**
- (3) **relinquishes all or part of its services or operating authority;**

with special provisions for a LEC that is a provider of last resort.

(b) This rule supersedes any written contractual provisions that may exist pertaining to disconnection of service between ~~local exchange carriers~~: **LECs.** (*Indiana Utility Regulatory Commission; 170 IAC 7-6-1; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144*)

SECTION 2. 170 IAC 7-6-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-6-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-32.4
Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 2. The following definitions apply throughout this rule:

(1) ~~“Alternative local exchange carrier”~~ or ~~“ALEC”~~ **“Competitive local exchange carrier”** or **“CLEC”** means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange that does not qualify as an ~~incumbent local exchange carrier~~ **ILEC** under subdivision (2).

(2) **“Incumbent local exchange carrier”** or **“ILEC”** means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:

(A) on February 8, 1996:

- (i) provided telephone exchange service in ~~such the~~ **the** area; and
- (ii) was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or

(B) is a person or entity that on or after February 8, 1996, became a successor or assign of a member described in clause (A).

(3) **“Local exchange carrier”** or **“LEC”** means a provider of switched telecommunications service that carries calls originating and terminating within the local calling area.

(4) **“Provider of last resort”** means a provider that:

- (A) **holds a certificate of territorial authority issued by the commission; and**
- (B) **is required to offer local exchange service throughout a defined geographic area.**

(*Indiana Utility Regulatory Commission; 170 IAC 7-6-2; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144*)

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SECTION 3. 170 IAC 7-6-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-6-3 Notice to the commission; notice to customers

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) When ~~an HEC~~ a LEC serves a notice of disconnection upon ~~a ALEC~~, another LEC, the ~~HEC~~ disconnecting LEC shall serve simultaneous notice of the disconnection upon the commission. The ~~HEC~~ shall serve notice of disconnection to the ~~ALEC~~ and following:

(1) The telecommunications division director of the commission via personal service or certified mail, return receipt requested.

(2) The LEC that is subject to disconnection via certified mail, return receipt requested.

(b) Five (5) business days after the notice from the ~~HEC~~ disconnecting LEC is mailed, to the ~~ALEC~~, the ~~ALEC~~ LEC that is subject to disconnection must provide the commission, in writing, with one (1) of the following:

(1) Proof of payment.

(2) The ~~ALEC's~~ LEC's customer list, including each customer's:

(A) name;

(B) address; and

(C) telephone number.

Absent a showing to the contrary, the ~~ALEC's~~ LEC's customer list shall be deemed confidential on a preliminary basis by the commission.

(3) Reasonable grounds for nonpayment to the ~~HEC~~ disconnecting LEC.

(c) If the ~~ALEC~~ LEC subject to disconnection fails to provide the commission with proof of payment under subsection (b)(1) or reasonable grounds for nonpayment to the ~~HEC~~ under subsection (b)(3), within ten (10) calendar days after the disconnection notice is sent, from the ~~HEC~~, the ~~ALEC~~ LEC subject to disconnection must mail notice of disconnection to its customers. The ~~ALEC~~ must and provide proof of mailing the customer disconnection notice to the commission. The ~~ALEC's~~ LEC's notice of disconnection to its customers must include the following:

(1) A statement that the customer must contact the telephone service provider of his or her choice for new service.

(2) The last date of guaranteed service by the ~~ALEC~~ LEC.

(3) The address and toll-free number of the:

(A) commission; and the

(B) utility consumer counselor.

(4) A statement notifying the customer that if the customer fails to choose a new local exchange carrier LEC on or before the date of disconnection from the ~~ALEC~~ LEC, the customer will be without telephone service.

(d) If the ~~ALEC~~ LEC subject to disconnection fails to notify its customers or show proof of mailing disconnection notices as required by subsection (c), the commission may do the following:

(1) Initiate an investigation or other procedure in accordance with:

(A) IC 8-1-2-58;

(B) IC 8-1-2-69; or

(C) other related statutes.

(2) Request the disconnecting LEC to provide any customer identifying information it may have, which shall be treated as confidential on a preliminary basis by the commission.

(e) ~~An HEC~~ A LEC may not disconnect the ~~ALEC~~ another LEC until thirty (30) business calendar days after the ~~HEC~~ sends the disconnection notice to the ~~ALEC~~. is sent under subsection (a).

(f) This rule shall not prohibit ~~an ALEC~~ a LEC from rescinding its disconnection notice to customers after complying with subsection (c) if the ~~ALEC~~ LEC makes payment to the ~~HEC~~ prior to disconnecting LEC before its disconnection. The LEC shall notify the commission immediately if it has rescinded its customer disconnection notice.

(g) This rule shall not apply where the disconnecting LEC is without notice of either of the following:

(1) The provider being disconnected is reselling the retail services of the disconnecting LEC to third parties.

(2) The provider being disconnected is using the retail facilities of the disconnecting LEC to serve customers.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-3; filed Nov 29, 1999, 1:57 p.m.; 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.; 29 IR 144)

SECTION 4. 170 IAC 7-6-4 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-6-4 Notice of bankruptcy

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-32.4

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 4. (a) If a LEC, the utility holding company of a LEC, or the corporate parent of a LEC is the subject of a bankruptcy proceeding, the LEC shall provide the commission with written notice and a complete copy of the bankruptcy petition within sixty (60) calendar days of the date the bankruptcy petition is filed.

(b) Notice to the commission shall include at least the following:

(1) The number of customers the utility has in Indiana, which shall be deemed confidential on a preliminary basis by the commission.

(2) The types of services provided.

(3) The name, mailing address, e-mail address, and telephone

number of any of the following:

- (A) A bankruptcy trustee.
- (B) An attorney representing the utility in bankruptcy.
- (C) A designated contact person at any company proposing to acquire the assets of the utility.

(c) If the LEC seeking bankruptcy protection is a provider of last resort, the LEC must provide the commission and each affected customer and wholesale provider written notice a minimum of sixty (60) calendar days before filing a bankruptcy petition with a court. The written notice to the commission must be provided on the form prescribed by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 7-6-4*)

SECTION 5. 170 IAC 7-6-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-6-5 Relinquishment of service by a LEC

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2.6; IC 8-1-32.4
Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 5. A LEC that intends to cease providing services in all or part of its operating area or relinquish some or all of its Indiana certificate of territorial authority shall provide the following:

- (1) Written notice to the commission, the utility consumer counselor, and any LEC from which it purchases services for resale, unbundled network elements, or with whose network the LEC that is ceasing operations or relinquishing authority is interconnected, sent at least sixty (60) calendar days before the date of cessation of operations or relinquishment. The notice to the commission shall include a customer list, which shall be deemed confidential on a preliminary basis by the commission. If the LEC that is ceasing operations or relinquishing authority is a provider of last resort, the notice to the commission must be provided on the form prescribed by the commission.
- (2) At least sixty (60) calendar days before the date of cessation of operations or relinquishment, a notice to affected customers, which must include the following:
 - (A) A statement that the customer must contact the telephone service provider of his or her choice for new service.
 - (B) The last date of guaranteed service by the LEC.
 - (C) The address and toll-free number of the:
 - (i) commission; and
 - (ii) utility consumer counselor.
 - (D) A statement notifying the customer that if the customer fails to choose a new LEC on or before the date of cessation of operations or relinquishment, the customer will be without telephone service.
 - (E) At least one (1) toll-free customer service telephone number maintained by the LEC that is ceasing operations or relinquishing authority to:
 - (i) facilitate the continuation of service; and
 - (ii) transition of customers to other providers;

if the LEC that is ceasing operations or relinquishing authority is a provider of last resort.

(*Indiana Utility Regulatory Commission; 170 IAC 7-6-5*)

SECTION 6. 170 IAC 7-6-6 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-6-6 Revocation of certificate of territorial authority

Authority: IC 8-1-1-3; IC 8-1-2-34.5
Affected: IC 8-1-2-88; IC 8-1-2-113; IC 8-1-6

Sec. 6. (a) A LEC has an affirmative duty to provide the following:

- (1) The commission with current contact information.
- (2) Notice as required under this rule.

(b) The commission may revoke the certificate of territorial authority of a LEC for failure to follow regulatory requirements, including, but not limited to, the following:

- (1) Failure to do the following:
 - (A) Provide notice as required under this rule.
 - (B) Pay the public utility fee assessed under IC 8-1-6.
 - (C) Respond to the following:
 - (i) A commission request for information, including surveys and data requests.
 - (ii) Inquiries by the commission regarding relinquishment of service, cessation of operation, or service disconnection.
- (2) Administrative dissolution of the LEC's corporate authority by the Indiana secretary of state.
- (3) Dissolution in bankruptcy.
- (4) Cessation of operations or relinquishment of services in Indiana.

(c) Revocation of a LEC's certificate of territorial authority under this section may be initiated by any of the following:

- (1) The commission on its own motion.
- (2) Upon the request of either of the following:
 - (A) The office of the utility consumer counselor.
 - (B) Any other carrier providing services to the LEC.
- (3) The voluntary application of the LEC.

(d) The revocation of the LEC's certificate of territorial authority, in whole or in part, shall be made by order of the commission notifying the LEC of the commission's intent to revoke the LEC's certificate of territorial authority within ten (10) calendar days. In the absence of a request for a hearing under IC 8-1-2-88(d) by the LEC or any other interested party, the revocation shall be effective after ten (10) calendar days. The LEC may cure any of the items listed in subsection (b), which, at the commission's discretion, may result in the termination of the revocation proceeding.

(e) In addition to revoking the LEC's certificate of territorial authority, the commission may issue any addi-

tional orders it deems necessary to protect the public interest under IC 8-1-2-113. (Indiana Utility Regulatory Commission; 170 IAC 7-6-6)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 25, 2006 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 32, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on proposed amendments and new rules on disconnection of a local exchange carrier by another local exchange carrier, notice of bankruptcy, relinquishment of service, and revocation of certificate of territorial authority.

No requirements or costs are imposed on a regulated entity that are not expressly required by Indiana statute or federal law. Indiana Code Section 8-1-2-4 requires every public utility to furnish reasonably adequate service and facilities. Based on Indiana Utility Regulatory Commission records, it is estimated that no more than sixty-two (62) small businesses in the telecommunications industry would be affected by this rule. The information to be provided under this rule is readily accessible to the affected public utilities and the cost of providing such information is minimal. In addition, over the past three (3) years, over \$1.3 million was owed to local exchange carriers by other local exchange carriers that were subject to disconnection. By setting out defined procedures with more reasonable time deadlines, this rule would save the disconnecting local exchange carriers valuable time and money, thereby reducing whatever minimal fiscal impact may result from this rule.

Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E306 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David Lott Hardy
Commission Chairman
Indiana Utility Regulatory Commission

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #06-67

DIGEST

Amends 312 IAC 25-6-143 to allow commercial forest resources on reclaimed prime farmland provided soil productivity is demonstrated according to soil productivity standards. Amends 312 IAC 25-4-102 to require an applicant that proposes to establish commercial forest resources on prime farmland to submit for approval a commercial forest planting plan, commercial forest management plan, and documentation of landowner consent. Effective upon the Department of Natural Resources

receiving notice of approval from the Office of Surface Mining and Reclamation of the U.S. Department of the Interior and notice of that approval being published in the Indiana Register.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

These revisions were initiated at the request of the coal industry in consultation with the Indiana Coal Council. The new rule creates an option, which is not presently available, for an operator to establish commercial forest resources on prime farmland. Costs associated with the option are substantially the same as present requirements for the establishment and management of other crops established on prime farmland. The Department of Natural Resources estimates that no new cost or requirement will be imposed on small businesses by these proposed amendments. The Natural Resources Commission has the authority to adopt rules under IC 14-10-2-4.

312 IAC 25-4-102

312 IAC 25-6-143

SECTION 1. 312 IAC 25-4-102 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-4-102 Special categories of mining; prime farmland

Authority: IC 14-10-2-4; IC 14-34-2-1

Affected: IC 4-21.5; IC 14-34; 30 CFR 785.17

Sec. 102. (a) In an initial permit application under this article for an existing surface coal mining operation that held a valid permit on August 3, 1977, with continuous permits held since that date, the applicant shall set forth the geographical area that is encompassed by the operation. The permit applied for, however, need only cover the area to be affected during the period of the permit for which the application is made. The director shall determine the geographical areas that are exempt from the prime farmland provisions of IC 14-34 and this article. In making the determination, the director shall consider all relevant factors bearing upon the extent of the geographical area upon which the applicant intended to conduct surface coal mining operations as of August 3, 1977, including the following:

(1) A map showing the geographical location of:

- (A) the area for which the determination is requested; and
- (B) the area previously affected by surface coal mining and reclamation operations.

(2) Information concerning the contractual coal sales commitments that existed before August 4, 1977, for the mining operation.

(3) Maps and other documents that identify the location and extent of the applicant's surface and mineral rights control for all properties within the area upon which the determination is requested and whether the applicant:

(A) acquired the rights:

(i) before August 4, 1977; or

(~~B~~) ~~acquired the rights~~ (ii) after August 3, 1977; or

(~~C~~) (B) does not control the rights currently.

(4) Mining plans, maps, or other documents prepared before August 4, 1977, that identify the area intended to be mined by the existing operations.

(5) Maps or other documents identifying the extent of coal exploration activity performed by the applicant in the area before August 4, 1977.

(6) Copies of any other permits issued to the applicant by governmental agencies before August 4, 1977, with respect to those operations upon those lands for which this determination is sought.

(7) The legal and financial commitments made by the applicant in connection with the mining operation as of August 3, 1977, with respect to those lands for which this determination is requested.

(8) Any other relevant information.

(b) In making the determination required under subsection (a), no one (1) or group of factors is controlling. The determination shall be made by the director based upon all relevant factors of the particular surface coal mining operation for which the permit and determination is sought. The determination applies:

(1) to all subsequent and continuous permits for the existing surface coal mining operation; or

(2) until the director determines the operations have permanently ceased.

(c) The requirements of subsection (d) apply to a permittee who conducts or intends to conduct surface coal mining and reclamation operations on prime farmland historically used for cropland. Subsection (d) does not apply to an existing surface coal mining operation that held a valid permit on August 3, 1977, with continuous permits held since that date.

(d) If land within the proposed permit area is identified as prime farmland under section 39 or 80 of this rule, the applicant shall submit a plan for the mining and restoration of the land. Each plan must include the following:

(1) A soil survey of the permit area under the standards of the National Cooperative Soil Survey and under the procedures set forth in United States Department of Agriculture Handbooks 436 (Soil Taxonomy, 1975) and 18 (Soil Survey Manual, 1951). The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the United States Natural Resources Conservation Service, including, but not limited to:

(A) soil horizon depths;

(B) pH; and

(C) the range of soil densities;

for each prime farmland soil unit within the permit area. Other representative soil-profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the state conservationist, United States Natural Resources Conservation Service. The director may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator

has the technical capability to restore the prime farmland within the permit area to the soil reconstruction standards of 312 IAC 25-6-139 through 312 IAC 25-6-143.

(2) The proposed method and type of equipment to be used for removal, storage, and replacement of soil under 312 IAC 25-6-139 through 312 IAC 25-6-143.

(3) The location of areas to be used for the separate stockpiling of the soil and a plan for soil stabilization before redistribution.

(4) Applicable:

(A) agricultural school studies;

(B) scientific data from comparable areas; or

(C) similar documentation;

that supports the use of suitable material other than the A horizon, B horizon, or C horizon to obtain on the restored area equivalent or higher levels of yield as nonmined prime farmlands in the surrounding area under equivalent levels of management.

(5) A plan describing the conservation practices to be used to adequately control erosion and sedimentation and restoration of an adequate soil moisture regime during the period from completion of regrading until release of the performance bond under 312 IAC 25-5. Proper adjustments must be proposed so that final graded land is not exposed to erosion during seasons when vegetation or conservation practices cannot be established due to weather conditions.

(6) A demonstration based on:

(A) soil surveys;

(B) scientific data; or

(C) standard agronomic practices;

that the applicant using the proposed method of reclamation has the capability, within a reasonable time, to achieve equivalent or higher levels of yield after mining as existed before mining.

(7) Current estimated level of yields under high levels of management of prime farmland.

(8) If the applicant proposes to establish commercial forest resources on the prime farmland, the plan must also include the following:

(A) A commercial forest planting plan that shall include the following:

(i) A stocking rate.

(ii) A plan for replanting as needed.

(B) A commercial forest management plan.

(C) Documentation of landowner consent.

(e) Before any permit is issued for areas that include prime farmland, the director shall consult with the state conservationist of the Natural Resources Conservation Service. The state conservationist shall do the following:

(1) Provide for the review of and comment on the proposed method of soil reconstruction in the plan submitted under subsection (d).

(2) Suggest revisions resulting in more complete and adequate reconstruction if the state conservationist considers the soil

reconstruction methods to be inadequate. The state conservationist has fifteen (15) days after consultation with the director to respond.

(3) Provide to the director a list of prime farmland soils **and** their:

- (A) location;
- (B) physical and chemical characteristics;
- (C) crop yields; and
- (D) associated data necessary to support adequate prime farmland descriptions.

(4) Assist the director in determining the adequacy of all soil surveys required in subsection (d)(1) through (d)(3).

(f) A permit for the mining and reclamation of prime farmland may be granted by the director if the director finds, in writing, upon the basis of a complete application, the following:

(1) The approved proposed postmining land use of prime farmland will be cropland.

(2) The permit incorporates as specific conditions the contents of the plan submitted under subsection (d), after consideration of any revisions to that plan suggested by the state conservationist under subsection (e).

(3) The applicant has the technological capability to restore the prime farmland, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management.

(4) The proposed operations will be conducted in compliance with the requirements of 312 IAC 25-6-139 through 312 IAC 25-6-143 and other environmental protection performance and reclamation standards for mining and reclamation of prime farmland of the regulatory program.

(5) The aggregate total prime farmland acreage shall not be decreased from that which existed ~~prior to~~ **before** mining. Waterbodies, if any, to be constructed during mining and reclamation must be located within the postreclamation nonprime farmland portions of the permit area. The:

(A) creation of any waterbody must be approved by the director; and ~~the~~

(B) consent of all affected property owners within the permit area shall be obtained.

(Natural Resources Commission; 312 IAC 25-4-102; filed Jun 21, 2001, 2:53 p.m.: 24 IR 3481, eff Dec 1, 2001; filed Apr 1, 2004, 3:00 p.m.: 27 IR 2449, eff Jan 1, 2005; errata filed Sep 8, 2004, 2:42 p.m.: 28 IR 214)

SECTION 2. 312 IAC 25-6-143 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-6-143 Prime farmland; special performance standards; revegetation and restoration of soil productivity

Authority: IC 14-10-2-4; IC 14-34-2-1

Affected: IC 14-34

Sec. 143. (a) Following prime farmland soil replacement, the soil surface shall be stabilized with a vegetative cover or other

means that effectively controls soil loss by wind and water erosion.

(b) Prime farmland soil productivity shall be restored under the following provisions:

(1) Measurement of soil productivity shall be initiated within ten (10) years after completion of the soil replacement.

(2) Soil productivity on the mined and reclaimed prime farmland area shall be measured using one (1) of the following methods:

(A) Growing crops on a representative sample of the area using the test plot standards of section 60 of this rule.

(B) Growing crops on all of the area.

(3) The:

(A) sampling techniques contained in section 60 of this rule; and ~~the~~

(B) statistical methodology contained in section 61 of this rule;

shall be used to measure soil productivity.

(4) The period for measuring crop production (yield) shall be at least three (3) crop years before the release of the operator's performance bond.

(5) The level of management applied during the measurement period shall be the same as the level of management used for nonmined prime farmland in the surrounding area.

(6) Restoration of soil productivity is achieved when the yield during the measurement period equals or exceeds one hundred percent (100%) of the success standard found at section 59(c) of this rule for any three (3) years of the responsibility period. One hundred percent (100%) of the success standard must be met with a ninety percent (90%) statistical confidence level, in other words, a one (1) sided test with a 0.10 alpha error. Where reference crops are used for demonstrating productivity, the yield comparisons shall be established for the same period for nonmined soils of the same or similar texture or slope phase of the soil series in the surrounding area under equivalent management practices.

(7) The reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are the dominant crops grown on prime farmland in the area, the row crops requiring the greatest rooting depth shall be chosen as one (1) of the reference crops.

(8) The reference crop yield may be adjusted for factors including:

(A) disease;

(B) weather;

(C) tillage management;

(D) pests; and

(E) seed or plant selection;

specified in section 59(c) of this rule.

(9) In determining the period of responsibility under 312 IAC 25-5-7, the director may approve selective husbandry practices (except for augmented seeding, fertilization, or irrigation) without extending the period of responsibility for

revegetation success and bond liability if:

(A) the selective husbandry practices can be expected to continue as part of the postmining land use; or

(B) discontinuance of the practices after the liability period will not reduce the probability of permanent revegetation success.

(10) Selective husbandry practices that may be approved under subdivision (9) are normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area and may include the following:

(A) Disease, pest, and vermin control.

(B) Repair of rills and gullies.

(C) Pruning, reseeding, or transplanting specifically necessitated by these practices.

(11) The selection of reference areas shall be guided by section 59 of this rule. The selection of an approved reference area must be accomplished with concurrence by the Soil Conservation Service of the United States Department of Agriculture.

(c) Commercial forest resources may be established on reclaimed prime farmland provided that productivity is demonstrated by subsection (b) and as follows:

(1) The director has approved a forest planting plan and forest management plan in consultation with the division of forestry.

(2) Landowner consent has been obtained.

(3) Forest compatible, permanent ground cover sufficient to control erosion is established and all erosion areas must be repaired or otherwise stabilized.

(4) The required soil replacement depth is verified and approved before trees are planted.

(5) Soil productivity shall be demonstrated under subsection (b).

(Natural Resources Commission; 312 IAC 25-6-143; filed Jun 21, 2001, 2:53 p.m.; 24 IR 3586, eff Dec 1, 2001)

SECTION 3. SECTIONS 1 and 2 of this document take effect upon the Department of Natural Resources receiving notice of approval from the Office of Surface Mining and Reclamation of the U.S. Department of the Interior and notice of that approval being published in the Indiana Register.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 2, 2006 at 11:00 a.m., at the Department of Natural Resources, Division of Reclamation Field Office, located on State Road 48 approximately one mile west of Jasonville city limits, Jasonville, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to 312 IAC 25-6-143 to allow commercial forest resources on reclaimed prime farmland provided soil productivity is demonstrated according to soil productivity standards and 312 IAC 25-4-102 to require an applicant that proposes to establish commercial forest re-

sources on prime farmland to submit for approval a commercial forest planting plan, commercial forest management plan, and documentation of landowner consent.

The Department of Natural Resources estimates that no requirements or costs will be imposed upon a regulated entity by these proposed amendments.

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.

Rick Cockrum

Chairman

Natural Resources Commission

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #06-68

DIGEST

Amends 312 IAC 25-1-57, 312 IAC 25-4-87, 312 IAC 25-5-16, 312 IAC 25-6-20, 312 IAC 25-6-66, and 312 IAC 25-7-1, which assist in the administration of IC 14-34 (sometimes referred to as the "Indiana Surface Control and Reclamation Act" or "Indiana SMCRA") that governs surface coal mining and reclamation activities, to make numerous changes to help assure conformance with state and federal law, to qualify approved reclamation projects financed with less than 50 percent federal funding as "government-financed construction", to remove requirements for submittal of an application for water impoundments of less than 100-acre feet and exempt impoundments that are entirely contained within an incised structure from examination requirements, to add provisions allowing the director of the Department of Natural Resources to initiate an application for bond release and clarify the procedure for conducting informal conferences regarding a proposed bond release, to clarify requirements for construction or reconstruction of primary roads, and to clarify the definition of "abandoned site" as used in 312 IAC 25-7-1. Effective upon the Department of Natural Resources receiving notice of approval from the Office of Surface Mining and Reclamation of the U.S. Department of the Interior and notice of that approval being published in the Indiana Register.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

This rule package contains a number of corrections necessary to maintaining consistency with the federal Surface Mining Control and Reclamation Act as required by 30 CFR 732. This package contains amendments required by the Office of Surface Mining (OSM) as well as two (2) revisions proposed by the department.

OSM, after conducting an informal review, indicates that the

Proposed Rules

amendments meet federal standards. These amendments have been proposed following consultation with the Regulatory Affairs Committee of the Indiana Coal Council.

The Natural Resources Commission has the authority to adopt rules under IC 14-10-2-4. The new proposed rules are intended to modify its regulatory program to remain consistent with any mandatory changes to the federal Surface Mining Control and Reclamation Act. The Department of Natural Resources (DNR) estimates that no costs or requirements will be imposed on small businesses by these proposed amendments.

312 IAC 25-1-57	312 IAC 25-6-20
312 IAC 25-4-87	312 IAC 25-6-66
312 IAC 25-5-16	312 IAC 25-7-1

SECTION 1. 312 IAC 25-1-57 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-1-57 “Government-financed construction” defined

Authority: IC 14-10-2-4; IC 14-34-2-1
Affected: IC 14-34

Sec. 57. “Government-financed construction” means construction funded at fifty percent (50%) or more by funds appropriated from a government financing agency’s budget or obtained from general revenue bonds. **Government financing at less than fifty percent (50%) may qualify if the term does not mean construction is undertaken as an approved reclamation project under Title IV of the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 30 U.S.C. 1328) and IC 14-34-19. Construction funded through:**

- (1) a government financing agency guarantee;
- (2) insurance;
- (3) a loan;
- (4) funds obtained through industrial revenue bonds or their equivalent; or
- (5) an in-kind payment;

does not qualify as government-financed construction. (*Natural Resources Commission; 312 IAC 25-1-57; filed Jun 21, 2001, 2:53 p.m.; 24 IR 3410, eff Dec 1, 2001*)

SECTION 2. 312 IAC 25-4-87 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-4-87 Underground mining permit applications; reclamation plan for siltation structures, impoundments, dams, embankments, and refuse piles

Authority: IC 14-10-2-4; IC 14-34-2-1
Affected: IC 14-34

Sec. 87. (a) Each application shall include a general plan and a detailed design plan for each proposed siltation structure, water impoundment, and coal processing waste dam, embankment, or refuse pile within the proposed permit area. The

information required shall be provided as follows:

(1) Each general plan shall be as follows:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer or by a professional geologist either of whom shall be experienced in the design and construction of impoundments.

(B) Contain **the following:**

(i) A description, map, and cross section of the structure and its location.

~~(C) Contain~~ (ii) Preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure.

~~(D) Contain~~ (iii) A survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred.

~~(E) Contain~~ (iv) A certification statement that includes a schedule setting forth the dates when any detailed design plans for structures that are not submitted with the general plan will be submitted to the director. The director shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

(2) Each detailed design plan for a structure shall be as follows:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields, such as **the following:**

(i) Geology.

(ii) Land surveying. **and**

(iii) Landscape architecture.

(B) Include any geotechnical investigation, design, and construction requirements for the structure.

(C) Describe **the following:**

(i) The operation and maintenance requirements for each structure.

~~(D) Describe~~ (ii) The timetable and plans to remove each structure if appropriate.

~~(E) (D)~~ Identify those structures that meet or exceed the size and other criteria of 30 CFR 77.216(a) and include a copy of the plans for design and construction approved by the Mine Safety and Health Administration for those identified structures.

(b) Siltation structures, whether temporary or permanent, shall be designed in compliance with the requirements of 312 IAC 25-6-81. Any siltation structure or earthen structure that will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 312 IAC 25-6-84.

(c) Permanent and temporary impoundments shall be designed to comply with the requirements of **the following:**

(1) 312 IAC 25-6-84.

(2) 30 CFR 77.216-1. **and**

(3) 30 CFR 77.216-2.

(d) Refuse piles shall be designed to comply with 312 IAC 25-6-98 through 312 IAC 25-6-102.

(e) Coal processing waste dams and embankments shall be designed to comply with the requirements of 312 IAC 25-6-98 and 312 IAC 25-6-106 through 312 IAC 25-6-108. Each plan shall also comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216-1 and 30 CFR 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area to determine the structural competence of the foundation that will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist according to the following:

(1) The number, location, and depth of borings and test pits shall be determined using current, prudent engineering practice for the **following**:

- (A) Size of the dam or embankment.
- (B) Quantity of material to be impounded. ~~and~~
- (C) Subsurface conditions.

(2) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions that may affect the particular dam, embankment, or reservoir site shall be considered.

(3) All springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(4) Consideration shall be given to the possibility of:

- (A) mudflows;
- (B) rock-debris falls; or
- (C) other landslides;

into the dam, embankment, or impounded material.

(f) If the structure meets the Class B or C criteria for dams in TR-60 or meets the size and other criteria of 30 CFR 77.216(a), each plan under subsections (b), (c), and (e) shall include the following:

(1) A stability analysis of the structure that shall include, but not be limited to, **the following**:

- (A) Strength parameters.
- (B) Pore pressures.
- (C) Long term seepage conditions.

(2) A description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

(g) If the proposed siltation structure, water impoundment, coal processing waste dam, or embankment is permanent and the:

- (1) structure is twenty (20) feet or higher;
- (2) drainage area above the structure is one (1) square mile or larger; or
- (3) volume of water impounded is more than one hundred (100) acre-feet;

an application shall be submitted to the division of water, department of natural resources, and prior approval shall be obtained from the director before construction of the structure begins. ~~If necessary to protect the health or safety of persons or property or the environment, even though the volume of water impounded is less than one hundred (100) acre-feet, the director may require an application to be made.~~ (Natural Resources Commission; 312 IAC 25-4-87; filed Jun 21, 2001, 2:53 p.m.: 24 IR 3473, eff Dec 1, 2001; filed Apr 1, 2004, 3:00 p.m.: 27 IR 2448, eff Jan 1, 2005)

SECTION 3. 312 IAC 25-5-16 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-5-16 Performance bond release; requirements

Authority: IC 14-10-2-4; IC 14-34-2-1

Affected: IC 4-21.5-3; IC 14-34-10-2; 30 CFR 800.40

Sec. 16. (a) A permittee may file a request with the department for the release of all or part of a performance bond or deposit. Within thirty (30) days after an application for bond or deposit release is filed with the department, the operator shall submit a copy of an advertisement placed at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement must be part of any bond release application and shall include the following:

- (1) The precise location of the land affected.
- (2) The number of acres.
- (3) The permittee's name.
- (4) The permit number and the date approved.
- (5) The amount of the bond filed and the portion sought to be released.
- (6) The type and appropriate dates of reclamation work performed.
- (7) A description of the results achieved relative to the operator's approved reclamation plan.

The advertisement shall also state that any person with a valid legal interest that might be adversely affected by release of the bond, or the responsible officer or head of any federal, Indiana, or local governmental agency that has jurisdiction by law or is authorized to develop and enforce environmental standards with respect to the operations, may file written comments or objections or may request a public hearing ~~or informal conference~~ concerning the proposed release from bond with the department within thirty (30) days after the last publication of notice. The notice shall contain the address of the division for submission of comment and the calendar date for the close of the comment period. In addition, as part of any bond release application, the applicant shall submit copies of letters that the applicant has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the surface coal mining and reclamation activities took place, providing notification of the request to seek release from the bond.

(b) The director may initiate an application for the release of a bond. If a bond release application is initiated by the director, the department shall perform the notification and certification requirements otherwise imposed on the permittee under this section.

~~(b)~~ **(c)** The permittee shall include in the application for bond release a notarized statement that certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of this article and the approved reclamation plan. The certification shall be submitted for each application or phase of bond release.

~~(c)~~ **(d)** Within thirty (30) days after receipt of the notification and request, or as soon afterwards as weather conditions permit, the department shall conduct an inspection and evaluation of the reclamation work. The evaluation shall consider, among other things, **the following:**

- (1) The degree of difficulty to complete any remaining reclamation.
- (2) Whether pollution of surface and subsurface water is occurring.
- (3) The probability pollution will continue. ~~and~~
- (4) The estimated cost of abating the pollution.

The surface owner, agent, or lessee shall be given notice of the inspection by the director and may participate with the department in the inspection. The department shall notify, in writing, the permittee and any other interested person of a decision whether to release all or part of the performance bond or deposit within sixty (60) days after receipt of the request if no public hearing **or informal conference** is held under subsection ~~(g)~~ **(i) or (j) or if a an informal conference is held under subsection (i) or public hearing is held under subsection (g); an administrative law judge shall enter an order under IC 4-21.5-3-27 (j) within thirty (30) days after the informal conference or public hearing is completed.**

~~(d)~~ **(e)** The department may release the bond or deposit, in whole or in part, upon a determination the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by IC 14-34 according to the following schedule:

- (1) Phase I. After the operator completes the backfilling, regrading, and drainage control of a bonded area under the approved reclamation plan, sixty percent (60%) of the bond or collateral for the applicable permit may be released.
- (2) Phase II. After the operator establishes revegetation on the regraded mined lands under the approved reclamation plan, an additional twenty-five percent (25%) of the total original bond amount may be released. No part of the bond or deposit shall be released under this subdivision if the lands to which the release would be applicable are contributing suspended solids to the stream flow or run-off outside the permit area in excess of the limitations in IC 14-34 and until soil productivity for prime farmlands has returned to the equivalent levels of yield as nonmined land of the same soil type in the surrounding area as determined from the soil survey performed under IC 14-34.

If a siltation structure is to be retained as a permanent impoundment, a bond release may occur under this subdivision if provisions for sound future maintenance by the operator or the landowner are made with the department.

(3) Phase III. The department may release the remaining bond only after **the:**

- (A) ~~the~~ operator has successfully completed all surface coal mining and reclamation activities required in IC 14-34, this article, or the permit; and
- (B) ~~the~~ expiration of the period specified for operator responsibility in IC 14-34-10-2.

~~(e)~~ **(f)** If the director disapproves the application for release of the bond or portion thereof, the director shall notify the permittee, the surety, and any person with an interest in collateral as provided for in section 12 of this rule, in writing:

- (1) stating the reasons for disapproval; and
- (2) recommending corrective actions necessary to secure the release and allowing an opportunity for a public hearing.

~~(f)~~ **(g)** If an application is made for total or partial bond release, the department shall notify any municipality in which a surface coal mining operation is located by certified mail at least thirty (30) days before granting the release.

~~(g)~~ **Any person with a valid legal interest that might be adversely affected by release of the bond or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or is authorized to develop and enforce environmental standards with respect to the operation may file written objections to the proposed release with the department within thirty (30) days after the last publication of the notice under subsection (a). If written objections are filed; and a hearing requested; the department shall inform all the interested parties of the time and place of the hearing and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within thirty (30) days of the request for such hearing (or, at the option of the person filing the hearing request, in Indianapolis or Jasonville). The date, time, and location of the hearing shall also be advertised by the department in a newspaper of general circulation in the locality of the mine for two (2) consecutive weeks.**

(h) A determination by the director under the provisions of this article or IC 14-34 is subject to review. An affected person may obtain administrative review under IC 4-21.5 and 312 IAC 3-1. The division of hearings of the commission shall, as soon as practicable, conduct any appropriate proceeding.

~~(h)~~ **(i) Upon receipt of written objection or a request for public hearing under subsection (a), the department, at the discretion of the director, may set a dispute under this section for an informal conference to resolve the objection. Conduct of an informal conference does not alter or prejudice the rights and responsibilities under this section of any of the following:**

- (1) A permittee.
- (2) A person who files objections.
- (3) The department. ~~or~~
- (4) Another interested person.

(i) For the purpose of such hearing, the department shall have the authority to:

- (1) administer oaths;
- (2) subpoena witnesses or written or printed materials;
- (3) compel the attendance of witnesses or production of the materials; and
- (4) take evidence, including, but not limited to, inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity.

A verbatim record of each public hearing shall be made and a transcript made available on the motion of any party or by order of the department.

(j) If objections filed under subsection (a) are not resolved through an informal conference, the department shall hold a public hearing within a reasonable time following the receipt of the request. The public hearing shall be conducted as follows:

- (1) The date, time, and location of the public hearing shall be sent to the permittee and other parties to the hearing and advertised by the department in a newspaper of general circulation in the locality of the surface coal mining operation proposed for bond release at least two (2) weeks before the scheduled conference.
- (2) The requirements of IC 4-21.5-3 shall not apply to the conduct of the public hearing. The public hearing shall be conducted by a representative of the director, who may accept oral or written statements and any other relevant information from any party to the public hearing. An electronic or stenographic record shall be made unless waived by all parties. The record shall be maintained and shall be accessible to the parties of the public hearing until final release of the applicant's performance bond or other equivalent guarantee under this article.
- (3) The department shall furnish all parties of the public hearing with the following:
 - (A) The written findings of the director based on the public hearing.
 - (B) The reasons for the finding.
- (4) If all parties requesting the public hearing withdraw their request before the conference is held, the public hearing may be canceled.

(Natural Resources Commission; 312 IAC 25-5-16; filed Jun 21, 2001, 2:53 p.m.: 24 IR 3506, eff Dec 1, 2001; errata filed Nov 20, 2001, 11:55 a.m.: 25 IR 1182; filed Apr 1, 2004, 3:00 p.m.: 27 IR 2455, eff Jan 1, 2005; errata filed Sep 8, 2004, 2:42 p.m.: 28 IR 214)

SECTION 4. 312 IAC 25-6-20 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-6-20 Surface mining; hydrologic balance; permanent and temporary impoundments

Authority: IC 14-10-2-4; IC 14-34-2-1

Affected: IC 14-34

Sec. 20. (a) This section applies to both temporary and permanent impoundments and must satisfy the following conditions:

- (1) An impoundment meeting the:

(A) Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60); or ~~an impoundment meeting the~~

(B) size or other criteria of 30 CFR 77.216(a); shall comply with the requirements of 30 CFR 77.216 and this rule.

(2) The design of impoundments shall be certified in accordance with 312 IAC 25-4-49 as designed to meet the requirements of this rule using current, prudent engineering practices and any design criteria established by the director. The qualified registered professional engineer shall be experienced in the design and construction of impoundments.

(3) Impoundments must meet the following criteria for stability:

- (A) An impoundment meeting the:

(i) Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60); or ~~an impoundment meeting the~~

(ii) size or other criteria of 30 CFR 77.216(a);

shall have a minimum static safety factor of one and five-tenths (1.5) for a normal pool with steady state seepage saturation conditions and a seismic safety factor of at least one and two-tenths (1.2).

- (B) Impoundments not meeting the:

(i) Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60); or ~~not meeting the~~

(ii) size or other criteria of 30 CFR 77.216(a);

except for a coal mine waste impounding structure ~~and located where failure would not be expected to cause loss of life or serious property damage~~ shall have a minimum static safety factor of one and three-tenths (1.3) for a normal pool with steady state seepage saturation conditions.

(C) ~~In lieu~~ **Instead** of meeting the static safety factor requirements of clause (B), the applicant may elect, in order to ensure stability for temporary impoundments not meeting the Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60) or not meeting the size or other criteria of 30 CFR 77.216(a) to grade as follows:

(i) The side slopes of the settled embankments shall not be steeper than two (2) horizontal to one (1) vertical on the upstream slopes.

(ii) The downstream slopes shall not be steeper than three

(3) horizontal to one (1) vertical. An impoundment constructed within these guidelines shall not be approved for permanent postmining land use until the criteria for permanent impoundments of this section have been

satisfied.

(4) The size and configuration of the impoundment shall be adequate for its intended purposes. Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume. Impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the freeboard hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.

(5) Foundations and abutments for an impounding structure shall be:

(A) stable during all phases of construction and operation; and ~~shall be~~

(B) designed based on adequate and accurate information on the foundation conditions.

For an impoundment meeting the size or other criteria of 30 CFR 77.216(a) or the Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability. All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed, if necessary, to ensure stability.

(6) Slope protection shall be provided to protect against ~~the~~ following:

(A) Surface erosion at the site. ~~and protect against~~

(B) Sudden drawdown.

(7) An impoundment shall include either a combination of principal and emergency spillways or a single spillway configured as specified in clause (A), designed and constructed to safely pass the applicable design precipitation event specified in clause (B), except as set forth in subsection (c)(1).

(A) The director may approve a single open channel spillway that is:

- (i) of nonerodible construction and designed to carry sustained flows; or
- (ii) earth-lined or grass-lined and designed to carry short term, infrequent flows at nonerosive velocities where sustained flows are not expected.

(B) Except as specified in subsection (c)(1), the required design precipitation event for an impoundment meeting the spillway requirements of this section is as follows:

- (i) For an impoundment meeting the size or other criteria of 30 CFR 77.216(a), a one hundred (100) year, six (6) hour event, or greater event as specified by the director.
- (ii) For an impoundment meeting the Class B or C criteria for dams in TR-60, the emergency spillway hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60, or greater event as specified by the director.

(iii) For an impoundment not meeting the:

(AA) size or other criteria of 30 CFR 77.216(a); or ~~not meeting the~~

(BB) Class B or C criteria for dams in the NRCS

publication Technical Release No. 60 (TR-60);

a twenty-five (25) year, six (6) hour event, or greater event as specified by the director.

(8) The vertical portion of any remaining highwall must be located far enough below the low water line, along the extent of the highwall, to provide adequate safety and access for proposed water users. If surface run-off enters the impoundment, the side slope must be protected to prevent erosion.

(9) A qualified registered professional engineer or other qualified professional specialist under the direction of a professional engineer, either of whom shall be experienced in the construction of impoundments, shall inspect each impoundment according to the following provisions:

(A) Inspections shall be made:

(i) regularly during construction;

(ii) upon completion of construction; and

(iii) at least yearly until removal of the structure or release of the performance bond.

(B) The qualified registered professional engineer shall, within thirty (30) days after each inspection required in clause (A), provide to the director a certified report that the impoundment has been constructed or maintained, or both, as designed and in accordance with the approved plan and this article. The report shall include discussion of the following:

(i) Any appearance of instability, structural weakness, or other hazardous condition.

(ii) Depth and elevation of any impounded waters.

(iii) Existing storage capacity.

(iv) Any existing or required monitoring procedures and instrumentation.

(v) Any other aspects of the structure affecting stability.

(C) A copy of the report shall be retained at or near the mine site.

(D) Impoundments:

(i) subject to 30 CFR 77.216; or

(ii) meeting the Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60); must be examined in accordance with 30 CFR 77.216-3.

(E) Impoundments that do not meet the size or other criteria of 30 CFR 77.216(a) or do not meet the Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60) shall be examined at least quarterly by a qualified person designated by the permittee for appearances of instability, structural weakness, or other hazardous conditions. At least one (1) of the quarterly examinations conducted during the calendar year shall be certified by a qualified registered professional engineer and shall include a discussion of any appearances of instability, structural weakness, or other hazardous conditions, and any other aspects of the structure affecting stability, and a statement indicating the pond has been maintained in accordance with the approved plan and this section. This examination shall be conducted during the period of October 1 through December 31 of each calendar year. The

certified examination report shall be submitted to the director within thirty (30) days of the examination. Impoundment examinations shall be conducted until the impoundment has been removed or until final bond release in accordance with 312 IAC 25-5-16. If the operator can demonstrate that failure of the structure would not create a potential threat to public health and safety or threaten significant environmental harm, the following impoundments shall be exempt from the examination requirements of this clause following approval by the director:

- (i) Impoundments that are completely incised.
- (ii) Impoundments that are entirely contained within an incised structure such that the incised structure would completely contain the waters of the impoundment should failure occur and failure would not create a potential threat to public health and safety or threaten significant environmental harm.**

~~(ii)~~ **(iii)** Water impounding structures that:

(AA) impound water to a design elevation ~~no not~~ more than five (5) feet above the upstream toe of the structure; and ~~that~~

(BB) can have a storage volume of not more than twenty (20) acre-feet;

provided the exemption request is accompanied by a report sealed by a qualified registered professional engineer licensed in the state accurately describing the hazard potential of the structure. Hazard potential must be such that failure of the structure would not create a potential threat to public health and safety or threaten significant environmental harm. The report shall be field verified by the director ~~prior to~~ **before** approval and periodically thereafter. The director may terminate the exemption if so warranted by changes in the area downstream of the structure or in the structure itself.

~~(iii)~~ **(iv)** Impoundments that do not facilitate mining or reclamation, including, but not limited to, the following:

- (AA) Sewage lagoons.
- (BB) Landscaping ponds.
- (CC) Pools or wetlands in replaced stream channels.
- (DD) Existing impoundments not yet used to facilitate mining.
- (EE) Ephemeral water bodies.
- (FF) Active mining pits.
- (GG) Differential settlement pools.

(10) If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall promptly inform the director of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the director shall be notified immediately. The director shall then notify the appropriate agencies that other emergency procedures are required to protect the public.

(b) Permanent impoundments of water may be authorized by the director upon the basis of the following demonstration:

(1) The quality of the impounded water shall be suitable on a permanent basis for its intended use and, after reclamation, will meet applicable Indiana and federal water quality standards, and discharge of water from the impoundments will meet applicable effluent limitations and shall not degrade the quality of receiving waters to less than the water quality standards established under applicable Indiana and federal laws.

(2) The level of water shall be sufficiently stable to support the intended use.

(3) Water impoundments shall not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for:

- (A)** agricultural;
- (B)** industrial;
- (C)** recreational; or
- (D)** domestic;

uses.

(4) The size and configuration of the impoundment are adequate for the intended purposes. The impoundment has an adequate freeboard to resist overtopping by waves and by sudden increases in storage volume.

(5) The impoundments will be suitable for the approved postmining land use.

(6) The design, construction, and maintenance of structures shall achieve the minimum design requirements applicable to structures constructed and maintained under the Watershed Protection and Flood Prevention Act, P.L.83-566 (16 U.S.C. 1006).

(7) Final grading will provide for adequate safety and access for proposed water users.

(8) For final cut and permanent incised impoundments, final graded slopes down to the water level shall not exceed in grade thirty-three and one-third percent (33⅓%) or the lesser slope needed to do the following:

- (A) Protect the public health and safety.
- (B) Enable the permittee to **do the following**:
 - (i)** Place topsoil on the slope under section 11 of this rule. ~~and to~~
 - (ii)** Revegetate the slope under sections 54 through 61 of this rule.

(c) The director may authorize the construction of temporary impoundments as part of a surface coal mining operation. ~~In lieu~~ **Instead** of meeting the requirements in subsection (a)(7)(A), the director may approve an impoundment that relies primarily on storage to control the run-off from the design precipitation event when it is demonstrated by the operator and certified by a qualified registered professional engineer that the impoundment will safely control the design precipitation event, the water from which shall be safely removed in accordance with current, prudent engineering practices. Such an impoundment shall be located where failure would not be expected to cause loss of life or serious property damage, except where in the case of an impoundment:

(1) meeting the:

(A) Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60); or ~~meeting the~~

(B) size or other criteria of 30 CFR 77.216(a);
it is designed to control the precipitation of the probable maximum precipitation of a six (6) hour event or greater event as specified by the director; or

(2) not meeting the:

(A) size or other criteria of 30 CFR 77.216(a); or ~~not meeting the~~

(B) Class B or C criteria for dams in the NRCS publication Technical Release No. 60 (TR-60);
it is designed to control the precipitation of a one hundred (100) year, six (6) hour event, or greater event as specified by the director.

(d) All embankments of temporary and permanent impoundments and surrounding areas and diversion ditches disturbed or created by construction shall be graded, fertilized, seeded, and mulched under sections 54 through 61 of this rule after the embankment is completed. The active upstream face of the embankment where water is impounded may be riprapped or otherwise stabilized. Areas:

(1) in which the vegetation is not successful; or

(2) where rills and gullies develop;

shall be repaired and revegetated under sections 51 and 54 through 61 of this rule.

(e) Plans for any enlargement, reduction in size, reconstruction, or other modification of dams or impoundments shall:

(1) be submitted to the director; and ~~shall~~

(2) comply with the requirements of this section.

Except where a modification is required to eliminate an emergency condition constituting a hazard to public health, safety, or the environment, the director shall approve the plans before modification begins. (*Natural Resources Commission; 312 IAC 25-6-20; filed Jun 21, 2001, 2:53 p.m.: 24 IR 3517, eff Dec 1, 2001; filed Apr 1, 2004, 3:00 p.m.: 27 IR 2458, eff Jan 1, 2005; errata filed Sep 8, 2004, 2:42 p.m.: 28 IR 214*)

SECTION 5. 312 IAC 25-6-66 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-6-66 Surface mining; primary roads

Authority: IC 14-10-2-4; IC 14-34-2-1

Affected: IC 14-34

Sec. 66. Primary roads shall meet the requirements of section 65 of this rule and the following:

(1) The construction or reconstruction of primary roads shall be certified in a report to the director by a qualified registered professional engineer with experience in the design and construction of roads. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

(2) Each primary road embankment shall have a minimum

static safety factor of one and three-tenths (1.3) ~~and or~~ be designed in compliance with the following design standards:

(A) The:

(i) embankment foundation area shall be cleared of all organic material; and ~~the~~

(ii) entire foundation surface shall be scarified.

(B) If the natural slope of the foundation as measured at right angles to the roadway center line is steeper than 8h:1v, the embankment shall be benched into the existing slope beginning at the embankment toe and then filled with compacted level lifts.

(C) The embankment fill material shall be free of **the following:**

(i) Sod.

(ii) Large roots. ~~and~~

(iii) Other large vegetative matter.

(D) The fill shall be brought up in horizontal layers of such thickness as required to facilitate compaction in accordance with prudent construction standards.

(E) The moisture content of the fill material shall be sufficient to secure proper compaction.

(F) The side slopes of the embankment shall be no steeper than 2h:1v.

(G) Maximum fill height shall be twenty-five (25) feet as measured from natural ground at the downstream toe to the top of the embankment.

(H) Embankments shall:

(i) have a minimum top width of $(h + 35)/5$, where "h" is the embankment height as measured from natural ground at the downstream toe to the top of the embankment; and ~~shall~~

(ii) be adequate for the intended use.

(3) The location of primary roads shall be established in accordance with the following provisions:

(A) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

(B) Fords of perennial or intermittent streams that drain a watershed of at least one (1) square mile by primary roads are prohibited unless they are specifically approved by the director as temporary routes during periods of road construction.

(4) In accordance with the approved plan, drainage shall be controlled as follows:

(A) Each primary road shall be constructed, or reconstructed, and maintained to have adequate drainage control using structures such as, but not limited to, the following:

(i) Bridges.

(ii) Ditches.

(iii) Cross drains.

(iv) Ditch relief drains.

(B) The drainage control system shall be designed to safely pass the peak run-off from a ten (10) year, six (6) hour precipitation event or greater event as specified by the director as follows:

(i) Drainage pipes and culverts shall be installed as designed and maintained:

(AA) in a free and operating condition; and

(BB) to prevent or control erosion at inlets and outlets.

(ii) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment.

(iii) Culverts shall be installed and maintained to sustain the following:

(AA) The vertical soil pressure.

(BB) The passive resistance of the foundation.

(CC) The weight of vehicles using the road.

(C) Natural stream channels shall not be altered or relocated without the prior approval of the director in accordance with applicable provisions under sections 13 through 19 and 28 of this rule.

(D) Except as provided in subdivision (3)(B), structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The director shall ensure that low water crossings are designed, constructed, and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to stream flow.

(5) Primary roads shall be surfaced with nontoxic material approved by the director as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

(Natural Resources Commission; 312 IAC 25-6-66; filed Jun 21, 2001, 2:53 p.m.: 24 IR 3544, eff Dec 1, 2001; filed Apr 1, 2004, 3:00 p.m.: 27 IR 2462, eff Jan 1, 2005)

SECTION 6. 312 IAC 25-7-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 25-7-1 Inspections of sites

Authority: IC 14-10-2-4; IC 14-34-2-1

Affected: IC 14-34-15; IC 14-34-16-7; IC 14-34-16-8

Sec. 1. (a) The director shall conduct inspections as follows:

(1) Except as provided in subsection (f), on an irregular basis averaging not less frequently than the following:

(A) One (1) partial inspection per month and one (1) complete inspection per calendar quarter for each active surface coal mining and reclamation operation.

(B) One (1) partial inspection as frequently as is necessary to ensure effective enforcement and one (1) complete inspection per calendar quarter for each inactive surface coal mining and reclamation operation.

(2) Without notice to the person being inspected or any agents or employees of that person except for necessary on-site meetings.

(3) Include the prompt filing of inspection reports adequate to enforce IC 14-34 and this article.

(b) The director shall conduct any inspections of coal exploration operations that are necessary to ensure compliance with IC 14-34 and this article.

(c) Aerial inspections shall be conducted in a manner that reasonably ensures the identification and documentation of conditions at each surface coal mining and reclamation site inspected.

(d) Any potential violation observed during an aerial inspection shall be investigated on-site upon the occurrence of earlier of the following:

(1) Within three (3) days after the aerial inspection.

(2) Immediately, if there is an indication of a condition, practice, or violation constituting cause for the issuance of a cessation order under IC 14-34-15-6.

(e) An on-site investigation conducted under subsection (d) is not an additional partial inspection or an additional complete inspection under subsection (a).

(f) In lieu of the inspection frequency established in subsection (a), the regulatory authority shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one (1) complete inspection per calendar year. In selecting an alternate frequency authorized under this subsection, the regulatory authority shall do the following:

(1) First conduct a complete inspection of the abandoned site.

(2) Provide public notice and opportunity to comment under subsection (g).

(3) Prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. The written finding shall justify the new inspection frequency by affirmatively addressing in detail the following criteria:

(A) How the site meets each of the criteria under the definition of an abandoned site in subsection (h) to qualify for a reduction in inspection frequency.

(B) Whether, and to what extent, there exists on the site an impoundment, an earthen structure, or another condition that poses, or may reasonably be expected to ripen into, imminent dangers to the health or safety of the public or significant environmental harm to land, air, or water resources.

(C) The extent to which an existing impoundment or earthen structure was constructed and certified in accordance with prudent engineering designs approved in the permit.

(D) The degree to which erosion and sediment control is present and functioning.

(E) The extent to which the site is located near or above:

(i) an urbanized area;

(ii) a community;

(iii) an occupied dwelling;

(iv) a school; and

- (v) another public or commercial building or facility.
- (F) The extent of reclamation completed ~~prior to~~ **before** abandonment and the degree of stability of an unreclaimed area, taking into consideration:
 - (i) any physical characteristic of the land mined; and
 - (ii) the extent of settlement or revegetation that has occurred naturally.
- (G) Based on a review of the complete or partial inspection report record for the site during at least the last two (2) consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.
- (g) The public notice and opportunity to comment required under subsection (f)(2) shall be provided as follows:
 - (1) The regulatory authority shall place a notice in the newspaper with the broadest circulation in the locality of the abandoned site providing the public with a thirty (30) day period in which to submit written comments.
 - (2) The public notice shall contain the following:
 - (A) **The** name of ~~the~~ permittee.
 - (B) **The** permit number.
 - (C) **The** precise location of the land affected.
 - (D) **The** proposed inspection frequency.
 - (E) **The** general reasons for reducing the inspection frequency.
 - (F) **The** bond status of the permit.
 - (G) **The** telephone number and address of the regulatory authority where written comments on the reduced inspection frequency may be submitted.
 - (H) **The** closing date of the comment period.

- (h) As used in this section, the following definitions apply:
 - (1) “Abandoned site” means a surface coal mining and reclamation operation for which the director has found, in writing, each of the following:
 - (A) All surface and underground coal mining and reclamation activities at the site have ceased.
 - (B) The director has issued at least one (1) notice of violation and either:
 - (i) is unable to serve the notice despite diligent efforts to do so; or
 - (ii) the notice was served and has progressed to a failure-to-abate cessation order.
 - (C) The director is taking action:
 - (i) to ensure that the permittee and operator, and owners and controllers of the permittee and operator, will be precluded from receiving future permits while violations continue at the site; and
 - (ii) under IC 14-34-16-7, IC 14-34-16-8, IC 14-34-15-7, or IC 14-34-15-11 to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where, after evaluating the circumstances, the director concludes that further enforcement offers little or no likelihood of successfully compelling abatement or

- recovering any reclamation costs.
 - (D) If the site is or was permitted or bonded, both of the following are determined:
 - (i) The permit has expired or been revoked. ~~or permit revocation proceedings have been initiated and are being pursued diligently.~~
 - (ii) The director has initiated and:
 - (AA) is diligently pursuing forfeiture of; or
 - (BB) has forfeited;
 - any available performance bond.
 - (2) “Complete inspection” means an on-site review of a person’s compliance with all permit conditions and requirements imposed under IC 14-34 and this article within the area disturbed or affected by the surface mining and reclamation operation.
 - (3) “Inactive surface coal mining and reclamation operation” means a surface coal mining and reclamation operation for which both of the following are satisfied:
 - (A) The reclamation has been completed that is necessary to obtain release of the portion of bond specified in ~~312 IAC 25-5-16(e)(2)~~ **312 IAC 25-5-16(e)(2)**.
 - (B) The bond has been released.
 - (4) “Partial inspection” means an on-site or aerial review of a person’s compliance with some of the permit conditions and requirements imposed under IC 14-34 and this article.
- (Natural Resources Commission; 312 IAC 25-7-1; filed Jun 21, 2001, 2:53 p.m.: 24 IR 3590, eff Dec 1, 2001; errata filed Nov 20, 2001, 11:55 a.m.: 25 IR 1182; filed Apr 1, 2004, 3:00 p.m.: 27 IR 2468, eff Jan 1, 2005; errata filed Sep 8, 2004, 2:42 p.m.: 28 IR 214)*

SECTION 7. SECTIONS 1 through 6 of this document take effect upon the Department of Natural Resources receiving notice of approval from the Office of Surface Mining and Reclamation of the U.S. Department of Interior and notice of that approval being published in the Indiana Register.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 2, 2006 at 10:00 a.m., at the Department of Natural Resources, Division of Reclamation, Field Office, located on State Road 48, approximately one mile west of Jasonville city limits, Jasonville, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to 312 IAC 25, which assist in the administration of IC 14-34 (sometimes referred to as the “Indiana Surface Control and Reclamation Act” or “Indiana SMCRA”) that governs surface coal mining and reclamation activities, to make numerous changes to help assure conformance with state and federal law, to qualify approved reclamation projects financed with less than fifty percent federal funding as “government-financed construction”, to remove requirements for submittal of an application for water impoundments of less than 100-acre feet and exempts impoundments that are entirely contained within an incised structure from examination requirements, to add provisions

allowing director of department of natural resources to initiate an application for bond release and clarifies the procedure for conducting informal conferences regarding a proposed bond release, to clarify requirements for construction or reconstruction of primary roads, and to clarify the definition of "abandoned site" as used in 312 IAC 25-7-1.

The Department of Natural Resources estimates that no requirements or costs will be imposed upon a regulated entity.

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.

Rick Cockrum
Chairman
Natural Resources Commission

TITLE 327 WATER POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #05-255

DIGEST

Amends 327 IAC 8-2-8.2, 327 IAC 8-2.5-6, 327 IAC 8-2.5-7, 327 IAC 8-2.5-8, 327 IAC 8-2.5-9, 327 IAC 8-2.6-6, 327 IAC 8-11-1, 327 IAC 8-12-1, 327 IAC 8-12-2, 327 IAC 8-12-3, 327 IAC 8-12-3.2, 327 IAC 8-12-3.4, 327 IAC 8-12-3.6, 327 IAC 8-12-4, 327 IAC 8-12-6, 327 IAC 8-12-7, and 327 IAC 8-12-7.5 and adds 327 IAC 8-12-3.5 and 327 IAC 8-12-4.5 concerning sanitary surveys and operator certification. Effective 30 days after filing with the Secretary of State.

HISTORY

First Notice of Comment Period: October 1, 2005, Indiana Register (29 IR 219).

Second Notice of Comment Period: December 1, 2005, Indiana Register (29 IR 1020).

Notice of First Hearing: December 1, 2005, Indiana Register (29 IR 1020).

Date of First Hearing: February 8, 2006.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on December 1, 2005, at 29 IR 1020, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from December 1, 2005,

through December 30, 2005, on IDEM's draft rule language. No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On February 8, 2006, the Water Pollution Control Board conducted the first public hearing/board meeting concerning the development of amendments to 327 IAC 8-2-8.2, 327 IAC 8-2.5-6, 327 IAC 8-2.5-7, 327 IAC 8-2.5-8, 327 IAC 8-2.5-9, 327 IAC 8-2.6-6, 327 IAC 8-11-1, 327 IAC 8-12-1, 327 IAC 8-12-2, 327 IAC 8-12-3, 327 IAC 8-12-3.2, 327 IAC 8-12-3.4, 327 IAC 8-12-3.6, 327 IAC 8-12-4, 327 IAC 8-12-6, 327 IAC 8-12-7, and 327 IAC 8-12-7.5 and new rules 327 IAC 8-12-3.5 and 327 IAC 8-12-4.5. No comments were made at the first hearing.

327 IAC 8-2-8.2	327 IAC 8-12-3.2
327 IAC 8-2.5-6	327 IAC 8-12-3.4
327 IAC 8-2.5-7	327 IAC 8-12-3.5
327 IAC 8-2.5-8	327 IAC 8-12-3.6
327 IAC 8-2.5-9	327 IAC 8-12-4
327 IAC 8-2.6-6	327 IAC 8-12-4.5
327 IAC 8-11-1	327 IAC 8-12-6
327 IAC 8-12-1	327 IAC 8-12-7
327 IAC 8-12-2	327 IAC 8-12-7.5
327 IAC 8-12-3	

SECTION 1. 327 IAC 8-2-8.2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2-8.2 Sanitary surveys

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2

Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 8.2. (a) Public water systems ~~which~~ **that** do not collect five (5) or more routine samples per month must undergo an initial sanitary survey by June 29, 1994, for community public water systems and June 29, 1999, for noncommunity water systems. Thereafter, **for systems using ground water, and from the above date until December 31, 2001, for Subpart H systems**, systems must undergo another sanitary survey every five (5) years or more frequently, as determined by the commissioner, except that noncommunity water systems using only protected and disinfected ground water, as determined by the commissioner, must undergo subsequent sanitary surveys at least every ten (10) years after the initial sanitary survey. **Beginning January 1, 2002, Subpart H systems must undergo sanitary surveys every three (3) years.** The commissioner must review the results of each sanitary survey to determine:

- (1) whether the existing monitoring frequency is adequate; and
- (2) what measures the system needs to undertake to improve drinking water quality.

(b) In conducting a sanitary survey of a system using ground water after EPA ~~the commissioner~~ approves a wellhead protection program under ~~Section 1428 of the Safe Drinking Water Act~~, **327 IAC 8-4.1**, information on sources of contami-

nation within the delineated wellhead protection area that was collected in the course of developing and implementing the program should be considered instead of collecting new information if the information was collected since the last time the system was subject to a sanitary survey.

(c) Sanitary surveys must be performed by the commissioner or an agent approved by the commissioner. The public water system must ensure that the sanitary survey takes place. **The public water system shall ensure that the commissioner or agent approved by the commissioner has access to the public water system and its records in order to verify compliance with this article and the federal Safe Drinking Water Act (42 U.S.C.A. 300f through 42 U.S.C.A. 300j-26).**

(d) The department shall evaluate each Subpart H system during a sanitary survey in accordance with this section to determine if significant deficiencies exist. Examples of significant deficiencies include the following:

(1) Significant source deficiencies, including the following:

- (A) Raw water quality monitoring that is indicative of an immediate sanitary risk.
- (B) Activities or pollution sources in the immediate source water area that will cause sanitary risks.
- (C) Location of a well making it vulnerable to surface water run-off.
- (D) Age of the well.
- (E) Reliability of the source, including quality or quantity.
- (F) A well that is not properly sealed.
- (G) Spring boxes that are poorly constructed or subject to flooding.

(2) Significant treatment deficiencies, including the following:

- (A) Inadequate disinfection contact time.
- (B) One (1) or more of the treatment processes is incapable of producing water that meets standards under all conditions of raw water quality.
- (C) No provisions to warn operators of membrane failures.
- (D) Failure to have a disinfection profile required under 327 IAC 8-2.6-2 or 327 IAC 8-2.6-2.1.
- (E) Evaluation of handling storage, use, and application of treatment chemicals.
- (F) A review of the treatment process that includes assessment of the:
 - (i) operation;
 - (ii) maintenance;
 - (iii) record keeping; and
 - (iv) management practices;

of treatment facilities.

(3) Significant distribution and transmission deficiencies, including the following:

- (A) Customers receiving, and using for drinking water, raw water from the raw water transmission main.
- (B) A raw water transmission main equipped with a

bypass around the treatment.

(C) Disinfectant residuals in the distribution system that regularly do not meet minimum required levels.

(D) Pressures in the distribution system below twenty (20) pounds per square inch (psi) during peak flow conditions.

(E) High leakage rates that pose unacceptable risks of back siphonage.

(4) Significant finished water storage deficiencies, including the following:

(A) Inadequate:

- (i) elevation of storage facilities; or
- (ii) sealing of tank to prevent entry of contaminants.

(B) Failure to inspect elevated tank for sanitary defects.

(5) Significant pumps, pump facilities, and control deficiencies, including the following:

(A) Storage of materials at the pumping station that:

- (i) offer potential for contamination of the water; or
- (ii) pose safety risks to operators.

(B) Cross connections are present.

(C) Auxiliary power is necessary to keep pressures above twenty (20) psi during commonly experienced power outages.

(D) Pump and facilities are not:

- (i) designed appropriately; or
- (ii) properly operated and maintained.

(6) Significant monitoring, reporting, and data verification deficiencies, including the following:

(A) The system has multiple violations for one (1) or more contaminants or disinfectant residuals.

(B) Operators are using improper procedures or methods when conducting on-site laboratory analyses.

(C) The system:

- (i) is not using a certified laboratory;
- (ii) has been falsifying data; or
- (iii) fails to collect required samples.

(7) Significant system management and operations deficiencies, including the following:

(A) The system has inadequate personnel to meet the requirements of 327 IAC 8-12.

(B) The system has not:

- (i) developed a plan for provision of water during emergencies; or
- (ii) completed required vulnerability assessments and emergency action plans as required by Section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i-2).

(C) The system does not have an annually updated emergency action plan.

(8) Failure to comply with the requirements of this article, including the failure to have a certified operator of the proper grade for more than forty-five (45) days.

(9) Any additional deficiencies that are found during a sanitary survey or other site visit that may have a potential to cause an immediate risk to human health.

(e) Subpart H systems shall respond in writing to any

significant deficiency found during a sanitary survey and reported to the system by the commissioner. Response requirements are as follows:

- (1) The response must:
 - (A) be made within forty-five (45) days of receipt of the report; and
 - (B) indicate:
 - (i) how the public water system will address significant deficiencies found during the sanitary survey; and
 - (ii) on what schedule the public water system will address significant deficiencies found during the sanitary survey.
- (2) The report must indicate whether significant deficiencies found during the sanitary survey are under the control of the public water system.

(f) If a comprehensive performance evaluation is required under 327 IAC 8-2.6-5, the public water system shall implement any follow-up recommendations that result as part of the program.

(g) The commissioner may require a shorter time frame for response or addressing significant deficiencies if the commissioner determines the system poses an immediate health risk.

(h) The commissioner may initiate an enforcement referral for violations under this rule, including failure to do the following:

- (1) Respond to the notice.
- (2) Address significant deficiencies under the control of the public water system.
- (3) Provide a schedule required under subsection (e)(1)(B)(ii).
- (4) Follow the schedule required under subsection (e)(1)(B)(ii).
- (5) Address significant deficiencies that have significant potential to have adverse effects on human health.

(Water Pollution Control Board; 327 IAC 8-2-8.2; filed Dec 28, 1990, 5:10 p.m.: 14 IR 1022; filed Apr 12, 1993, 11:00 a.m.: 16 IR 2158)

SECTION 2. 327 IAC 8-2.5-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.5-6 Monitoring requirements; disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2
Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 6. (a) General monitoring requirements for disinfectant residuals, disinfection byproducts, and disinfection byproducts precursors are as follows:

- (1) Systems shall take all samples during normal operating conditions.
- (2) Systems may consider multiple wells drawing water from a single aquifer as one (1) treatment plant for determining the minimum number of TTHM and HAA5 samples required. **The commissioner must approve all instances of multiple wells that are considered a single treatment plant because they draw water from a single aquifer.**

(3) Failure to monitor:

- (A) in accordance with the monitoring plan required under subsection (f) is a monitoring violation; **and**
- ~~(4) Failure to monitor~~ (B) will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

~~(5)~~ (4) Systems may use only data collected under the provisions of subsection (b) or 40 CFR 141.140 through 40 CFR 141.144* to qualify for reduced monitoring.

(b) Monitoring requirements for disinfection byproducts are as follows:

(1) TTHM and HAA5 monitoring requirements are as follows:

(A) For routine monitoring, systems shall monitor at the frequency indicated in the following table:

ROUTINE MONITORING FREQUENCY FOR TTHM AND HAA5		
Type of System	Minimum Monitoring Frequency	Sample Location in the Distribution System
Subpart H system serving at least 10,000 persons	4 water samples per quarter per treatment plant	At least 25% of all samples collected each quarter at locations representing maximum residence time. Remaining samples taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account number of persons served, different sources of water, and different treatment methods ¹ .
Subpart H system serving from 500 to 9,999 persons	1 water sample per quarter per treatment plant	Locations representing maximum residence time ¹ .

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Subpart H system serving fewer than 500 persons	1 sample per year per treatment plant during month of warmest water temperature	Locations representing maximum residence time ¹ . If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to 1 sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in clause (D).
System using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons	1 water sample per quarter per treatment plant ²	Locations representing maximum residence time ¹ .
System using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons	1 sample per year per treatment plant ² during month of warmest water temperature	Locations representing maximum residence time ¹ . If the sample (or average of annual samples, if more than 1 sample is taken) exceeds the MCL, the system must increase monitoring to 1 sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in clause (D) for reduced monitoring.

¹If a system elects to sample more frequently than the minimum required, at least twenty-five percent (25%) of all samples collected each quarter, including those taken in excess of the required frequency, must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

²Multiple wells drawing water from a single aquifer may be considered one (1) treatment plant for determining the minimum number of samples required.

(B) Systems may reduce monitoring, except as otherwise provided, in accordance with the following table:

REDUCED MONITORING FREQUENCY FOR TTHM AND HAA5		
IF YOU ARE A:	AND YOU HAVE MONITORED AT LEAST ONE YEAR AND YOUR:	YOU MAY REDUCE MONITORING TO THIS LEVEL:
Subpart H system serving at least 10,000 persons that has a source water annual average TOC level, before any treatment, ≤ 4.0 mg/L	TTHM annual average ≤ 0.040 mg/L and HAA5 annual average ≤ 0.030 mg/L	1 sample per treatment plant per quarter at distribution system location reflecting maximum residence time
Subpart H system serving from 500 to 9,999 persons that has a source water annual average TOC level, before any treatment, ≤ 4.0 mg/L	TTHM annual average ≤ 0.040 mg/L and HAA5 annual average ≤ 0.030 mg/L	1 sample per treatment plant per year at distribution system location reflecting maximum residence time during month of warmest water temperature. NOTE: Any Subpart H system serving fewer than 500 persons may not reduce its monitoring to less than one 1 sample per treatment plant per year.
System using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons	TTHM annual average ≤ 0.040 mg/L and HAA5 annual average ≤ 0.030 mg/L	1 sample per treatment plant per year at distribution system location reflecting maximum residence time during month of warmest water temperature
System using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons	TTHM annual average ≤ 0.040 mg/L and HAA5 annual average ≤ 0.030 mg/L for two 2 consecutive years OR TTHM annual average ≤ 0.020 mg/L and HAA5 annual average ≤ 0.015 mg/L for 1 year	1 sample per treatment plant per 3 year monitoring cycle at distribution system location reflecting maximum residence time during month of warmest water temperature, with the 3 year cycle beginning on January 1 following quarter in which system qualifies for reduced monitoring

(C) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems that must monitor quarterly) or the result of the sample (for systems that must monitor ~~no not~~ more frequently than annually) is ~~no not~~ more than sixty-thousandths (0.060) milligram per liter and forty-five thousandths (0.045) milligram per liter for TTHMs and HAA5, respectively. Systems that do not meet these levels shall resume monitoring at the frequency identified in the table contained in clause (A) (minimum monitoring frequency column) in the quarter immediately following the monitoring period in which the system exceeds those levels. For systems using only ground water not under the direct influence of surface water and serving fewer than ten thousand (10,000) persons, if either the:

(i) TTHM annual average is greater than eighty-thousandths (0.080) milligram per liter; or ~~the~~

(ii) HAA5 annual average is greater than ~~sixty-thousandth~~ **sixty-thousandths** (0.060) milligram per liter; the system shall go to the increased monitoring identified in the table contained in clause (A) (sample location column) in the quarter immediately following the monitoring period in which the system exceeds those levels.

(D) Systems on increased monitoring may return to routine monitoring if, after at least one (1) year of monitoring, their:

(i) TTHM annual average is equal to or less than sixty-thousandths (0.060) milligram per liter; and ~~their~~

(ii) HAA5 annual average is equal to or less than forty-five thousandths (0.045) milligram per liter.

(E) A system may return to routine monitoring at the commissioner's discretion.

(2) CWSs and NTNCWSs using chlorine dioxide for disinfection or oxidation must conduct monitoring for chlorite as follows:

(A) Routine monitoring is as follows:

(i) Systems shall take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system shall take additional samples in the distribution system the following day at the locations required by clause (B), in addition to the sample required at the entrance to the distribution system.

(ii) Systems shall take a three (3) sample set each month in the distribution system. The system shall take one (1) sample at each of the following locations:

(AA) Near the first customer.

(BB) At a location representative of average residence time.

(CC) At a location reflecting maximum residence time in the distribution system.

Any additional routine sampling must be conducted in the same manner (as three (3) sample sets, at the specified locations). The system may use the results of additional monitoring conducted under clause (B) to meet the requirement for monitoring in this clause.

(B) On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the

distribution system, the system shall take three (3) chlorite distribution system samples at the following locations:

(i) As close to the first customer as possible.

(ii) In a location representative of average residence time.

(iii) As close to the end of the distribution system as possible **at a point reflecting maximum residence time in the distribution system.**

(C) Monitoring for chlorite may be reduced as follows:

(i) Chlorite monitoring at the entrance to the distribution system required by clause (A)(i) may not be reduced.

(ii) Chlorite monitoring in the distribution system required by clause (A)(ii) may be reduced to one (1) three (3) sample set per quarter after one (1) year of monitoring where no individual chlorite sample taken in the distribution system under clause (A)(ii) has exceeded the chlorite MCL and the system has not been required to conduct monitoring under clause (B). The system may remain on the reduced monitoring schedule unless one (1) of the three (3) individual chlorite samples taken monthly in the distribution system under clause (A)(ii) exceeds the chlorite MCL or the system is required to conduct monitoring under clause (B), at which time the system shall revert to routine monitoring.

(3) Monitoring for bromate is as follows:

(A) CWSs and NTNCWSs using ozone for disinfection or oxidation shall take one (1) sample per month for each treatment plant in the system using ozone. Systems shall take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(B) Systems required to analyze for bromate may reduce monitoring from monthly to once per quarter if the system demonstrates that the average source water bromide concentration is less than five-hundredths (0.05) milligram per liter based upon representative monthly bromide measurements for one (1) year. The system may remain on reduced bromate monitoring unless the running annual average source water bromide concentration, computed quarterly, is equal to or greater than five-hundredths (0.05) milligram per liter based upon representative monthly measurements. If the running annual average source water bromide concentration is equal to or greater than five-hundredths (0.05) milligram per liter, the system shall resume routine monitoring required by clause (A).

(c) Monitoring requirements for disinfectant residuals are as follows:

(1) Monitoring for chlorine and chloramines is as follows:

(A) CWSs and NTNCWSs that use chlorine or chloramines shall measure the residual disinfectant level in the distribution system ~~when~~ **at the same points and at the same time** as total coliforms are sampled, as specified in 327 IAC 8-2-8. Subpart H systems may use the results of residual disinfectant concentration sampling conducted under 327 IAC 8-2-8.8(d) for systems ~~which that filter in lieu instead~~

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of taking separate samples.

(B) Monitoring for chlorine or chloramines may not be reduced.

(2) Monitoring for chlorine dioxide is as follows:

(A) CWSs, NTNCWSs, and TWSs that use chlorine dioxide for disinfection or oxidation shall take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system shall take samples in the distribution system the following day at the locations required by clause ~~(D)~~; **(B)** in addition to the sample required at the entrance to the distribution system.

(B) On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three (3) chlorine dioxide distribution system samples.

(i) If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system, for example, no booster chlorination, the system shall take three (3) samples as close to the first customer as possible at intervals of at least six (6) hours.

(ii) If chlorine is used to maintain a disinfectant residual in the distribution system and there are one (1) or more disinfection addition points after the entrance to the distribution system, for example, booster chlorination, the system shall take one (1) sample at each of the following locations:

(AA) As close to the first customer as possible.

(BB) In a location representative of average residence time.

(CC) As close to the end of the distribution system as possible, reflecting maximum residence time in the distribution system.

(C) Chlorine dioxide monitoring may not be reduced.

(d) Monitoring requirements for disinfection byproduct precursors (DBPP) are as follows:

(1) Routine monitoring is required as follows:

(A) Subpart H systems ~~which that~~ use conventional filtration treatment, as defined in 327 IAC 8-2-1, shall monitor each treatment plant for TOC ~~no not~~ later than the point of combined filter effluent turbidity monitoring and representative of the treated water.

(B) All systems required to monitor under this subdivision shall also monitor for TOC in the source water ~~prior to~~ **before** any treatment at the same time as monitoring for TOC in the treated water. These samples, source water and treated water, are referred to as paired samples.

(C) At the same time as the source water sample is taken, all systems shall monitor for alkalinity in the source water ~~prior to~~ **before** any treatment.

(D) Systems shall take one (1) paired sample and one (1) source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent

water quality.

(2) Subpart H systems with an average treated water TOC of less than:

(A) two and zero-tenths (2.0) milligrams per liter for two (2) consecutive years; or ~~less than~~

(B) one (1.0) milligram per liter for one (1) year; may reduce monitoring for both TOC and alkalinity to one (1) paired sample and one (1) source water alkalinity sample per plant per quarter. The system shall revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to two and zero-tenths (2.0) milligrams per liter.

(e) Systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter if the system demonstrates that the average source water bromide concentration is less than five-hundredths (0.05) milligram per liter based upon representative monthly measurements for one (1) year. The system shall continue bromide monitoring to remain on reduced bromate monitoring.

(f) Each system required to monitor under this section shall develop and implement a monitoring plan as follows:

(1) The system shall maintain the plan and make it available for inspection by the commissioner and the general public ~~no~~ **not** later than thirty (30) days following the applicable compliance dates in ~~section 4(b) and 4(c)~~ of this rule.

(2) All Subpart H systems serving more than three thousand three hundred (3,300) people shall submit a copy of the monitoring plan to the commissioner ~~no not~~ later than the date of the first report required under section 8 of this rule.

(3) The commissioner may also require any other system to submit a monitoring plan.

(4) After review, the commissioner may require changes in any plan elements.

(5) The plan must include, at a minimum, the following elements:

(A) Specific locations and schedules for collecting samples for any parameters included in this section.

(B) How the system will calculate compliance with MCLs, MRDLs, and treatment techniques.

(C) If:

(i) approved for monitoring as a consecutive system; or ~~if~~

(ii) providing water to a consecutive system;

the sampling plan must reflect the entire distribution system.

*40 CFR 141.140 through ~~141.144~~ **40 CFR 141.144** is incorporated by reference and is available for copying at the Indiana Department of Environmental Management, Office of Water Quality, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204. (*Water Pollution Control Board; 327 IAC 8-2.5-6; filed May 1, 2003, 12:00 p.m.: 26 IR 2844; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1937*)

SECTION 3. 327 IAC 8-2.5-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.5-7 Compliance requirements; disinfectants and disinfection byproducts

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2

Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 7. (a) General compliance requirements for disinfectants and disinfection byproducts are as follows:

(1) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the:

(A) system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average; **and**

~~(2) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the~~ (B) system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

~~(3) (2)~~ All samples taken and analyzed under the provisions of this rule must be included in determining compliance, even if that number is greater than the minimum required.

~~(4) (3)~~ If, during the first year of monitoring under section 6 of this rule, any particular quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(b) Compliance requirements for disinfection byproducts are as follows:

(1) Compliance requirements for TTHMs and HAA5 are as follows:

(A) For systems monitoring quarterly, compliance with MCLs in ~~section 1(b)~~ **section 2(a)** of this rule will be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed by section 6(b)(1) of this rule.

(B) For systems monitoring less frequently than quarterly, systems demonstrate MCL compliance if the average of samples taken that year under ~~the provisions of~~ section 6(b)(1) of this rule does not exceed the MCLs in ~~section 1~~ **section 2** of this rule. If the average of these samples exceeds the MCL, the system shall increase monitoring to once per quarter per treatment plant. Such a system is not in violation of the MCL until it has completed one (1) year of quarterly monitoring, unless the result of fewer than four (4) quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring shall calculate compliance by including the sample that triggered the increased monitoring plus the following three (3) quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four (4) quarter period exceeds the MCL, the system:

(i) is in violation of the MCL; and

(ii) must notify the public ~~pursuant to~~ **under** 327 IAC 8-

2.1-7, in addition to reporting to the commissioner ~~pursuant to~~ **under** section 8 of this rule.

(D) If a public water system fails to complete four (4) consecutive quarters of monitoring, compliance with the MCL for the last four (4) quarter compliance period must be based on an average of the available data.

(2) Compliance requirements for bromate will be based on a running annual arithmetic average, computed quarterly, of:

(A) monthly samples; or

(B) for months in which the system takes more than one (1) sample, the average of all samples taken during the month; collected by the system as prescribed by section 6(b)(3) of this rule. If the average of samples covering any consecutive four (4) quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public ~~pursuant to~~ **under** 327 IAC 8-2.1-7, in addition to reporting to the agency ~~pursuant to~~ **under** section 8 of this rule. If a public water system fails to complete twelve (12) consecutive months of monitoring, compliance with the MCL for the last four (4) quarter compliance period must be based on an average of the available data.

(3) Compliance requirements for chlorite will be based on an arithmetic average of each three (3) sample set taken in the distribution system as prescribed by section 6(b)(2)(A)(ii) and 6(b)(2)(B) of this rule. If the arithmetic average of any three (3) sample sets exceeds the MCL, the system:

(A) is in violation of the MCL; and

(B) shall notify the public ~~pursuant to~~ **under** 327 IAC 8-2.1-3 through 327 IAC 8-2.1-17, in addition to reporting to the commissioner ~~pursuant to~~ **under** section 8 of this rule.

(c) Compliance requirements for disinfectant residuals are as follows:

(1) Compliance requirements for chlorine and chloramines are as follows:

(A) Compliance will be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under section 6(c)(1) of this rule. If the average covering any consecutive four (4) quarter period exceeds the MRDL, the system:

(i) is in violation of the MRDL; and

(ii) must notify the public ~~pursuant to~~ **under** 327 IAC 8-2.1-7, in addition to reporting to the commissioner ~~pursuant to~~ **under** section 8 of this rule.

(B) Where systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must be determined by including all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted ~~pursuant to~~ **under** section 8 of this rule must clearly indicate which residual disinfectant was analyzed for each sample.

(2) Compliance requirements for chlorine dioxide are as follows:

(A) Compliance requirements for acute violations are as follows:

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- (i) Compliance will be based on consecutive daily samples collected by the system under section 6(c)(2) of this rule.
- (ii) If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (1) or more of the three (3) samples taken in the distribution system exceed the MRDL, the system is in violation of the MRDL and must:

(AA) take immediate corrective action to lower the level of chlorine dioxide below the MRDL; and ~~must~~
(BB) notify the public ~~pursuant to~~ **under** the procedures for acute health risks in 327 IAC 8-2.1-3 through 327 IAC 8-2.1-17.

- (iii) Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation, and the system shall notify the public of the violation in accordance with the provisions for acute violations under 327 IAC 8-2.1-7 through 327 IAC 8-2.1-17, in addition to reporting the commissioner ~~pursuant to~~ **under** section 8 of this rule.

(B) Compliance requirements for nonacute violations are as follows:

- (i) Compliance will be based on consecutive daily samples collected by the system under section 6(c)(2) of this rule.
- (ii) If any two (2) consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public ~~pursuant to~~ **under** the procedures for nonacute health risks in 327 IAC 8-2.1-7 through 327 IAC 8-2.1-17, in addition to reporting to the commissioner ~~pursuant to~~ **under** section 8 of this rule.
- (iii) Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation, and the system must notify the public of the violation in accordance with the provisions for nonacute violations under 327 IAC 8-2.1-7, in addition to reporting the commissioner ~~pursuant to~~ **under** section 8 of this rule.

(d) Compliance for disinfection byproduct precursors (DBPP) are as follows:

- (1) Compliance will be determined as specified by section 9 of this rule.

- (2) Systems may begin monitoring to determine whether Step 1 TOC removals can be met twelve (12) months ~~prior to~~ **before** the compliance date for the system. This monitoring is not required, and failure to monitor during this period is not a violation. However, any system that:

(A) does not monitor during this period; and

(B) then determines in the first twelve (12) months after the compliance date that it is not able to meet the Step 1 requirements in section 9(b)(2) of this rule and must therefore apply for alternate minimum TOC removal (Step 2) requirements;

is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by section 9(b)(3) of this rule and is in violation.

- (3) Systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date.

- (4) For systems required to meet Step 1 TOC removals, if the value calculated under section 9(c)(1)(D) of this rule is less than one (1.00), the system:

(A) is in violation of the treatment technique requirements; and

(B) must notify the public ~~pursuant to 327 IAC 8-2.1-17(80)(a) and 327 IAC 8-2.1-17(80)(b);~~ **under 327 IAC 8-2.1-7 through 327 IAC 8-2.1-17**, in addition to reporting to the commissioner ~~pursuant to~~ **under** section 8 of this rule.

(Water Pollution Control Board; 327 IAC 8-2.5-7; filed May 1, 2003, 12:00 p.m.: 26 IR 2847)

SECTION 4. 327 IAC 8-2.5-8 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.5-8 Reporting and record keeping requirements; disinfectants and disinfection byproducts

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2

Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 8. (a) Systems required to sample:

- (1) quarterly or more frequently shall report to the commissioner within ten (10) days after the end of each quarter in which samples were collected, notwithstanding the provisions of ~~327 IAC 8-2.1-7~~. **Systems required to sample 327 IAC 8-2-13; and**

- (2) less frequently than quarterly report to the commissioner within ten (10) days after the end of each monitoring period in which samples were collected.

- (b) For disinfection byproducts, systems must report the information specified in the following table:

IF YOU ARE A:	YOU MUST REPORT:
(1) System monitoring for TTHMs and HAA5 under the requirements of section 6(b) of this rule on a quarterly or more frequent basis:	<ul style="list-style-type: none"> (i) The number of samples taken during the last quarter. (ii) The location, date, and result of each sample taken during the last quarter. (iii) The arithmetic average of all samples taken in the last quarter. (iv) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four (4) quarters. (v) Whether, based on section 7(b)(1) of this rule, the MCL was violated.

(2) System monitoring for TTHMs and HAA5 under the requirements of section 6(b) of this rule less frequently than quarterly (but at least annually):	(i) The number of samples taken during the last year. (ii) The location, date, and result of each sample taken during the last monitoring period. (iii) The arithmetic average of all samples taken over the last year. (iv) Whether, based on section 7(b)(1) of this rule, the MCL was violated.
(3) System monitoring for TTHMs and HAA5 under the requirements of section 6(b) of this rule less frequently than annually:	(i) The location, date, and result of the last sample taken. (ii) Whether, based on section 7(b)(1) of this rule, the MCL was violated.
(4) System monitoring for chlorite under the requirements of section 6(b) of this rule:	(i) The number of entry point samples taken each month for the last three (3) months. (ii) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter. (iii) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system. (iv) Whether, based on section 7(b)(3) of this rule, the MCL was violated, and in which month, and how many times it was violated each month.
(5) System monitoring for bromate under the requirements of section 6(b) of this rule:	(i) The number of samples taken during the last quarter. (ii) The location, date, and result of each sample taken during the last quarter. (iii) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year. (iv) Whether, based on section 7(b)(2) of this rule, the MCL was violated.

(c) For disinfectants, systems shall report the information specified in the following table:

IF YOU ARE A:	YOU MUST REPORT:
(1) System monitoring for chlorine or chloramines under the requirements of section 6(c) of this rule:	(i) The number of samples taken during each month of the last quarter. (ii) The monthly arithmetic average of all samples taken in each month for the last twelve (12) months. (iii) The arithmetic average of all monthly averages for the last twelve (12) months. (iv) Whether, based on section 7(c)(1) of this rule, the MRDL was violated.
(2) System monitoring for chlorine dioxide under the requirements of section 6(c) of this rule:	(i) The dates, results, and locations of samples taken during the last quarter. (ii) Whether, based on section 7(c)(2) of this rule, the MRDL was violated. (iii) Whether the MRDL was exceeded in any two (2) consecutive daily samples and whether the resulting violation was acute or nonacute.

(d) For disinfection byproduct precursors and enhanced coagulation or enhanced softening, systems shall report the information specified in the following table:

IF YOU ARE A:	YOU MUST REPORT:
(1) System monitoring monthly or quarterly for TOC under the requirements of section 6(d) of this rule and required to meet the enhanced coagulation or enhanced softening requirements in section 9(b)(2) or 9(b)(3) of this rule:	(i) The number of paired (source water and treated water) samples taken during the last quarter. (ii) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter. (iii) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal. (iv) Calculations for determining compliance with the TOC percent removal requirements, as provided in section 9(c)(1) of this rule. (v) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in section 9(b) of this rule for the last four (4) quarters.

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<p>(2) System monitoring monthly or quarterly for TOC under the requirements of section 6(d) of this rule and meeting one (1) or more of the alternative compliance criteria in section 9(a)(2) or 9(a)(3) of this rule:</p>	<p>(i) The alternative compliance criterion that the system is using. (ii) The number of paired samples taken during the last quarter. (iii) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter. (iv) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in section 9(a)(2)(A) or 9(a)(2)(C) of this rule or of treated water TOC for systems meeting the criterion in section 9(a)(2)(B) of this rule. (v) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in section 9(a)(2)(G) section 9(a)(2)(E) of this rule or of treated water SUVA for systems meeting the criterion in section 9(a)(2)(H) section 9(a)(2)(F) of this rule. (vi) The running annual average of source water alkalinity for systems meeting the criterion in section 9(a)(2)(C) of this rule and of treated water alkalinity for systems meeting the criterion in section 9(a)(3)(A) of this rule. (vii) The running annual average for both TTHM and HAA5 for systems meeting the criterion in section 9(a)(2)(C) or 9(a)(2)(F) 9(a)(2)(D) of this rule. (viii) The running annual average of the amount of magnesium hardness removal (as CaCO₃, in mg/L) for systems meeting the criterion in section 9(a)(3)(B) of this rule. (ix) Whether the system is in compliance with the particular alternative compliance criterion in section 9(a)(2) or 9(a)(3) of this rule.</p>
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(Water Pollution Control Board; 327 IAC 8-2.5-8; filed May 1, 2003, 12:00 p.m.: 26 IR 2849)

SECTION 5. 327 IAC 8-2.5-9 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.5-9 Treatment techniques for control of disinfection byproducts precursors

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2

Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 9. (a) Applicability is as follows:

- (1) Subpart H systems using conventional filtration treatment shall operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal levels specified in subsection (b) unless the system meets at least one (1) of the alternative compliance criteria listed in subdivision (2) or (3).
- (2) Subpart H systems using conventional filtration treatment may use one (1) or all of the following alternative compliance criteria to comply with this section ~~in lieu~~ **instead** of complying with subsection (b):

(A) The system's source water TOC level, measured according to section 5(d)(3) of this rule, is less than two and zero-tenths (2.0) milligrams per liter, calculated quarterly as a running annual average.

(B) The system's treated water TOC level, measured according to section 5(d)(3) of this rule, is less than two and zero-tenths (2.0) milligrams per liter, calculated quarterly as a running annual average.

(C) The system's source water TOC level, measured according to section 5(d)(3) of this rule, is less than four and zero-tenths (4.0) milligrams per liter, calculated quarterly as a running annual average and the following are met:

- (i) The source water alkalinity, measured according to section 5(d)(1) of this rule, is greater than sixty (60) milligrams per liter (as CaCO₃), calculated quarterly as a running annual average.

- (ii) Either of the following:

(AA) The TTHM and HAA5 running annual averages are no greater than forty-thousandths (0.040) milligram per liter and thirty-thousandths (0.030) milligram per liter, respectively. ~~or~~

(BB) ~~Prior to~~ **Before** the effective date for compliance in section 4(b) of this rule, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in section 4(b) of this rule to use technologies that will limit the levels of TTHMs and HAA5 to ~~no~~ **not** more than forty-thousandths (0.040) milligram per liter and thirty-thousandths (0.030) milligram per liter, respectively. Systems shall submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the agency for approval not later than the effective date for compliance in section 4(b) of this rule. These technologies must be installed and operating not later than June 30, 2005.

(D) The TTHM and HAA5 running annual averages are ~~no~~ **not** greater than forty-thousandths (0.040) milligram per liter and thirty-thousandths (0.030) milligram per liter, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(E) The system's source water SUVA, ~~prior to~~ **before** any treatment and measured monthly according to section 5(d)(4) of this rule, is less than or equal to two and zero-tenths (2.0) liters per milligram meter, calculated quarterly as a running annual average.

(F) The system's finished water SUVA, measured monthly according to section 5(d)(4) of this rule, is less than or equal

to two and zero-tenths (2.0) liters per milligram meter, calculated quarterly as a running annual average.

(3) Systems practicing enhanced softening that cannot achieve the TOC removals required by ~~subdivision subsection~~ (b)(2) may use the following alternative compliance criteria ~~in lieu~~ **instead** of complying with subsection (b):

(A) Softening that results in lowering the treated water alkalinity to less than sixty (60) milligrams per liter (as CaCO_3), measured monthly according to section 5(d)(1) of this rule and calculated quarterly as a running annual average.

(B) Softening that results in removing at least ten (10) milligrams per liter of magnesium hardness (as CaCO_3), measured monthly and calculated quarterly as an annual running average.

Systems shall comply with monitoring requirements in section 6(d) of this rule.

(b) Enhanced coagulation and enhanced softening performance requirements are as follows:

(1) Systems shall achieve the percent reduction of TOC specified in subdivision (2) between the source water and the combined filter effluent unless the commissioner approves a system's request for alternate minimum TOC removal (Step 2) requirements under subdivision (3).

(2) Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with section 6(d) of this rule. Systems practicing softening are required to meet the Step 1 TOC reductions in the far right column (source water alkalinity greater than one hundred twenty (120) milligrams per liter) for the specified source water TOC:

Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Subpart H Systems Using Conventional Treatment^{1, 2}

Source-Water TOC, mg/L	Source-Water Alkalinity, mg/L as CaCO_3		
	0-60 (percent)	>60-120 (percent)	>120 ³ (percent)
>2.0-4.0	35.0%	25.0%	15.0%
>4.0-8.0	45.0%	35.0%	25.0%
>8.0	50.0%	40.0%	30.0%

¹Systems meeting at least one (1) of the conditions in subsection (a)(2) are not required to operate with enhanced coagulation.

²Softening systems meeting one (1) of the alternative compliance criteria in subsection (a)(3) are not required to operate with enhanced softening.

³Systems practicing softening shall meet the TOC removal requirements in this column.

(3) Subpart H conventional treatment systems that cannot achieve the Step 1 TOC removals required by subdivision (2) due to water quality parameters or operational constraints shall apply to the commissioner, within three (3) months of failure to achieve the TOC removals required by subdivision (2), for approval of alternative minimum TOC (Step 2) removal requirements submitted by the system as provided by

subdivision (4). If the commissioner approves the alternative minimum TOC removal (Step 2) requirements, the commissioner may make those requirements retroactive for the purposes of determining compliance. Until the commissioner approves the alternate minimum TOC removal (Step 2) requirements, the system shall meet the Step 1 TOC removals contained in subdivision (2).

(4) Alternate minimum TOC removal (Step 2) requirements are as follows:

(A) Applications made to the commissioner by enhanced coagulation systems for approval of alternate minimum TOC removal (Step 2) requirements under subdivision (3) must include, at a minimum, results of bench-scale or pilot-scale testing conducted under clause (C). The submitted bench-scale or pilot-scale testing will be used to determine the alternate enhanced coagulation level.

(B) As used in this subdivision, "alternate enhanced coagulation level" means coagulation at a coagulant dose and pH as determined by the method described in ~~clauses~~ **clause (A), this clause, and clauses (C) through (E)** such that an incremental addition of ten (10) milligrams per liter of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to three-tenths (0.3) milligram per liter. The percent removal of TOC at this point on the TOC removal versus coagulant dose curve is defined as the minimum TOC removal required for the system. Once approved by the ~~agency, commissioner,~~ **agency commissioner**, this minimum requirement supersedes the minimum TOC removal required by the table in subdivision (2). This requirement will be effective until the ~~agency commissioner~~ **agency commissioner** approves a new value based on the results of a new bench-scale and pilot-scale tests. Failure to achieve alternative minimum TOC removal levels is a violation of ~~National Primary Drinking Water Regulations; this subsection.~~

(C) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding ten (10) milligrams per liter increments of alum, or equivalent amounts of ferric salt, until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in the following table:

Enhanced Coagulation Step 2 Target pH

Alkalinity (mg/L as CaCO_3)	Target pH
0-60	5.5
>60-120	6.3
>120-240	7.0
>240	7.5

(D) For waters with alkalinities of less than sixty (60) milligrams per liter for which the addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below five and five-tenths (5.5) before significant TOC removal occurs, the system shall add necessary chemicals to maintain the pH between five and three-tenths (5.3) and five and seven-tenths (5.7) in samples until the TOC removal of three-tenths (0.3) milligram per liter per ten (10)

milligrams per liter alum added, or ~~equivalent~~ **equivalent** addition of iron coagulant, is reached.

(E) The system may operate at any coagulant dose or pH necessary, consistent with ~~other National Primary Drinking Water Regulations~~, **the provisions of 327 IAC 8-2, 327 IAC 8-2.5, and 327 IAC 8-2.6**, to achieve the minimum TOC percent removal approved under subdivision (3).

(F) If the TOC removal is consistently less than three-tenths (0.3) milligram per liter of TOC per ten (10) milligrams per liter of incremental alum dose at all dosages of alum (or ~~equivalent~~ **equivalent** addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The system may then apply to the commissioner for a waiver of enhanced coagulation requirements.

(c) Compliance calculations are required as follows:

(1) Subpart H systems other than those identified in subsection (a)(2) or (a)(3) shall comply with requirements contained in subsection (b)(2) or (b)(3). Systems shall calculate compliance quarterly, beginning after the system has collected twelve (12) months of data, by determining an annual average using the following method:

STEP 1: Calculate actual monthly TOC percent removal, which is equal to:

$(1 - (\text{treated water TOC} / \text{source water TOC})) \times \text{one hundred (100)}.$

STEP 2: Calculate the required monthly TOC percent removal (from either the table in subsection (b)(2) or from subsection (b)(3)).

STEP 3: Divide the value determined under STEP 1 by the value determined under STEP 2.

STEP 4: Add together the quotients determined under STEP 3 for the last twelve (12) months and divide by twelve (12).

STEP 5: If the quotient calculated in STEP 4 is less than one and zero-hundredths (1.00), the system is not in compliance with the TOC percent removal requirements.

(2) Systems may use the following provisions ~~in lieu~~ **instead** of the calculations in subdivision (1) to determine compliance with TOC percent removal requirements:

(A) In any month that the system's treated or source water TOC level, measured according to section 5(d)(3) of this rule, is less than two and zero-tenths (2.0) milligrams per liter, the system may assign a monthly value of one and zero-tenths (1.0) ~~(in lieu~~ **(instead** of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(B) In any month that a system practicing softening removes at least ten (10) milligrams per liter of magnesium hardness (as CaCO_3), the system may assign a monthly value of one and zero-tenths (1.0) ~~(in lieu~~ **(instead** of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(C) In any month that the system's source water SUVA, ~~prior to before~~ any treatment and measured according to section 5(d)(4) of this rule, is less than or equal to two and

zero-tenths (2.0) liters per milligram meter, the system may assign a monthly value of one and zero-tenths (1.0) ~~(in lieu~~ **(instead** of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(D) In any month that the system's finished water SUVA, measured according to section 5(d)(4) of this rule, is less than or equal to two and zero-tenths (2.0) liters per milligram meter, the system may assign a monthly value of one and zero-tenths (1.0) ~~(in lieu~~ **(instead** of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(E) In any month that a system practicing enhanced softening lowers alkalinity below sixty (60) milligrams per liter (as CaCO_3), the system may assign a monthly value of one and zero-tenths (1.0) ~~(in lieu~~ **(instead** of the value calculated in STEP 3 of subdivision (1)) when calculating compliance under subdivision (1).

(3) Subpart H systems using conventional treatment may also comply with ~~the requirements of~~ this section by meeting the criteria in subsection (a)(2) or (a)(3).

(d) The commissioner identifies the following as treatment techniques for Subpart H systems **using conventional treatment** to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems:

(1) ~~Conventional treatment:~~

(2) (1) Enhanced coagulation.

(3) (2) Enhanced softening.

(Water Pollution Control Board; 327 IAC 8-2.5-9; filed May 1, 2003, 12:00 p.m.: 26 IR 2851)

SECTION 6. 327 IAC 8-2.6-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-2.6-6 Filter backwash

Authority: IC 13-13-5-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-18-3-2

Affected: IC 13-12-3-1; IC 13-13-5-2; IC 13-14-9; IC 13-18-11

Sec. 6. All subpart H systems that employ conventional filtration or direct filtration treatment and recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall meet the following requirements:

(1) A system shall notify the commissioner in writing by December 8, 2003, if the system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification shall include, at a minimum, the following information:

(A) A plant schematic showing **the following:**

(i) The origin of all flows ~~which that~~ are recycled, including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes.

(ii) The hydraulic conveyance used to transport **the all flows that are recycled, including** spent filter backwash water, thickener supernatant, and liquids from dewatering processes. ~~and~~

(iii) The location where **all flows that are recycled, including** spent filter backwash water, thickener supernatant, and liquids from dewatering processes, are reintroduced back into the treatment plant.

(B) Typical recycle flow in gallons per minute.

(C) The highest observed plant flow experienced in the previous year in gallons per minute.

(D) Design flow for the treatment plant in gallons per minute.

(E) Commissioner-approved operating capacity for the plant where the commissioner has made such determinations.

(2) Any system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes shall return these flows:

(A) through the processes of a system's existing conventional or direct filtration system as defined in 327 IAC 8-2-1(14) and 327 IAC 8-2-1(18); or

(B) at an alternate location approved by the commissioner by June 8, 2004.

If capital improvements are required to modify the recycle location to meet the requirement in this subdivision, all capital improvements shall be completed no later than June 8, 2006.

(3) Subpart H systems shall collect and retain on file the following recycle flow information on forms provided by the department for review and evaluation by the commissioner beginning June 8, 2004:

(A) A copy of the recycle notification and information submitted to the commissioner under subdivision (1)(B) through (1)(E).

(B) A list of all recycle flows and the frequency with which they are returned.

(C) The average and maximum:

(i) backwash flow rate through the filters; and

~~the average and maximum~~ (ii) duration of the filter backwash process in minutes.

(D) The typical filter run length and a written summary of how the filter run length is determined.

(E) The type of treatment provided for the recycle flow.

(F) Data on the following:

(i) The physical dimensions of the equalization and treatment units.

(ii) The typical and maximum hydraulic loading rates.

(iii) The type of treatment chemicals used and average dose and frequency of use. ~~and~~

(iv) The frequency at which solids are removed, if applicable.

(Water Pollution Control Board; 327 IAC 8-2.6-6; filed May 1, 2003, 12:00 p.m.: 26 IR 2859)

SECTION 7. 327 IAC 8-11-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-11-1 Water purification or treatment works; operation; reports

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-11-2; IC 13-18-11

Sec. 1. (a) All purification or treatment works producing water to be used or available for drinking purposes by the public shall be properly and efficiently operated under the supervision of a competent operator or superintendent.

(b) The commissioner may require the qualified operator or superintendent in responsible charge to attend training whenever, in the opinion of the commissioner, the training is deemed necessary for the protection of the public health.

~~(b) Weekly~~ **(c) Monthly** reports of operation of ~~such water purification or treatment works shall the following system classification must~~ be submitted by the ~~owner or~~ operator to the commissioner: ~~Such~~

(1) WT2.

(2) WT3.

(3) WT4.

(4) WT5.

(5) Community public water systems purchasing water from WT4 or WT5 systems.

(6) Other systems determined by the commissioner to require monthly reporting.

~~(d) Reports of operation shall required under subsection (c) must be submitted on forms to be provided or approved by the commissioner and shall must include such items of information as may be the following data, if applicable:~~

(1) Daily quantities of the following:

(A) Water treated.

(B) Water distributed.

(C) Chemicals added to the water.

(2) Daily operation of treatment processes, including backwashing of filters by amount of filter run time and total gallons of backwash.

(3) Results of the following:

(A) All chemical, physical, and other tests performed for plant control.

(B) Disinfectant residual in the distribution system where disinfection is provided.

(4) Totals and averages of the above measurements where spaces are provided on the report form.

(5) Other data found to be necessary by the commissioner.

(e) The commissioner may reduce or modify the reporting requirements for any of the items in subsection (d).

(f) All monthly reports of operation must be:

(1) submitted to the commissioner:

(A) within the first ten (10) days following the month for which the report is prepared; and

(B) using the methods specified in 327 IAC 8-2-13(e); and

(2) retained by the water systems for five (5) years.

~~(c) The commissioner shall issue annually a certificate of qualification to each qualified operator or superintendent in~~

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responsible charge of producing or delivering a safe, potable drinking water and may request the same to attend short courses or schools; whenever in the opinion of the commissioner such training is deemed necessary for the protection of the public health. (Water Pollution Control Board; 327 IAC 8-11-1; filed Sep 24, 1987, 3:00 p.m.: 11 IR 718; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 8. 327 IAC 8-12-1 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-1 Definitions

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-11-2; IC 13-18-11

Sec. 1. In addition to the definitions contained in IC 13-11-2 and 327 IAC 1, the following definitions apply throughout this rule:

(1) "Acceptable experience" means employment in the actual hands-on operation of a water treatment plant or water distribution system. Experience in:

(A) water ~~w~~ treatment plant maintenance; ~~that directly relates to plant operation will be given a maximum of fifty percent (50%) credit for operational experience for those employed solely in this area.~~ Experience in a or

(B) water treatment plant laboratory;

that directly relates to plant operation will ~~also~~ be given a maximum of fifty percent (50%) credit for operational experience for those employed solely in ~~this~~ **that respective** area. Acceptable experience shall be obtained under the ~~supervision oversight~~ of a certified operator, **as a certified operator**, or by otherwise demonstrating to the commissioner that the applicant's experience meets the requirements described by this subdivision.

(2) "Adequate supervision" means **that sufficient time is spent at a water treatment plant or water distribution system on a regular basis to assure that the facility is operated and maintained in a manner that protects public health.**

~~(2)~~ (3) "Applicant" means a person seeking certification as a water treatment **plant** or water distribution system certified operator, whether or not the person is currently employed as an operator.

~~(3)~~ (4) "Application" means a written request for certification under this rule addressed to the commissioner.

~~(4)~~ (5) "Automated monitoring" means a continuous monitoring system that will cause an alarm, dialer, or pager to notify a certified operator in cases where a water treatment plant or water distribution system may fail during periods of normal operation.

~~(5)~~ (6) "Available" means that, based on water treatment **plant** or water distribution system size, complexity, and source water quality, a certified operator must be on site or able to be contacted if needed to initiate appropriate action in a timely manner.

~~(6)~~ (7) "Certificate" means an appropriate document **issued**

by the commissioner containing the following information:

(A) Affirmation that the named person has fulfilled the requirements, including receiving a passing examination grade, necessary for the operation of the water treatment plant or water distribution system for which application was made.

(B) The water treatment plant or water distribution system classification that may be operated under the issued certificate.

(C) The date of issuance.

(D) An identification number unique to each certificate document.

~~(7)~~ (8) "Certification card" means a card issued **by the commissioner** to a person who has fulfilled the requirements to be a water treatment plant or **water** distribution system certified operator and ~~contains~~ **containing** the following information:

(A) The name and certificate number of the person.

(B) The classification of the water treatment plant or **water** distribution system that the named person may operate.

(C) An expiration date.

~~(8)~~ (9) "Certified operator" means a person who has:

(A) met the requirements of this rule;

(B) a valid certificate in a classification identified in section 2 of this rule for water treatment **plant** or water distribution **system** operation; and

(C) the ability to make decisions regarding the daily operational activities of a ~~a~~ public water system water treatment plant or water distribution system that will directly impact the quality or quantity of the drinking water.

~~(9)~~ (10) "Certified operator in responsible charge" means a person designated by the owner or governing body of a water treatment plant or water distribution system to be the certified operator who:

(A) has complete responsibility for the proper operation of a water treatment plant or water distribution system; and

(B) makes decisions regarding the daily operational activities of a public water system treatment plant or distribution system that will directly impact the quality or quantity of drinking water from community public water supply systems and nontransient noncommunity public water supply systems.

~~(10)~~ (11) "Commissioner" means the commissioner of the department of environmental management.

~~(11)~~ (12) "Contact hour" means a fifty (50) to sixty (60) minute instructional session involving an instructor or lecturer approved by the commissioner. Ten (10) contact hours equals one (1) continuing education unit (CEU) as defined by the National Task Force on the Continuing Education Unit.

(13) "Daily visit" means the time that:

(A) a certified operator in responsible charge; or

(B) another properly certified operator under the direction of the operator in responsible charge; **is present on site at the facility of responsibility during a twenty-four (24) hour period.**

~~(12)~~ **(14)** "Operating shift" means that period of time during which operator decisions that affect public health are necessary for the proper operation of the system.

~~(13)~~ **(15)** "Plant operation" means the time of:

(A) actual production; or

(B) pumping to produce drinking water supply.

~~(14)~~ **(16)** "Population served" means the currently accepted population equivalent.

~~(15)~~ **(17)** "Training provider" means a person who conducts or presents a course training session approved under section 7.1 of this rule.

(Water Pollution Control Board; 327 IAC 8-12-1; filed Sep 24, 1987, 3:00 p.m.: 11 IR 719; filed Sep 19, 1990, 3:00 p.m.: 14 IR 259; filed Dec 12, 1994, 4:39 p.m.: 18 IR 1230; filed Nov 20, 2000, 4:11 p.m.: 24 IR 973)

SECTION 9. 327 IAC 8-12-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-2 Classification of water distribution systems and water treatment plants

Authority: IC 13-14-8; IC 13-18-11.5; IC 13-18-11-13

Affected: IC 13-18-11

Sec. 2. (a) A water distribution system shall be classified in one (1) of three (3) classifications as follows:

(1) Class DSS (distribution system small) includes systems that:

(A) serve a population of less than three thousand three hundred ~~(3,300)~~; **one (3,301)**; and

(B) have no components other than:

(i) pressure tanks; or

(ii) storage tanks.

Nontransient noncommunity public water systems serving a population less than five hundred one (501) utilizing no treatment other than ion exchange or inline filtration are DSS systems.

(2) Class DSM (distribution system medium) includes systems that meet one (1) of the following:

(A) Serve a population greater than ~~or equal to~~ three thousand three hundred ~~one (3,301)~~ **(3,300)** but less than ~~or equal to~~ ten thousand ~~(10,000)~~ **one (10,001)** people and have no mechanical means of movement of water other than one (1) of the following:

(i) Pressure tanks.

(ii) Storage tanks.

(iii) Booster pumps to storage tanks.

(B) Serve a population of less than three thousand three hundred one (3,301) and consist of at least one (1) of the following:

~~(i) Pump.~~

(i) Pumps, not including well pumps, before the entry point to the distribution system.

~~(ii) Storage tanks.~~

(iii) (ii) Booster pumps to storage tanks.

(3) Class DSL (distribution system large) includes systems

that meet one (1) of the following:

(A) Serve a population greater than ~~or equal to~~ ten thousand ~~one (10,001)~~ **(10,000)** people.

(B) Serve a population of less than ten thousand one (10,001) and consist of at least one (1) of the following:

~~(i) Storage tanks.~~

(i) (i) Booster pumps to in the distribution system other than booster pumps to storage tanks.

~~(iii) (ii) Mechanical devices for movement of water beyond storage.~~

(b) A water treatment plant shall be classified in one (1) of six (6) classifications, based on population served and type of treatment, as follows:

(1) Class WT 1 includes systems that meet the following:

(A) Serve a population less than ~~or equal to~~ five hundred ~~(500)~~ **one (501)** people.

(B) Are a community water system.

~~(B) (C)~~ **(C) Acquire water from one (1) or both of the following:**

(i) Ground water.

(ii) Purchase.

~~(C) (D)~~ **(D) Have one (1) or both of the following:**

(i) Ion exchange softening process for cation removal.

(ii) Inline filtration device with no chemical treatment.

(2) Class WT 2 includes, ~~systems with no population limitations, systems that meet the following:~~ **requirements of clause (A) and either clause (B) or (C), or both, as follows:**

(A) Acquire water from one (1) **or more** of the following:

(i) Ground water.

(ii) Purchase.

(B) Utilize chemical feed to achieve one (1) of the following:

(i) Disinfection.

(ii) Fluoride standardization.

(iii) Water stabilization.

(C) Have one (1) or both of the following:

(i) An ion exchange softening process for cation removal if the population served is greater than five hundred (500) and less than three thousand three hundred one (3,301).

(ii) An inline filtration device if the population served is greater than five hundred (500) and less than three thousand three hundred one (3,301).

(3) Class WT 3 includes systems that meet the following:

(A) Acquire water from one (1) **or both** of the following:

(i) Ground water.

(ii) Purchase.

(B) Utilize chemical feed.

(C) Have one (1) **or more** of the following:

(i) Pressure or gravity filtration.

(ii) Ion exchange processes if the population served is greater than ~~five three thousand three hundred one (501):~~ **(3,300).**

(iii) Lime soda softening.

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(iv) Reverse osmosis.

(v) Inline filtration if the population served is greater than three thousand three hundred (3,300).

(4) Class WT 4 includes systems that meet the following:

(A) Serve a population less than ~~or equal to~~ ten thousand ~~(10,000)~~ **one (10,001)** people.

(B) Acquire water from one (1) **or both** of the following:

(i) Surface water.

(ii) Ground water under the direct influence of surface water.

(5) Class WT 5 includes systems that meet the following:

(A) Serve a population greater than ten thousand ~~one (10,001)~~ **(10,000)** people.

(B) Acquire water from one (1) **or both** of the following:

(i) Surface water.

(ii) Ground water under the direct influence of surface water.

(6) Class WT 6 includes systems that utilize newly emerging treatment technology not commonly in use for drinking water treatment in Indiana, as determined by the commissioner.

(7) The commissioner may determine the classification of a system based on system complexity and operational requirements where necessary.

(Water Pollution Control Board; 327 IAC 8-12-2; filed Sep 24, 1987, 3:00 p.m.: 11 IR 719; filed Sep 19, 1990, 3:00 p.m.: 14 IR 259; filed Dec 12, 1994, 4:39 p.m.: 18 IR 1230; errata filed Mar 9, 1995, 4:15 p.m.: 18 IR 1836; filed Nov 20, 2000, 4:11 p.m.: 24 IR 974)

SECTION 10. 327 IAC 8-12-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-3 Qualifications of a certified operator

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-11-2; IC 13-18-11

Sec. 3. (a) In order to become a certified operator of a water treatment plant or a water distribution system, a person must **do the following**:

(1) Meet the minimum qualifications specified in subsection

(b). ~~and~~

(2) Pass the certification examination required by the commissioner unless exempted by statute or rule.

(b) ~~Prior to~~ **Before** applying to take the water treatment plant or water distribution system operator certification examination given by the commissioner, a person must have the following qualifications:

(1) The educational skills necessary to **do the following**:

(A) Make simple computations:

(i) with fractions and decimals; **and**

(ii) **of multiplication and division.**

(B) Read a linear scale.

(C) Calculate volumes of simple shapes.

~~(D) make simple computations of multiplication and division;~~

~~(E) (D)~~ Keep records.

~~(F) (E)~~ Read and write the English language to the extent of:

(i) interpreting service manuals and work orders; and

(ii) submitting written reports.

~~(G) (F)~~ Understand basic principles of **the following**:

(i) Sanitation. ~~and~~

~~(H) understand basic principles of~~ (ii) Science.

(2) With the exception of an operator-in-training, experience acceptable to the commissioner in the field of water treatment or water distribution that **meets the following requirements**:

(A) Demonstrates the examination applicant's technical knowledge.

(B) Can be verified based on information from available sources, primarily the applicant's water treatment plant or water distribution system employer. ~~and~~

(C) Is the result of satisfactory accomplishment of work in accordance with the following:

(i) Measured from the date of employment of the applicant to the date of the next scheduled examination.

(ii) Received under the ~~supervision~~ **oversight** of a certified operator qualified to operate the same classification of water treatment plant or water distribution system as that of the applicant's certification application **except where one (1) of the following is used to meet the requirements for acceptable work experience**:

(AA) 327 IAC 8-12-3.2(b)(2)(C)(ii).

(BB) 327 IAC 8-12-3.2(b)(3)(D)(ii).

(CC) 327 IAC 8-12-3.2(b)(3)(D)(iii).

(DD) 327 IAC 8-12-3.2(b)(3)(D)(iv).

(EE) 327 IAC 8-12-3.2(c)(2)(D)(ii).

(FF) 327 IAC 8-12-3.2(c)(4)(D)(iii).

(GG) 327 IAC 8-12-3.2(c)(5)(D)(i)(BB).

(HH) 327 IAC 8-12-3.2(c)(5)(D)(iii).

(II) 327 IAC 8-12-3.4.

(JJ) 327 IAC 8-12-3.5.

Where acceptable work experience is gained under these provisions, oversight may be under an operator qualified to operate the water treatment plant or water distribution system where the experience was obtained. If the applicant holds a certification license for the classification of system where the experience is obtained, the applicant's manager may certify that the experience has been obtained.

(Water Pollution Control Board; 327 IAC 8-12-3; filed Sep 24, 1987, 3:00 p.m.: 11 IR 721; filed Sep 19, 1990, 3:00 p.m.: 14 IR 262; filed Dec 12, 1994, 4:39 p.m.: 18 IR 1232; errata filed Mar 9, 1995, 4:15 p.m.: 18 IR 1836; filed Nov 20, 2000, 4:11 p.m.: 24 IR 977)

SECTION 11. 327 IAC 8-12-3.2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-3.2 Certified operator grades

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-18-11

Sec. 3.2. (a) Grade operator-in-training (O.I.T.) is available under the following guidelines:

(1) To a person meeting the following:

(A) Currently employed at a public water system with facilities classified as a Class WT 3, ~~Class~~ WT 4, or ~~Class~~ WT 5 water treatment plant or a **Class** DSL water distribution system.

(B) Has fulfilled the qualifications of section 3(a)(2) and 3(b)(1) of this rule.

(2) In accordance with the following:

(A) Until the O.I.T. meets the experience requirement needed for the classification of treatment plant or distribution system where the O.I.T. is accumulating work experience.

(B) Operating work must be accomplished under the supervision of a certified operator in responsible charge who must verify to the commissioner the satisfactory achievement of acceptable experience by the O.I.T.

(C) An O.I.T. may not **do any of the following**:

- (i) Serve as a certified operator in responsible charge.
- (ii) Transfer an O.I.T. certification to a water treatment plant or **water** distribution system with a public water system identification number (PWSID) different than the PWSID for which the certification was issued.
- (iii) Hold two (2) **water** treatment plant or **water** distribution system O.I.T. certifications concurrently. ~~or~~
- (iv) Renew the O.I.T. certification.

(b) A water distribution system certified operator may possess a valid certification in one (1) or more of the following three (3) grades:

(1) Grade DSS is a certified operator qualified to operate a Class DSS water distribution system after having fulfilled the following requirements:

(A) Possess a high school diploma or its equivalent.

(B) Meet the qualifications of section 3 of this rule.

(C) Attain a minimum of one (1) year of acceptable work experience in the operation of a Class DSS water distribution system.

(2) Grade DSM is a certified operator qualified to operate a Class DSS and Class DSM water distribution system after having fulfilled the following requirements:

(A) Possess a high school diploma or its equivalent.

(B) Meet the qualifications of section 3 of this rule.

(C) Attain one (1) of the following acceptable work experience requirements:

- (i) One (1) year in the operation of a Class DSM water distribution system.
- (ii) Two (2) years in the operation of a Class DSS water distribution system.

(3) Grade DSL is a certified operator qualified to operate a Class DSS, Class DSM, and Class DSL water distribution system after having fulfilled the following requirements:

(A) Possess a high school diploma or its equivalent.

(B) Meet the qualifications of section 3 of this rule.

(C) Must be able to **do the following**:

- (i) Maintain inventories.
- (ii) Order supplies and equipment. ~~and~~
- (iii) Interpret chemical and bacteriological sample reports.

(D) Attain one (1) of the following acceptable work experience requirements:

- (i) One (1) year in the operation of a Class DSL water distribution system.
- (ii) Three (3) years in the operation of a Class DSM water distribution system.
- (iii) Five (5) years in the operation of a Class DSS water distribution system.
- (iv) An acceptable number of years of experience approved by the commissioner if gained in operation of a combination of the various classifications of water distribution systems.

(c) A water treatment plant certified operator may possess a valid certification in one (1) or more of the following ~~five (5)~~ **six (6)** grades:

(1) Grade WT 1 is a certified operator qualified to operate a Class WT 1 water treatment plant **or a Class DSS water distribution system at a nontransient noncommunity water system serving five hundred (500) or fewer individuals or a community water system serving one hundred (100) or fewer individuals** after having fulfilled the following requirements:

(A) Possess a high school diploma or its equivalent.

(B) Meet the qualifications of section 3 of this rule.

(C) Must be able to **do the following**:

- (i) Maintain inventories.
- (ii) Order supplies and equipment. ~~and~~
- (iii) Interpret chemical and bacteriological sample reports.

(D) Attain a minimum of one (1) year of acceptable work experience in the operation of a Class WT 1 water treatment plant.

(2) Grade WT 2 is a certified operator qualified to operate a Class WT 1 and a Class WT 2 water treatment plant **and a Class DSS water distribution system at a nontransient noncommunity water system serving five hundred (500) or fewer individuals or a community water system serving one hundred (100) or fewer individuals** after having fulfilled the following requirements:

(A) Possess a high school diploma or its equivalent.

(B) Meet the qualifications of section 3 of this rule.

(C) Must be able to **do the following**:

- (i) Maintain inventories.
- (ii) Order supplies and equipment. ~~and~~
- (iii) Interpret chemical and bacteriological sample reports.

(D) Attain one (1) of the following acceptable work experience requirements:

- (i) One (1) year in the operation of a Class WT 2 water treatment plant.
- (ii) Two (2) years in the operation of a Class WT 1 water treatment plant.

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(3) Grade WT 3 is a certified operator qualified to operate a Class WT 1, Class WT 2, and Class WT 3 water treatment plant **and a Class DSS water distribution system at a nontransient noncommunity water system serving five hundred (500) or fewer individuals or a community water system serving one hundred (100) or fewer individuals** after having fulfilled the following requirements:

- (A) Possess a high school diploma or its equivalent.
- (B) Meet the qualifications of section 3 of this rule.
- (C) Must be able to **do the following**:
 - (i) Maintain inventories.
 - (ii) Order supplies and equipment. ~~and~~
 - (iii) Interpret chemical and bacteriological sample reports.
- (D) Attain the following acceptable work experience at a minimum:
 - (i) Two (2) years in the operation of a Class WT 3 water treatment plant.
 - (ii) Successful completion of educational work at college level in:
 - (AA) engineering;
 - (BB) chemistry; or
 - (CC) science;

related to water treatment may be substituted for work experience required according to item (i) at the ratio of four (4) semesters or six (6) quarters of schooling for a maximum substitution of one (1) year of experience.

(4) Grade WT 4 is a certified operator qualified to operate a Class WT 1, Class WT 2, and Class WT 4 water treatment plant **and a Class DSS water distribution system at a nontransient noncommunity water system serving five hundred (500) or fewer individuals or a community water system serving one hundred (100) or fewer individuals** after having fulfilled the following requirements:

- (A) Possess a high school diploma or its equivalent.
- (B) Meet the qualifications of section 3 of this rule.
- (C) Must be able to **do the following**:
 - (i) Maintain inventories.
 - (ii) Order supplies and equipment. ~~and~~
 - (iii) Interpret chemical and bacteriological sample reports.
- (D) Attain the following acceptable work experience at a minimum:
 - (i) Two (2) years in the operation of a Class WT 4 water treatment plant.
 - (ii) Successful completion of educational work at college level in:
 - (AA) engineering;
 - (BB) chemistry; or
 - (CC) science;

related to water treatment may be substituted for work experience required according to item (i) at the ratio of four (4) semesters or six (6) quarters of schooling for a maximum substitution of one (1) year of experience.

(iii) Two (2) years in the operation of a Class WT 3 water treatment plant may substitute for a maximum of one (1) year of experience required according to item (i).

(5) Grade WT 5 is a certified operator qualified to operate a Class WT 1, Class WT 2, Class WT 4, and Class WT 5 water treatment plant **and a Class DSS water distribution system at a nontransient noncommunity water system serving five hundred (500) or fewer individuals or a community water system serving one hundred (100) or fewer individuals** after having fulfilled the following requirements:

- (A) Possess a high school diploma or its equivalent.
- (B) Meet the qualifications of section 3 of this rule.
- (C) Must have the ability to **do the following**:
 - (i) Use conversion factors.
 - (ii) Solve simple mathematical equations.
 - (iii) Understand **the following**:
 - (AA) Simple chemical laboratory equipment.
 - ~~(iv) understand~~ (BB) The bacteriological procedures used in water supply work.
 - ~~(v) (iv)~~ Maintain inventories. ~~and~~
 - ~~(vi) (v)~~ Order supplies and equipment.
- (D) Attain the following acceptable work experience at a minimum:

(i) One (1) of the following:

- (AA) Three (3) years in the operation of a Class WT 5 water treatment plant.
- (BB) Five (5) years in the operation of a Class WT 4 water treatment plant.

(ii) Successful completion of educational work at college level in:

- (AA) engineering;
- (BB) chemistry; or
- (CC) science;

related to water treatment may be substituted for work experience required according to item (i) at the ratio of four (4) semesters or six (6) quarters of schooling for one (1) year of experience, up to a maximum of two (2) years of experience.

(iii) Two (2) years in the operation of a WT 3 water treatment plant may be substituted for one (1) year of experience required according to item (i) up to a maximum substitution of two (2) years experience.

(6) Grade WT 6 is a certified operator qualified to operate a Class WT 6 water treatment plant that requires operator qualifications determined by the commissioner on an individual plant basis in response to the specialized nature of the water treatment plant.

(d) An applicant for water treatment plant or water distribution system operator certification may submit proof to the commissioner to demonstrate the achievement of an equivalent level of acceptable **training or** work experience for that required by the following subsections:

- (1) (b)(1)(C).
- (2) (b)(2)(C).
- (3) (b)(3)(D).
- (4) (c)(1)(D).
- (5) (c)(2)(D).

- (6) (c)(3)(D).
- (7) (c)(4)(D).
- (8) (c)(5)(D).

(e) A Grade WT 3, Grade WT 4, and Grade WT 5 operator is qualified to apply for the appropriate wastewater treatment **plant** certification according to 327 IAC 5-22 to treat wastewater from a water treatment plant provided the operator is certified to operate that classification of water treatment plant. (*Water Pollution Control Board; 327 IAC 8-12-3.2; filed Nov 20, 2000, 4:11 p.m.: 24 IR 980*)

SECTION 12. 327 IAC 8-12-3.4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-3.4 Grandparenting

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-10.5; IC 13-18-11-13
Affected: IC 13-18-11

Sec. 3.4. (a) For ~~the~~ purposes of this rule, grandparenting is the process through which the commissioner may issue operator certification to a person who has been working at a water treatment plant or water distribution system that, ~~prior to before~~ the effective date of this rule, was not required to be under the supervision of a certified operator. An operator certificate to be conferred through grandparenting may be issued if:

- (1) the owner or governing body meets the criterion of subsection (b); and
- (2) the recipient of ~~such the~~ certificate ~~must abide~~ **abides** by the requirements of subsection (d).

(b) The commissioner may issue an operator certification in the operator grade appropriate to the classification of water treatment plant or water distribution system where the recipient has been an employee acting in the capacity of an operator making process control decisions that affect the quality or quantity of water from the treatment plant or distribution system if the owner or governing body submits an application to the commissioner before September 1, 2002, requesting certification of each person intended to be designated as one (1) of the facility's operators in responsible charge.

(c) A certification conferred under grandparenting shall be as follows:

- (1) Valid only at the site where the person receiving the grandparent certification gained operator experience.
- (2) Valid for three (3) years during which time the operator must **do the following**:
 - (A) Fulfill the continuing education requirements for the grade of operator certification that has been conferred through grandparenting as listed in section 7.5 of this rule in order to be eligible for certification renewal according to section 7(e)(3) of this rule. ~~and~~
 - (B) Successfully complete an operator training course specified by the commissioner. ~~and~~
- (3) Invalid if the classification of the water treatment plant or

water distribution system changes to one (1) requiring a certified operator with more extensive education or experience qualifications, such as may be based on **any of the following**:

- (A) Increased capacity.
- (B) An increase in population served.
- (C) A basic change in the method of water treatment. ~~or~~
- (D) Another change in conditions that causes a more difficult or complex operation.

(4) The commissioner may allow a grandparented operator to continue operation of a system where the classification has changed under subdivision (3) if the operator demonstrates to the commissioner that the facility will be properly operated. For a grandparented operator to continue operation of a system where the classification has changed under subdivision (3), a written request must be made by the owner of the public water system.

(d) If an operator certified under grandparenting according to this section:

- (1) fails to meet the continuing education requirements of section 7.5 of this rule within the required time according to subsection (c)(2); or
- (2) goes to work at water treatment plant or water distribution system other than the one for which the grandparent certification was conferred;

then the grandparent certification is voided and the operator must become certified according to the requirements of this rule. (*Water Pollution Control Board; 327 IAC 8-12-3.4; filed Nov 20, 2000, 4:11 p.m.: 24 IR 982*)

SECTION 13. 327 IAC 8-12-3.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 8-12-3.5 Site-specific operator

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13
Affected: IC 13-18-11

Sec. 3.5. (a) Operators of nontransient noncommunity public water systems of the following facility classifications may be granted SSO certifications:

- (1) Class DSS systems.
- (2) Class WT1 systems.
- (3) Noncommunity public water systems of other facility classifications may be granted SSO certifications for their classifications if the commissioner determines that the SSO applicant will adequately perform the tasks necessary for proper operation of the system.

(b) Operators of community public water systems serving one hundred (100) or fewer people with the following facility classifications may be granted SSO certifications:

- (1) Class DSS systems.
- (2) Class WT1 systems.

(c) The following requirements must be met in order for a site specific operator (SSO) certification to be granted for

a public water system:

- (1) The owner of the system shall designate a person to be in responsible charge of the system.
- (2) The designee (applicant) must be an employee or member of the public water system.
- (3) Each applicant shall do the following:
 - (A) Demonstrate proficiency to the commissioner in accordance with section 4.5 of this rule.
 - (B) Meet the requirements of section 3(b)(1) of this rule.
 - (C) Be able to do the following:
 - (i) Maintain inventories.
 - (ii) Order supplies.
 - (iii) Interpret chemical and bacteriological sample reports.
- (4) A person may hold only one (1) SSO certification at a time unless the commissioner has determined that the SSO operator can maintain each system for which an SSO certification is requested.

(d) An SSO certification is valid as follows:

- (1) Only at the site for which the SSO certification is granted.
- (2) For three (3) years, during which time the operator shall fulfill the continuing education requirements for the SSO certification as listed in section 7.5 of this rule in order to be eligible for certification renewal in accordance with section 7(e)(3) of this rule.

(e) An SSO certification will be invalid if the classification of water treatment plant or water distribution system changes to one (1) requiring a certified operator with more extensive education or experience, such as any of the following:

- (1) Increased capacity.
- (2) An increase in population served.
- (3) A basic change in the method of water treatment.
- (4) Another change in conditions that causes a more difficult or complex operation.

(f) If a person granted an SSO certification fails to meet the continuing education requirements of section 7.5 of this rule within the required time set forth in subsection (d)(2), then:

- (1) the SSO certification is voided; and
- (2) the operator must become certified according to the requirements of this rule.

(g) The commissioner may revoke an SSO certification due to failure to do any of the following:

- (1) Conduct any of the following:
 - (A) Monitoring and reporting to meet the requirements of 327 IAC 8-2.
 - (B) Reporting to meet the requirements of 327 IAC 8-2.1.
 - (C) Monitoring and reporting to meet the requirements of 327 IAC 8-2.5.

(2) Operate and maintain the system in a manner that protects human health.

(Water Pollution Control Board; 327 IAC 8-12-3.5)

SECTION 14. 327 IAC 8-12-3.6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-3.6 Certified operator in responsible charge

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-18-11

Sec. 3.6. (a) A certified operator may be in responsible charge of more than one (1) water treatment plant or water distribution system if the following conditions are met:

(1) The certified operator will be able to provide adequate supervision to all units involved.

(2) ~~Prior to~~ **Before** undertaking multiple operator positions of responsible charge, a letter signed by the certified operator is submitted to the owner or governing body of each water treatment plant and water distribution system to be under the responsible charge of the certified operator providing the following information:

(A) The name and location of ~~each~~ each water treatment plant and water distribution system to be under the responsible charge of the certified operator.

(B) The number of hours per week the certified operator shall work at each water treatment plant and water distribution system.

(b) ~~As used in this section, "adequate supervision" means that sufficient time is spent at a water treatment plant or water distribution system on a regular basis to assure that the certified operator is knowledgeable of the actual operations and that test reports and results are representative of the actual operational conditions. A daily visit is the time that a certified operator is present on site at the facility of responsibility during a twenty-four (24) hour period; a certified operator shall be credited for no more than one (1) daily visit within a twenty-four (24) hour period.~~ The following establishes minimum criteria regarding adequate supervision at each classification of water distribution system and water treatment plant:

(1) DSS must **do the following**:

(A) Be monitored daily by a dependable person or automated system. ~~and~~

(B) **Meet the following conditions based on system size and type:**

(i) **A community water system must** have a certified operator on site for a minimum of two (2) daily visits every week.

(ii) **A nontransient noncommunity water system serving greater than five hundred (500) individuals must** have a certified operator on site for a minimum of one (1) daily visit every week.

(iii) **A nontransient noncommunity water system serving five hundred (500) or fewer individuals must** have a certified operator on site for a minimum of one

(1) **daily site visit every two (2) weeks.**

(2) DSM must **do the following:**

(A) Be monitored daily by a dependable person or automated system. ~~and~~

(B) Have a certified operator on site for a minimum of three (3) daily visits every week.

(3) DSL must **do the following:**

(A) Be monitored daily by a dependable person or automated system. ~~and~~

(B) Have a certified operator on site for a minimum of five (5) daily visits every week.

(4) WT 1 must **do the following:**

(A) Be monitored daily by a dependable person or automated system. ~~and~~

(B) Have a certified operator on site for a minimum of three (3) daily visits every week.

(5) WT 2 must **do the following:**

(A) Be monitored daily by a dependable person or automated system. ~~and~~

(B) Have a certified operator on site for a minimum of five (5) daily visits every week.

(6) WT 3 must **do the following:**

(A) Be monitored daily by a dependable person or automated system. ~~and~~

(B) Have a certified operator on site for a minimum of five (5) daily visits every week.

(7) WT 4 must have a certified operator on site during water treatment plant operation unless the plant is equipped with an automated system approved by the commissioner.

(8) WT 5 must have a certified operator on site during water treatment plant operation unless the plant is equipped with an automated system approved by the commissioner.

(c) **When requested by the commissioner, ~~may request the certified operator shall provide~~ written submission documenting the following:**

(1) The name, location, and classification of each water treatment plant and water distribution system under the responsible charge of a certified operator.

(2) The amount of time that a certified operator in responsible charge spends at a facility of responsibility identified according to subdivision (1).

(d) The commissioner shall evaluate information required by this section and any other information pertinent to a water treatment plant or water distribution system under the supervision of a certified operator in responsible charge ~~of multiple facilities~~ and may determine the following:

(1) The time ~~provided for supervision spent on site during a daily visit~~ is inadequate **for the duties required to properly operate the system in compliance with 327 IAC 8.**

(2) An amount of time that the certified operator in responsible charge shall be required to spend in the operation of each water treatment plant or water distribution system **where the operator is in charge of more than one (1) system.**

(3) A reduction of the number of water treatment plants or

water distribution systems over which the certified operator may have responsible charge.

(4) ~~A reduction of~~ The number of daily site visits ~~to be required under subsection (b)(1) through (b)(6) may be modified by the certified operator.~~ **commissioner on a case-by-case basis.**

(Water Pollution Control Board; 327 IAC 8-12-3.6; filed Nov 20, 2000, 4:11 p.m.: 24 IR 982)

SECTION 15. 327 IAC 8-12-4 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-4 Examination of applicants to become a certified operator of a water treatment plant or water distribution system

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-18-11

Sec. 4. (a) A standardized examination prepared to reflect the duties and responsibilities required of each grade of water treatment plant and water distribution system certified operator shall be **as follows:**

(1) Used to test knowledge, ability, and judgment of an applicant to become a water treatment plant or water distribution system certified operator.

(2) Conducted at least annually. ~~and~~

(3) Held at places and times established by the commissioner:
(A) with at least sixty (60) days advanced announcement; and

(B) except in such cases as may be declared necessary exceptions by the commissioner.

(b) A person wishing to be examined for water treatment plant or water distribution system certification shall fulfill the following requirements:

(1) Complete an application on a form approved by the commissioner that:

(A) contains true and accurate information to the best of the applicant's knowledge; and

(B) is free of omissions and misrepresentations, either of which may result in rejection of the application or revocation of any certificate previously granted.

(2) Submit a completed application, with the necessary fee, to the commissioner **postmarked** not later than forty-five (45) days preceding the date of the examination.

(c) The commissioner shall **do the following:**

(1) Review an application and supporting documents concerning the eligibility of an applicant for water treatment plant or water distribution system certification. ~~and~~

(2) Issue a written notification in the form of an admission slip, providing the time and place of the examination, to be presented by an applicant deemed eligible for examination.

(d) A person who has been notified and scheduled to take an examination:

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(1) may submit a written request to the commissioner for a postponement to take the examination one (1) offering later than the examination granted by the commissioner if:

(A) the postponement:

(i) for a nonemergency reason is requested ~~no not~~ later than fourteen (14) days ~~prior to before~~ the examination date noticed to the applicant under subsection (c)(2); and ~~(B) the postponement~~ (ii) request for an emergency reason is submitted as soon as conditions of the emergency warrant; and

~~(C) (B)~~ the applicant:

(i) provides the commissioner an explicit description of extenuating circumstances necessitating the requested postponement; and

~~(D) the applicant~~ (ii) understands that only one (1) postponement shall be allowed; or

(2) will be considered to have failed that examination if ~~one~~ ~~(1) of the following occurs:~~ **the person:**

(A) ~~The person~~ does not attend the examination and has not requested a postponement according to subdivision (1); or

(B) ~~The person~~ is caught cheating on an examination, an occurrence that will make an applicant ineligible to take any operator certification examination for a period of two (2) years following the examination date of the incidence of cheating.

(e) Completed examinations shall be managed by the commissioner according to the following:

(1) Graded in a manner prescribed by the commissioner with a minimum result of seventy percent (70%) needed in order to pass the examination.

(2) The commissioner shall notify an applicant of the examination result **as follows:**

(A) In writing. ~~and~~

(B) ~~no~~ **Not** later than two (2) months after the date of the examination.

(3) Examination papers shall be retained by the commissioner with an opportunity afforded to an applicant notified of having failed the examination for review of the graded examination until a date ninety (90) days ~~prior to before~~ the next scheduled examination if the applicant submits the following to the commissioner:

(A) A written request for review of the graded examination.

(B) A statement affirming the applicant's understanding that examination review does not include the right to copy, by any means, **the following:**

(i) The examination. ~~or~~

(ii) Any portion of it: **the examination.**

(f) A person previously certified as a water treatment plant or water distribution system operator under this rule but who has failed to meet the renewal requirements **within a grace period of one (1) year** according to section ~~7(c)(3)~~ 7(e)(4) of this rule must

~~(1)~~ retake an examination. ~~and~~

~~(2) meet the renewal requirements of section 7(c)(3) of this rule, including an amount of continuing education equivalent to that required for one (1) renewal period, as specified in section 7-5 of this rule;~~

~~within a grace period of one (1) year. (Water Pollution Control Board; 327 IAC 8-12-4; filed Sep 24, 1987, 3:00 p.m.: 11 IR 723; filed Sep 19, 1990, 3:00 p.m.: 14 IR 265; filed Dec 12, 1994, 4:39 p.m.: 18 IR 1235; filed Nov 20, 2000, 4:11 p.m.: 24 IR 984)~~

SECTION 16. 327 IAC 8-12-4.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 8-12-4.5 Demonstration of proficiency for applicants to become a site-specific operator

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-18-11

Sec. 4.5. (a) A person may become certified as a site-specific operator (SSO) by a demonstration of proficiency:

(1) through an examination;

(2) based on completion of an approved training course; or

(3) through another method approved by the commissioner.

(b) A standardized examination prepared to reflect the duties and responsibilities required of each SSO water treatment plant and water distribution system certified operator shall be as follows:

(1) Conducted at least annually.

(2) Held at places and times established by the commissioner.

(c) A person wishing to apply for water treatment plant or water distribution system SSO certification shall fulfill the following requirements:

(1) Complete an application on a form approved by the commissioner that:

(A) contains true and accurate information to the best of the applicant's knowledge; and

(B) is free of omissions and misrepresentations, either of which may result in rejection of the application or revocation of any certificate previously granted.

(2) Submit the following:

(A) A completed application, with the necessary fee, to the commissioner.

(B) Any additional information requested by the commissioner.

(Water Pollution Control Board; 327 IAC 8-12-4.5)

SECTION 17. 327 IAC 8-12-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-6 Certification; reciprocity; provisional certificate

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13
Affected: IC 13-18-11-9

Sec. 6. (a) The commissioner shall issue a certificate designating competency in the appropriate certified operator's grade to each person who makes proper application if the applicant:

- (1) meets the necessary requirements of education and experience; and
- (2) successfully completes a grade appropriate examination.

Upon successful completion of examination according to section 4 of this rule, the commissioner shall issue a certification in the certified operator grade in which the applicant was examined.

(b) The commissioner may issue a certificate by reciprocity as outlined in IC 13-18-11-9 if the following conditions are met:

- (1) A person seeking reciprocal certification submits an application for such a certificate that includes the following:
 - (A) Proof of current certification.
 - (B) Grade of the applicant.
- (2) A person from another state seeking a certificate by reciprocity earns the number of continuing education contact hours for all future renewal periods, in the time period required by section 7.5(a) of this rule, though no continuing education contact hours shall be required at the time of conferring the reciprocal certification.

(c) The commissioner may issue a provisional water treatment plant or water distribution operator's certificate if the following occur:

- (1) The governing body or owner of a water treatment plant or water distribution system submits a written request specifying the existence of the vacancy and a reason necessitating the provisional certification, including one (1) of the following:
 - (A) To fill a vacancy created by death.
 - (B) Resignation of the certified operator in responsible charge.
 - (C) Extended illness of the certified operator in responsible charge.
 - (D) A justifiable cause due to ~~unforeseen~~ **unforeseen** circumstances beyond the control of the governing body or owner that leaves the treatment plant or distribution system without a certified operator.
- (2) The written request required by subdivision (1) provides the name, education, and experience of the person for whom the provisional certificate is requested.
- (3) The provisional certificate nominee named under subdivision (2):
 - (A) submits, simultaneously with the request submitted under subdivision (1), an application as required by section 4(b) of this rule requesting examination and certification; **and**
 - (4) ~~The provisional certificate nominee named under subdivision (2)~~ **(B)** is eligible at the time of the request submitted under subdivision (1) for the next scheduled certification examination.

(d) A provisional certificate shall be **as follows**:

- (1) Issued by the commissioner in the form of a letter that specifies the conditions of the certification. ~~and~~
- (2) Valid for ~~the shorter one (1)~~ **one (1)** of the following lengths of time **as determined by the commissioner**:
 - (A) The period between the:
 - (i) date of application; and
 - (ii) the end of the thirty (30) day grading period following the next examination that is available to the provisional certificate nominee.
 - (B) One (1) year.
 - (C) **Another time period designated by the commissioner.**

(e) The commissioner may also issue a provisional water treatment plant or water distribution operator's certificate if the following occur:

- (1) **The classification of a treatment plant or water distribution system changes due to the following:**
 - (A) **Installation of treatment to meet a new requirement of the Safe Drinking Water Act (42 U.S.C. 300f and 42 U.S.C. 300j-26) or 327 IAC 8.**
 - (B) **An increase in the population served that:**
 - (i) **is not the result of consolidation of one (1) or more public water systems; and**
 - (ii) **is less than ten percent (10%) of population previously served.**
- (2) **The written request required by subdivision (1)(A) provides the name, education, and experience of the person for whom the provisional certificate is requested.**
- (3) **The provisional certificate nominee named under subdivision (1)(B) submits, simultaneously with the request submitted under subdivision (1)(A), an application as required by section 4(b) of this rule requesting examination and certification.**

(f) The commissioner may waive the hands-on experience requirements for application for the examination for the new treatment classification for the provisional certificate nominee.

(g) A provisional certificate must be as follows:

- (1) **Issued by the commissioner in the form of a letter that specifies the conditions of the certification.**
- (2) **Valid for one (1) of the following lengths of time as determined by the commissioner:**
 - (A) **The period between the:**
 - (i) **date of application; and**
 - (ii) **end of the thirty (30) day grading period following the next examination that is available to the provisional certificate nominee.**
 - (B) **One (1) year.**
 - (C) **Another time period designated by the commissioner.**
- (3) **Granted only for continued operation of a system where the classification has changed subsection (e) if the operator demonstrates to the commissioner that the**

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facility will be properly operated.

(*Water Pollution Control Board; 327 IAC 8-12-6; filed Sep 24, 1987, 3:00 p.m.: 11 IR 724; filed Sep 19, 1990, 3:00 p.m.: 14 IR 266; filed Dec 12, 1994, 4:39 p.m.: 18 IR 1236; filed Nov 20, 2000, 4:11 p.m.: 24 IR 985*)

SECTION 18. 327 IAC 8-12-7 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-7 Certificates and certification cards; renewal; duplicates

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-13

Affected: IC 13-18-11-6.5

Sec. 7. (a) A water treatment plant and water distribution system operator's certificate shall **be as follows**:

- (1) Be issued after an applicant's successful completion of the grade appropriate examination.
- (2) Specify **the following**:
 - (A) The month and year that the applicant qualified. ~~and~~
 - (B) The issuance date of the certificate.
- (3) Be permanent in nature but will be effective only when validated by a current certification card. ~~and~~
- (4) Not be valid if obtained:
 - (A) through fraud **or** deceit; or
 - (B) by the submission of inaccurate data on the application.

(b) A water treatment plant or water distribution system certified operator must **do the following**:

- (1) Provide permanent and visible display of his or her certificate at the water treatment plant or water distribution system office. ~~and~~
 - (2) Obtain a duplicate certificate to display in the office of each water treatment plant and water distribution system supervised if the certified operator supervises more than one
- (1) water treatment plant or water distribution system.

(c) A certification card shall **be as follows**:

- (1) Be issued **as follows**:
 - (A) Simultaneously with the certificate.
 - ~~(2) be issued~~ (B) For a time period of **no not** more than thirty-six (36) months. ~~and~~
- ~~(3)~~ (2) Expire on the last day of June nearest the end of the triennial period following issuance.

(d) A water treatment plant or water distribution system certified operator needing a replacement or duplicate certificate ~~must~~ or card **must** submit a written request to the commissioner that includes the following:

- (1) The following information:
 - (A) The grade of the water treatment plant or water distribution system certified operator.
 - (B) The name and classification of the water treatment plant or water distribution system to be operated.
 - (C) The date of issuance of the original certificate if known.
 - (D) The certificate number.

(2) A fee specified according to section 5(a)(4) or 5(a)(5) of this rule.

(e) The commissioner shall accomplish the following:

(1) Issue to each certified operator of a water treatment plant or water distribution system a renewal notification stating the following:

- (A) The expiration date of the certified operator's certification card.
- (B) The amount of the fee required for certification card renewal.

(2) Mail certification card renewal notifications **as follows**:

(A) At least thirty (30) days ~~prior to~~ **before the** expiration of the certification card. ~~and~~

(B) To the last known address filed with the commissioner.

(3) Renew a certification card if:

(A) the continuing education requirements of section 7.5 of this rule are met;

(B) a renewal fee described in section 5(a)(3) of this rule is submitted to the commissioner on or before the first day of July of the triennial period for which a certification card is to be issued; and

(C) the notice is signed and returned by the certified operator to the commissioner.

(4) Reinstate certification if the operator **does the following**:

(A) Submits payment of **the following**:

(i) Any arrearage of fees.

~~(B) Submits payment of~~ (ii) The current renewal fee.

~~(C) passes the grade appropriate examination;~~

~~(D)~~ (B) Fulfills arrearage of continuing education credit requirements. ~~and~~

~~(E)~~ (C) Is current in meeting continuing education credit requirements.

(5) Deny renewal of a certification card that is not renewed within the time limit established in section 7.5(a) of this rule and ~~IC 13-18-11-6(c) unless the IC 13-18-11-6.5(c). An operator pursues reinstatement through reapplication may reapply and reexamination retake the examination follow-~~ing the requirements of section 4 of this rule.

(*Water Pollution Control Board; 327 IAC 8-12-7; filed Sep 24, 1987, 3:00 p.m.: 11 IR 724; filed Sep 19, 1990, 3:00 p.m.: 14 IR 267; filed Dec 12, 1994, 4:39 p.m.: 18 IR 1236; filed Nov 20, 2000, 4:11 p.m.: 24 IR 986*)

SECTION 19. 327 IAC 8-12-7.5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 8-12-7.5 Continuing education requirements

Authority: IC 13-14-8; IC 13-18-11-1.5; IC 13-18-11-6.5; IC 13-18-11-13

Affected: IC 13-18-11

Sec. 7.5. (a) All water treatment plant and water distribution system certified operators shall fulfill continuing education requirements in amounts specified in Table 7.5(b) in subsection (b):

(1) during each three (3) year period following the issuance of the certification card; and **prior to**

(2) before having that certification card renewed.

(b) Continuing education credits required for certification card renewal in the grades of water treatment plant and water distribution system certified operators are listed in the following table:

Table 7.5(b)

Certified Operator Grades, Water Distribution System and Water Treatment Plant Grade O.I.T.	Continuing Education Credits Required for Renewal
	Contact hours shall match those required for the classification where operator is in training; certification card not renewable
Grade SSO	10 contact hours
Grade DSS	10 contact hours
Grade DSM	15 contact hours
Grade DSL	15 contact hours
Grade WT 1	10 contact hours
Grade WT 2	15 contact hours
Grade WT 3	25 contact hours
Grade WT 4	30 contact hours
Grade WT 5	30 contact hours
Grade WT 6	30 contact hours

(c) Continuing education credits required according to Table 7.5(b) in subsection (b) must adhere to a distribution of subject matter according to the following:

- (1) A minimum of seventy percent (70%) of the required continuing education contact hours shall be obtained from the technical category of approved continuing education courses.
- (2) ~~No~~ **Not** more than thirty percent (30%) of the required continuing education contact hours shall be obtained from nontechnical subject matter of approved continuing education courses.

(d) A person having a valid certification card in more than one (1) classification of water treatment plant or water distribution system:

- (1) may be given duplicate continuing education credit from a single approved continuing education course for each water treatment plant and water distribution system certification to which the subject matter is applicable; and
- (2) must obtain the greatest number of continuing education contact hours required by the various certifications held within the shared time period of overlap in order not to be required to obtain continuing education for each certificate held.

(Water Pollution Control Board; 327 IAC 8-12-7.5; filed Nov 20, 2000, 4:11 p.m.: 24 IR 989)

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice

is hereby given that on May 10, 2006 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on proposed amendments to 327 IAC 8-2-8.2, 327 IAC 8-2.5-6, 327 IAC 8-2.5-7, 327 IAC 8-2.5-8, 327 IAC 8-2.5-9, 327 IAC 8-2.6-6, 327 IAC 8-11-1, 327 IAC 8-12-1, 327 IAC 8-12-2, 327 IAC 8-12-3, 327 IAC 8-12-3.2, 327 IAC 8-12-3.4, 327 IAC 8-12-3.6, 327 IAC 8-12-4, 327 IAC 8-12-6, 327 IAC 8-12-7, and 327 IAC 8-12-7.5 and new rules 327 IAC 8-12-3.5 and 327 IAC 8-12-4.5 concerning sanitary surveys and operator certification.

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

Additional information regarding this action may be obtained from Rebecca Schmitt, Rules Development Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana). Technical information regarding this action may be obtained from Stacy Jones, Drinking Water Branch, Office of Water Quality, (317) 308-3292 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 Water Quality, Indiana Department of Environmental Management, 100 North Senate Avenue, Twelfth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruno Pigott
Assistant Commissioner
Office of Water Quality

**TITLE 329 SOLID WASTE MANAGEMENT
BOARD**

Proposed Rule
LSA Document #05-219

DIGEST

Amends 329 IAC 4.1, concerning regulation of wastes

containing PCBs, to readopt for the purposes of IC 13-14-9.5 and amend to update the incorporation by reference of the Code of Federal Regulations, update the viewing/copying location and addresses, clarify public notice requirements, remove the language relating to manifests to reflect the current statute, simplify certain notifications, and update references. Effective 30 days after filing with the Secretary of State.

HISTORY

First Notice of Comment Period: September 1, 2005, Indiana Register (28 IR 3689).

Second Notice of Comment Period and Notice of First Hearing: December 1, 2005, Indiana Register (29 IR 1055).

Date of First Hearing: March 21, 2006.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

Portions of this proposed rule are substantively different from the draft rule published on December 1, 2005, at 29 IR 1055. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule.

Since the draft rule was published, two sets of changes have been made to the rule. The first set of changes were requested by IDEM staff for the purpose of clarification of the public notice and public participation requirements in 329 IAC 4.1-7-4, 329 IAC 4.1-8-4, 329 IAC 4.1-9-4, and 329 IAC 4.1-10-1. Public notice and public participation requirements were referenced in the existing rule, but these proposed changes specifically set out the requirements. The second set of changes have been made in response to comments made by a member of the regulated community. IDEM proposes to separate 329 IAC 4.1-13-1 into new sections with some changes to new sections 329 IAC 4.1-13-3 and 329 IAC 4.1-13-4.

The following sections of the proposed rule are substantively different from the draft rule:

- 329 IAC 4.1-7-4
- 329 IAC 4.1-8-4
- 329 IAC 4.1-9-4
- 329 IAC 4.1-10-1
- 329 IAC 4.1-13-3
- 329 IAC 4.1-13-4

This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Comments on additional sections of the proposed rule that the commenter believes are substantively different from the draft rule may also be submitted for the consideration of the board.

Mailed comments should be addressed to:

Marjorie Samuel (#05-219; Regulation of Wastes Containing PCBs)

Rules Planning and Outreach Section

Office of Land Quality, MC #65-45

Indiana Department of Environmental Management

100 North Senate Avenue, Room 1101

Indianapolis, Indiana 46204-2251

Hand delivered comments will be accepted by the receptionist on duty at the Eleventh Floor East reception desk, Office of Land Quality, 100 North Senate Avenue, Indianapolis, Indiana. Comments may also be submitted by facsimile to (317) 232-3403, Monday through Friday between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-7995 or (317) 232-8899.

COMMENT PERIOD DEADLINE

Comments in any form must be postmarked, hand delivered, or faxed by May 22, 2006.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from December 1, 2005, through January 3, 2006, on IDEM's draft rule language. IDEM received comments from the following parties:

Barnes and Thornburg, on behalf of Heritage Environmental Services LLC (BAT)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The commenter believes that there is no environmental basis for the requirements set out in 329 IAC 4.1-13-1(b), (c), and (d), and that compliance with 40 CFR 761 Subpart D provides sufficient environmental protection. They feel that the proposed amendments add requirements that are more stringent than the federal requirements. They specifically question the need for the commissioner's written approval if the source was greater than 50 ppm or for disposal of PCB remediation waste at non-municipal waste landfills. They point out that the commissioner's written approval is not needed if the source was less than 50 ppm for PCB remediation waste that has been tested as required by 40 CFR 761.283, 761.286 and 761.292 and proven to contain less than 50 ppm PCBs. The commenter is not aware of any environmental or public health basis for requiring the written approval for PCB remediation waste solely because the PCB concentration of the source is greater than 50 ppm. They also point out that 40 CFR 761, Subpart D, does not make a distinction between remediation waste from sources greater or less than 50 ppm PCB. The commenter believes that this requirement establishes a competitive disadvantage for landfill facilities in the Indiana as they would need to factor in time required to obtain the commissioner's approval when bidding on PCB remediation waste projects. They feel that written approval should not be necessary

when 40 CFR, Subpart D, allows disposal of PCB remediation waste in municipal solid waste landfills and nonmunicipal non-hazardous waste landfills when the waste has been documented to contain less than 50 ppm PCBs.

The commenter points out that 329 IAC 4.1-13-1, as proposed to be amended, contains no standard by which any company seeking approval to dispose of PCB remediation waste, can determine what information must be submitted to obtain such approval or what standard the commissioner would use as the basis for approving or denying a request to dispose of PCB remediation waste in Indiana.

The commenter recommends that, in addition to the proposed changes to 329 IAC 4.1-13-1(a), 329 IAC 4.1-13.1 be revised by striking everything in 329 IAC 4.1-13(b), (c), and (d) and then re-letter the remaining subsections.

Response: IDEM agrees that the existing language of 329 IAC 4.1-13-1 on PCB waste landfill disposal sets out a review process that can be redundant in its practical application. IDEM proposes to separate 329 IAC 4.1-13-1 into new sections 329 IAC 4.1-13-3 on state authorization, 329 IAC 4.1-13-4 on notification to landfills, and 329 IAC 4.1-13-5 on disposal of fluorescent light ballasts.

The section on state authorization has been streamlined to eliminate such authorization when there is a federal approval process for the specific waste under 40 CFR 761, Subpart D or when state authorization would not result in meaningful additional environmental protection. State authorization as now proposed allows the commissioner to evaluate a non-conforming landfill in general to determine if such a disposal is environmentally protective, and allows for the inclusion of specific requirements for a particular waste and a particular landfill to ensure environmental and human health protection.

329 IAC 4.1-13-4 is now a stand-alone requirement for notification to the landfill of disposal of waste containing less than 50 ppm PCBs from a source that is less than 50 ppm PCBs. This regulation is consistent with the rules found under the solid waste regulations 329 IAC, specifically found at 329 IAC 10-9-5. This rule requires the owner/operator of a landfill to only accept waste listed in their facility permit, or to submit a written request, to be approved by the commissioner, for authorization to dispose of other wastes. Non-municipal solid waste landfills may submit this request to comply with both the Solid Waste and PCB regulations. A "blanket approval" could be requested to eliminate the need for generators to obtain specific approvals from the IDEM prior to disposal of this specific type of PCB waste.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On March 21, 2006, the solid waste management board (board) conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 4.1 concerning regulation of wastes containing PCBs. No comments were made at the first hearing.

329 IAC 4.1-1-1	329 IAC 4.1-7-3
329 IAC 4.1-1-2	329 IAC 4.1-7-4
329 IAC 4.1-1-3	329 IAC 4.1-7-5
329 IAC 4.1-1-4	329 IAC 4.1-8-1
329 IAC 4.1-1-5	329 IAC 4.1-8-2
329 IAC 4.1-1-6	329 IAC 4.1-8-3
329 IAC 4.1-2-1	329 IAC 4.1-8-4
329 IAC 4.1-2-2	329 IAC 4.1-8-5
329 IAC 4.1-2-3	329 IAC 4.1-9-1
329 IAC 4.1-2-4	329 IAC 4.1-9-2
329 IAC 4.1-2-5	329 IAC 4.1-9-3
329 IAC 4.1-2-6	329 IAC 4.1-9-4
329 IAC 4.1-2-7	329 IAC 4.1-9-5
329 IAC 4.1-2-8	329 IAC 4.1-10-1
329 IAC 4.1-2-9	329 IAC 4.1-11-1
329 IAC 4.1-3-1	329 IAC 4.1-11-2
329 IAC 4.1-4-1	329 IAC 4.1-11-3
329 IAC 4.1-4-2	329 IAC 4.1-11-4
329 IAC 4.1-5-1	329 IAC 4.1-12-1
329 IAC 4.1-5-2	329 IAC 4.1-13-1
329 IAC 4.1-6-1	329 IAC 4.1-13-2
329 IAC 4.1-6-2	329 IAC 4.1-13-3
329 IAC 4.1-7-1	329 IAC 4.1-13-4
329 IAC 4.1-7-2	329 IAC 4.1-13-5

SECTION 1. 329 IAC 4.1-1-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This article applies to a person who disposes of **any** solid or liquid waste containing PCBs. (*Solid Waste Management Board; 329 IAC 4.1-1-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073*)

SECTION 2. 329 IAC 4.1-1-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-2 Enforcement

Authority: IC 13-20-15-1

Affected: IC 13-14-2-6; IC 13-20-15-6; IC 13-30-3

Sec. 2. This article ~~is~~ **shall be** enforced under IC 13-14-2-6 or IC 13-30-3, or both. No date contained in the federal regulations incorporated by reference in this article shall be construed to allow or require retroactive enforcement of this article. (*Solid Waste Management Board; 329 IAC 4.1-1-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073*)

SECTION 3. 329 IAC 4.1-1-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-3 Penalties

Authority: IC 13-20-15-1; IC 13-20-15-7

Affected: IC 13-20-15-6

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Sec. 3. Penalties for ~~violations~~ **a violation** of this article are listed in IC 13-20-15-7. (*Solid Waste Management Board; 329 IAC 4.1-1-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073*)

SECTION 4. 329 IAC 4.1-1-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-4 Variances

Authority: IC 13-14-8-8; IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. The commissioner may grant a variance from compliance with ~~the provisions~~ **a provision** of this article in accordance with IC 13-14-8-8. (*Solid Waste Management Board; 329 IAC 4.1-1-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074*)

SECTION 5. 329 IAC 4.1-1-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-5 Dilution

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. No person may avoid any provision **of this article** specifying a PCB concentration by diluting the PCBs unless otherwise specifically provided. (*Solid Waste Management Board; 329 IAC 4.1-1-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074*)

SECTION 6. 329 IAC 4.1-1-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-6 Incorporation by reference

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 6. (a) When incorporated by reference in this article, references to 40 CFR 264 and 40 CFR 761 shall mean the version of that publication revised as of July 1, ~~1999~~ **2003**.

(b) Sales of the Code of Federal Regulations are handled by the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~ **20401**. The telephone number for the U.S. Government Printing Office is ~~(202) 512-1800~~ **(202) 512-0000**. The incorporated materials are available for public review at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) ~~Table 1 shows documents referenced in 40 CFR 761 and the updated versions of those documents that must be used to comply with this article.~~

Version Referenced in 40 CFR 761	Table 1:	Version to be Used	Source
40 CFR 136 as amended in 41 FR 52779 on December 1, 1976		40 CFR 136; revised as of July 1, 1999	1
"Thermal Processing and Land Disposal of Solid Waste" (39 FR 29337, Aug. 14, 1974)		40 CFR 240; revised as of July 1, 1999; 40 CFR 257; revised as of July 1, 1999; and 40 CFR 258; revised as of July 1, 1999	1
U.S. Department of Transportation (DOT) or U.S. Postal Service (USPS) shipping requirements, found respectively in 49 CFR 173.345 and U.S. Postal Regulations 652.2 and 652.3		49 CFR 172; revised as of October 1, 1999	1
ASTM Standard D93-90		ASTM Standard D93-99	2
ASTM Standard D129-64		ASTM Standard D129-95	2
ASTM Standard D240-87		ASTM Standard 240-92 (Reapproved 1997) [±]	2
ASTM Standard E258-67 (Reapproved 1987)		ASTM Standard E258-67 (Reapproved 1996) [±]	2
ASTM Standard D482-87		ASTM Standard D482-95	2
ASTM Standard D524-88		ASTM Standard D524-97	2
ASTM Standard D808-87		ASTM Standard D808-95	2
ASTM Standard D923-86 or ASTM Standard D923-89		ASTM Standard D923-97	2
ASTM Standard D1266-87		ASTM Standard D1266-98	2
ASTM Standard D1796-83 (Reapproved 1990)		ASTM Standard D1796-97	2
ASTM Standard D2158-89		ASTM Standard D2158-97	2
ASTM Standard D2709-88		ASTM Standard D2709-96 [±]	2
ASTM Standard D2784-89		ASTM Standard D2784-98	2
ASTM Standard D3178-84		ASTM Standard D3178-89 (Reapproved 1997)	2
ASTM Standard D3278-89		ASTM Standard D3278-96 [±]	2

ASTM Standard D4059	ASTM Standard D4059-96	2
"Visual Standard No. 2, Near-White Blast Cleaned Surface Finish", of the National Association of Corrosion Engineers (NACE)	Joint Surface Preparation Standard NACE No. 2/SSPC-SP 10 "Near-White Metal Blast Cleaning", Approved October 1994	3
"Visual Standard No. 3, Commercial Blast Cleaned Surface Finish", of the National Association of Corrosion Engineers (NACE)	Joint Surface Preparation Standard NACE No. 3/SSPC-SP 6 "Commercial Blast Cleaning", Approved October 1994	3
Source 1: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; telephone (202) 512-1800.		
Source 2: American Society for Testing and Materials, Customer Services, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9555.		
Source 3: NACE International, P.O. Box 218340, Houston, Texas 77218-8340; telephone (281) 228-6200; or Steel Structures Painting Council, 4516 Henry Street, Suite 301, Pittsburgh, Pennsylvania 15213-3728; telephone (412) 687-1113.		

(d) Table 2 shows documents referenced in 40 CFR 761 with no specified edition and provides the date of the edition that must be used to comply with this article.

Document Referenced in 40 CFR 761	Table 2: Edition to be Used	Source
SW-846 or "Test Methods for Evaluating Solid Waste, Physical Chemical Methods", U.S. Environmental Protection Agency Publication SW-846	Third Edition (November 1986), as amended by Updates I (July 1992), H (September 1994), HA (August 1993), HB (January 1995), and HH (December 1996)	†
Occupational Safety and Health Standards; 29 CFR 1910.106; Flammable and combustible liquids	Revised as of July 1, 1999	†
40 CFR 60 (referred to as part 60 of this chapter)	Revised as of July 1, 1999	†
40 CFR 112 (referred to as part 112 of this title)	Revised as of July 1, 1999	†
40 CFR 112.1(d)(2)	Revised as of July 1, 1999	†
40 CFR 112.4	Revised as of July 1, 1999	†
40 CFR 122 (referred to as part 122 of this chapter)	Revised as of July 1, 1999	†
40 CFR 264.143 (referred to as section 264.143 of this chapter)	Revised as of July 1, 1999	†
40 CFR 264.151 (referred to as section 264.151 of this chapter)	Revised as of July 1, 1999	†
40 CFR 264.175 (referred to as section 264.175 of this chapter)	Revised as of July 1, 1999	†
40 CFR 266, Subpart H (referred to as part 266, subpart H of this chapter)	Revised as of July 1, 1999	†
40 CFR 270.66 (referred to as section 270.66 of this chapter)	Revised as of July 1, 1999	†
DOT Hazardous Materials Regulations at 49 CFR parts 171 through 180	Revised as of October 1, 1999	†
49 CFR Chapter I, Subchapter C	Revised as of September 30, 1991	†
49 CFR 171.14	Revised as of October 1, 1999	†
"Verification of PCB Spill Cleanup by Sampling and Analysis", Midwest Research Institute	"Verification of PCB Spill Cleanup by Sampling and Analysis", U.S. Environmental Protection Agency Publication EPA-560/5-85-026, August 1985	2

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~~“Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup”, Midwest Research Institute~~

~~“Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy”, dated June 23, 1987 and revised on April 18, 1991~~

~~Source 1: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; telephone (202) 512-1800.~~

~~Source 2: TSCA Technical Information Service, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460; telephone (202) 554-1404.~~

(c) If not specified in the federal regulations incorporated by reference, the version of materials incorporated by reference in those federal regulations is the version that was in effect on the effective date of the 2006 amendments to this rule. (*Solid Waste Management Board; 329 IAC 4.1-1-6; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074*)

SECTION 7. 329 IAC 4.1-2-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-1 Applicability; incorporation by reference

Authority: IC 13-20-15-1

Affected: IC 13-11-2; IC 13-20-15-6

Sec. 1. (a) The definitions in IC 13-11-2 **and this rule** apply to this article: ~~In addition to the definitions in IC 13-11-2, the definitions in this rule apply throughout this article.~~

(b) The definitions at 40 CFR 761.3 are incorporated by reference, except as provided otherwise in section 2 of this rule.

(c) 40 CFR 761.3 is available for viewing and copying at the Indiana Department of Environmental Management, Office of Solid and Hazardous Waste Management, Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(d) The Code of Federal Regulations is available from the ~~Superintendent of Documents, U.S. Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402.~~ **20401.** The telephone number for the ~~Superintendent of Documents U.S. Government Printing Office~~ is ~~(202) 512-1800.~~ **(202) 512-0000.** (*Solid Waste Management Board; 329 IAC 4.1-2-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 8. 329 IAC 4.1-2-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-11-2-155; IC 13-11-2-158; IC 13-20-15-6

Sec. 2. Exceptions and additions to the definitions **contained**

~~“Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup”, U.S. Environmental~~ 2

~~Protection Agency Publication EPA-560/5-86-017, May 1986~~

~~“Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy”, June 23, 1987, revised and clarified on April 18, 1991~~ 2

in 40 CFR 761.3 are as follows:

(1) Delete the definition of “person” and substitute the definition at IC 13-11-2-158(a).

(2) Delete the definition of “PCB and PCBs” and substitute the definition of PCB at IC 13-11-2-155.

(*Solid Waste Management Board; 329 IAC 4.1-2-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 9. 329 IAC 4.1-2-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-3 “Alternative disposal facility” defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 3. (a) “Alternative disposal facility” means a facility that:

(1) separates;

(2) processes;

(3) recovers;

(4) treats;

(5) transfers; or

(6) disposes of;

PCB waste. **and**

~~(2) is not one (1) of (b) The term does not include the following:~~

~~(A) (1) A chemical waste landfill.~~

~~(B) (2) An incinerator.~~

~~(C) (3) A high efficiency boiler.~~

~~(D) (4) A mobile facility.~~

~~(E) (5) A generator of PCB waste.~~

(c) An alternative disposal facility is provides an alternative method of destroying PCBs as described in 40 CFR 761.60(e). (*Solid Waste Management Board; 329 IAC 4.1-2-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 10. 329 IAC 4.1-2-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-4 “EPA” defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. "EPA" means the ~~United States~~ **federal** Environmental Protection Agency. *(Solid Waste Management Board; 329 IAC 4.1-2-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075)*

SECTION 11. 329 IAC 4.1-2-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-5 "Mobile facility" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. "Mobile facility" means machinery, equipment, or vehicles ~~of any nature~~ that are used or intended to be used at more than one (1) location for the:

- (1) separation;
- (2) processing;
- (3) recovery, as defined at 329 IAC 10-2-149; or
- (4) treatment;

of PCBs in a material or waste containing PCBs. *(Solid Waste Management Board; 329 IAC 4.1-2-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076)*

SECTION 12. 329 IAC 4.1-2-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-6 "Municipal solid waste landfill" or "MSWLF" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 6. "Municipal solid waste landfill" or "MSWLF" has the meaning ~~as~~ set forth ~~at~~ in 329 IAC 10-2-116. *(Solid Waste Management Board; 329 IAC 4.1-2-6; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076)*

SECTION 13. 329 IAC 4.1-2-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-7 "Municipal solid waste landfill unit" or "MSWLF unit" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 7. "Municipal solid waste landfill unit" or "MSWLF unit" has the meaning ~~as~~ set forth ~~at~~ in 329 IAC 10-2-117. *(Solid Waste Management Board; 329 IAC 4.1-2-7; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076)*

SECTION 14. 329 IAC 4.1-2-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-8 "Nonmunicipal solid waste landfill" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 8. "Nonmunicipal solid waste landfill" has the meaning ~~as~~ set forth ~~at~~ in 329 IAC 10-2-121. *(Solid Waste Management*

Board; 329 IAC 4.1-2-8; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076)

SECTION 15. 329 IAC 4.1-2-9 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-9 "Single location" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 9. "Single location" means an aggregation of one (1) or more facilities that are:

- (1) located on:
 - (A) one (1) piece of property; or ~~on~~
 - (B) contiguous or adjacent properties; and ~~that are~~
- (2) owned or operated by the same person.

(Solid Waste Management Board; 329 IAC 4.1-2-9; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076)

SECTION 16. 329 IAC 4.1-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-3-1 Conversion of federal terms

Authority: IC 13-20-15-1

Affected: IC 13-11-2-71; IC 13-20-15-6

Sec. 1. When used in 40 CFR 264, Subpart D, and 40 CFR 761, as incorporated by reference in this article, ~~substitute~~ the following **federal terms are defined as provided in this section** unless otherwise indicated:

- (1) "Act" means the environmental management laws as defined at IC 13-11-2-71.
- (2) "Administrator" or "assistant administrator" means the commissioner of the ~~Indiana~~ department. ~~of environmental management.~~
- (3) "Agency" means the ~~Indiana~~ department. ~~of environmental management.~~
- (4) "Director", "director, chemical management division", or "director, CMD" means the commissioner of the ~~Indiana~~ department. ~~of environmental management.~~
- (5) "Environmental protection agency" or "EPA" means the ~~Indiana~~ department. ~~of environmental management.~~
- (6) "He" means he or she, without regard to gender.
- (7) "Notification requirements of Section 3010" means the notification requirements of this article.
- (8) "RCRA permit" means state hazardous waste permit.
- (9) "Regional administrator" means the commissioner of the ~~Indiana~~ department. ~~of environmental management.~~
- (10) "She" means he or she, without regard to gender.
- (11) "State", "authorized state", "approved state", and "approved program" means Indiana.
- (12) "United States" means the state of Indiana.

(Solid Waste Management Board; 329 IAC 4.1-3-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076)

SECTION 17. 329 IAC 4.1-4-1 IS AMENDED TO READ AS FOLLOWS:

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329 IAC 4.1-4-1 Requirements for storage and disposal incorporated by reference

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subpart D, consisting of 40 CFR 761.50 through 40 CFR 761.79, is incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subpart D is available for viewing and copying at the ~~Office of Solid and Hazardous Waste~~ **Indiana Department of Environmental Management, Office of Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402-20401~~. The telephone number for the ~~Superintendent of Documents~~ **U.S. Government Printing Office** is ~~(202) 512-1800~~ **(202) 512-0000**. (*Solid Waste Management Board; 329 IAC 4.1-4-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 18. 329 IAC 4.1-4-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-4-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; 40 CFR 761, Subpart D

Sec. 2. **The** exceptions and additions to 40 CFR 761, Subpart D, are as follows:

- (1) Delete 40 CFR 761.60(b)(2)(iii)(B).
- (2) Delete 40 CFR 761.60(b)(2)(iv)(B).
- (3) Delete 40 CFR 761.60(b)(2)(v).
- (4) In 40 CFR 761.60(b)(2)(vi), delete "large PCB capacitors or".
- (5) Delete 40 CFR 761.60(f)(1)(iii).
- (6) In 40 CFR 761.65(b), delete "After July 1, 1978,".
- (7) Delete 40 CFR 761.65(d)(1).

(*Solid Waste Management Board; 329 IAC 4.1-4-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 19. 329 IAC 4.1-5-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-5-1 PCB spill cleanup policy incorporated by reference

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subparts G and M through T are incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subparts G and M through T are available for viewing and copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste~~

~~Management~~, **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402-20401~~. The telephone number for the ~~Superintendent of Documents~~ **U.S. Government Printing Office** is ~~(202) 512-1800~~ **(202) 512-0000**. (*Solid Waste Management Board; 329 IAC 4.1-5-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077*)

SECTION 20. 329 IAC 4.1-5-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-5-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. **The** exceptions and additions to 40 CFR 761, Subparts G and M through T are as follows:

- (1) In 40 CFR 761.398(a), delete "the Director, National Program Chemicals Division (NPCD), (7404), Office of Pollution Prevention and Toxics, 401 M St., SW., Washington, DC" and substitute "the commissioner".
- (2) In 40 CFR 761.398(a), delete "From time to time, the Director of NPCD will confirm the use of validated new decontamination solvents and publish the new solvents and validated decontamination procedures in the Federal Register".

(*Solid Waste Management Board; 329 IAC 4.1-5-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077*)

SECTION 21. 329 IAC 4.1-6-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-6-1 Requirements for PCB waste disposal records and reports incorporated by reference

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subpart K, consisting of 40 CFR 761.202 through 40 CFR 761.218, is incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subpart K is available for viewing and copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste~~ **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402-20401~~. The telephone number for the ~~Superintendent of Documents~~ **U.S. Government Printing Office** is ~~(202) 512-1800~~.

(202) 783-3238. (*Solid Waste Management Board; 329 IAC 4.1-6-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077*)

SECTION 22. 329 IAC 4.1-6-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-6-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. Exceptions and additions to 40 CFR 761, Subpart K, are as follows:

- (1) Delete 40 CFR 761.202(c).
 - (2) In 40 CFR 761.205(a)(1), delete "April 4, 1990" and substitute **a date six (6) months after the effective date of this article: with "February 13, 2001"**.
 - (3) In 40 CFR 761.205(b), delete "April 4, 1990" and substitute **a date six (6) months after the effective date of this article: with "February 13, 2001"**.
 - (4) In 40 CFR 761.205(d), delete "Chief, Operations Branch (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460" and substitute **"Indiana Department of Environmental Management, Office of Solid and Hazardous Waste Management, P.O. Box 6015, Land Quality, 100 North Senate Avenue, MC 65-45, Indianapolis, Indiana 46206-6015". 46204-2251"**.
 - (5) Delete 40 CFR 761.207(b): **The manifest described in 329 IAC 3.1-7 and available from the department must not be used for manifesting of PCB shipments. Generators may use copies of EPA Form 8700-22 from any other source to comply with this article.**
 - (6) **(5)** In 40 CFR 761.202(b), delete "After June 4, 1990,".
 - (7) **(6)** In 40 CFR 761.211(a), delete "After April 4, 1990,".
- (*Solid Waste Management Board; 329 IAC 4.1-6-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077*)

SECTION 23. 329 IAC 4.1-7-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This rule applies to incinerators and high efficiency boilers **that are** required to be approved by the commissioner under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60 and 40 CFR 761.70 by reference. (*Solid Waste Management Board; 329 IAC 4.1-7-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 24. 329 IAC 4.1-7-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-2 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. Incinerators and high efficiency boilers must comply with **the provisions of** 329 IAC 4.1-4 through 329 IAC 4.1-6. (*Solid Waste Management Board; 329 IAC 4.1-7-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 25. 329 IAC 4.1-7-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-3 Location restrictions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) An incinerator or high efficiency boiler must comply with all **applicable** zoning and location restrictions of the political subdivision in which the facility is located. ~~if any are imposed:~~

(b) The owner or operator shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval ~~is requested~~ under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60 and 40 CFR 761.70 by reference, is requested. Documentation that all required zoning and other local approvals ~~if any are required,~~ have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area; ~~where the facility is to be located:~~

(2) ~~A copy of the~~ (B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area; ~~where the facility is to be located:~~

(3) ~~A copy of the~~ (C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; ~~where the facility is to be located: or~~

(4) ~~A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq.; if~~ (ii) such amendment is required for the area; ~~where the facility is to be located: and~~

(5) ~~A copy of the~~ (D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq., if such approval is required for the area; where the facility is to be located.

(6) **(2)** The status of any appeal of any zoning determination as described in ~~subdivisions~~ **(2) subdivision (1)(B)** through **(5) (1)(D)** and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of an incinerator or high efficiency boiler shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). (*Solid Waste Management Board; 329 IAC 4.1-7-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

Proposed Rules

SECTION 26. 329 IAC 4.1-7-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-4 Public notice and public participation

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. (a) Each applicant submitting a request for approval for an incinerator or high efficiency boiler under 329 IAC 4.1-4-1 shall **submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b) and shall thereafter** comply with the public notice and public participation requirements **contained in 329 IAC 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)**, as follows:

(1) For an incinerator or high efficiency boiler for which construction was started ~~prior to the effective date of this article; before August 13, 2000,~~ the owner or operator shall comply with ~~329 IAC 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)~~, before starting operation under this article.

(2) For an incinerator or high efficiency boiler for which construction is started on or after ~~the effective date of this article; August 13, 2000,~~ the owner or operator shall comply with ~~329 IAC 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)~~, before beginning construction.

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner. (*Solid Waste Management Board; 329 IAC 4.1-7-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 27. 329 IAC 4.1-7-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-5 Notice of activity

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of an incinerator or high efficiency boiler shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management; Land Quality~~, 100 North Senate Avenue, ~~P.O. Box 6015; 100 North Senate Avenue, MC 65-45~~, Indianapolis, Indiana ~~46206-6015; 46204-2251~~.

(2) The:

(A) county health department; ~~for the county in which the facility is located;~~

~~(B) The~~ (B) emergency management director; and ~~the~~

(C) local emergency planning committee;

for the county in which the facility is located.

~~(4) (3)~~ The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of an incinerator or high efficiency boiler shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following:**

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(*Solid Waste Management Board; 329 IAC 4.1-7-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 28. 329 IAC 4.1-8-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This rule applies to a chemical waste ~~landfills~~ **landfill** required to be approved by the commissioner under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.75(c) by reference. (*Solid Waste Management Board; 329 IAC 4.1-8-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 29. 329 IAC 4.1-8-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-2 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. A chemical waste landfill must ~~comply~~ **be in compliance** with 329 IAC 4.1-4 through 329 IAC 4.1-6. (*Solid Waste Management Board; 329 IAC 4.1-8-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 30. 329 IAC 4.1-8-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-3 Location restrictions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) A chemical waste landfill must comply with the location restrictions in 329 IAC 10-16 that apply to a new MSWLF or MSWLF unit permitted under 329 IAC 10, except that the reduction of setback distances in 329 IAC 10-16-12 does not apply to a chemical waste landfill.

(b) The owner or operator **of a chemical waste landfill** shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval ~~is requested~~ under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.75(c) by reference, is requested.

Documentation that all required zoning and other local approvals ~~if any are required~~, have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area; ~~where the facility is to be located~~;

(2) ~~A copy of the~~ (B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area; ~~where the facility is to be located~~;

(3) ~~A copy of the~~ (C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; ~~where the facility is to be located~~; or

(4) ~~A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq.~~ if (ii) such amendment is required for the area; ~~where the facility is to be located~~; and

(5) ~~A copy of the~~ (D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq., if such approval is required for the area; ~~where the facility is to be located~~.

(6) (2) The status of any appeal of any zoning determination as described in ~~subdivisions (2)~~ **subdivision (1)(B)** through (5) **(1)(D)** and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of a chemical waste landfill shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). (*Solid Waste Management Board; 329 IAC 4.1-8-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 31. 329 IAC 4.1-8-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-4 Public notice and public participation

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. ~~Each~~ (a) An applicant submitting a request for approval for a chemical waste landfill under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.75(c) by reference, shall do the following:

(1) **Submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b).**

(2) **Thereafter** comply with the public notice and public participation requirements in ~~329 IAC 10-12-1~~ **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f).**

(b) **The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.**

(c) **Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner.** (*Solid Waste Management Board; 329 IAC 4.1-8-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 32. 329 IAC 4.1-8-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-5 Notice of activity

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of a chemical waste landfill shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, 100 North Senate Avenue, ~~P.O. Box 6015~~, **MC 65-45**, Indianapolis, Indiana ~~46206-6015~~; **46204-2251**.

(2) The:

(A) county health department; ~~for the county in which the facility is located~~;

(3) ~~The~~ (B) emergency management director; and ~~the~~

(C) local emergency planning committee;

for the county in which the facility is located.

(4) (3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of a chemical waste landfill shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following**:

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(*Solid Waste Management Board; 329 IAC 4.1-8-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 33. 329 IAC 4.1-9-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-1 Applicability

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. This rule applies to ~~an~~ alternative disposal ~~facilities~~ **facility** required to be approved under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60(e) by reference. (*Solid Waste Management Board; 329 IAC 4.1-9-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 34. 329 IAC 4.1-9-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-2 General

Proposed Rules

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. (a) The owner or operator of an alternative disposal facility must receive written approval ~~by~~ **from** the commissioner as follows:

- (1) For an alternative disposal facility for which construction was started ~~prior to the effective date of this article; before August 13, 2000,~~ written approval must be received from the commissioner before starting operation under this article.
- (2) For an alternative disposal facility for which construction is started on or after ~~the effective date of this article; August 13, 2000,~~ written approval must be received from the commissioner before beginning construction.

(b) The owner or operator of an alternative disposal facility shall **do the following:**

- (1) Provide to the department a copy of the written approval from EPA required by 40 CFR 761.60(e).
- ~~(c) The owner or operator of an alternative disposal facility shall~~ (2) Comply with the requirements of 329 IAC 4.1-4 through 329 IAC 4.1-6.

(Solid Waste Management Board; 329 IAC 4.1-9-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080)

SECTION 35. 329 IAC 4.1-9-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-3 Location restrictions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) An alternative disposal facility must comply with all **applicable** zoning and location restrictions of the political subdivision in which the facility is located. ~~if any are imposed.~~

(b) The owner or operator shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval ~~is requested~~ under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60(e) by reference, is requested. Documentation that all required zoning and other local approvals ~~if any are required,~~ have been obtained may include the following:

- (1) A copy of the:
 - (A) zoning requirements, if any, for solid waste facilities in the area; ~~where the facility is to be located;~~
 - ~~(2) A copy of the (B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area; where the facility is to be located;~~
 - ~~(3) A copy of the (C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:~~
 - (i) a change in the zone maps is required for the area; ~~where the facility is to be located; or~~
 - ~~(4) A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if (ii) such amend-~~

ment is required for the area; ~~where the facility is to be located; and~~

~~(5) A copy of the (D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq., if such approval is required for the area; where the facility is to be located.~~

~~(6) (2) The status of any appeal of any zoning determination as described in subdivisions (2) subdivision (1)(B) through (5) (1)(D) and, if none is pending, the date by which the appeal must be initiated.~~

(c) The owner or operator of an alternative disposal facility shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). *(Solid Waste Management Board; 329 IAC 4.1-9-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080)*

SECTION 36. 329 IAC 4.1-9-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-4 Public notice and public participation

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. ~~Each (a) An~~ applicant submitting a request for approval of an alternative disposal facility under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60(e) by reference, shall **submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b) and shall thereafter comply with the public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f) as follows:**

- (1) For an alternative disposal facility for which construction was started ~~prior to the effective date of this article; before August 13, 2000,~~ the owner or operator shall comply with ~~329 IAC 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)~~ before beginning:

- (A) storage;
- (B) separation;
- (C) processing;
- (D) recovery; or
- (E) treatment;

of PCB waste under this article.

- (2) For an alternative disposal facility for which construction is started on or after ~~the effective date of this article; August 13, 2000,~~ the owner or operator shall comply with ~~329 IAC 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)~~ before beginning construction of the facility.

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application

by the commissioner. (*Solid Waste Management Board; 329 IAC 4.1-9-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 37. 329 IAC 4.1-9-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-5 Notice of activity

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of an alternative disposal facility shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, 100 North Senate Avenue, ~~P.O. Box 6015~~, MC 65-45, Indianapolis, Indiana ~~46206-6015~~; **46204-2251**.

(2) The:

(A) county health department; ~~for the county in which the facility is located~~;

~~(B) The~~ (B) emergency management director; and ~~the~~

(C) local emergency planning committee;

for the county in which the facility is located.

~~(4)~~ (3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of an alternative disposal facility shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following**:

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(*Solid Waste Management Board; 329 IAC 4.1-9-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 38. 329 IAC 4.1-10-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-10-1 Mobile facilities

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) A mobile facility that operates for one hundred eighty (180) days or less in a single location must comply with the following requirements:

(1) 40 CFR 761, Subpart D, incorporated by reference at 329 IAC 4.1-4-1.

(2) The requirements of 329 IAC 4.1-4 through 329 IAC 4.1-6, except the requirement to obtain approval from the commissioner under this article if the facility has obtained approval from the EPA under 40 CFR 761.60(e).

(b) A mobile facility that operates for more than one hundred eighty (180) days in a single location must comply with the following requirements:

(1) 40 CFR 761, Subpart D, incorporated by reference at 329 IAC 4.1-4-1.

(2) 329 IAC 4.1-4 through 329 IAC 4.1-6.

(3) The mobile facility must comply with one (1) of the following:

(A) 329 IAC 4.1-7 for an incinerator or a high efficiency boiler.

(B) 329 IAC 4.1-8 for a chemical waste landfill.

(C) 329 IAC 4.1-9 for an alternative disposal facility.

(4) The owner or operator of the mobile facility shall comply with the public notice and public participation requirements in ~~329 IAC 10-12-1~~ **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)** before continuing operations under this article.

(5) The owner or operator of the mobile facility shall do the following:

(A) **Submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b).**

(B) **Thereafter comply with the public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f).**

(6) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(7) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner.

(c) The owner or operator of a mobile facility shall do the following:

(1) Provide to the department a copy of the written approval from EPA.

(2) Notify the following at least thirty (30) days before beginning an activity regulated under this article:

(A) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, 100 North Senate Avenue, ~~P.O. Box 6015~~, MC 65-45, Indianapolis, Indiana ~~46206-6015~~; **46204-2251**.

(B) The county health department for the county in which the activity takes place.

(C) The emergency management director and the local emergency planning committee for the county in which the facility is located.

(D) The fire department with jurisdiction over the facility.

(d) Upon completion of an activity regulated under this article, the owner or operator of a mobile facility shall provide written notification to the department that the waste no longer contains PCBs. This notification must include **either of the following**:

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(*Solid Waste Management Board; 329 IAC 4.1-10-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3081*)

Proposed Rules

SECTION 39. 329 IAC 4.1-11-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-1 Incorporation by reference; contingency plan

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 264, Subpart D, consisting of 40 CFR 264.50 through 40 CFR 264.56, is incorporated by reference, except as provided in subsection (d).

(b) 40 CFR 264, Subpart D is available for viewing and copying at the Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, Eleventh Floor West, 100 North Senate Avenue, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402-20401~~. The telephone number for the ~~Superintendent of Documents~~ U.S. Government Printing Office is ~~(202) 512-1800~~. **(202) 512-0000**.

(d) Delete 40 CFR 264.50. (*Solid Waste Management Board; 329 IAC 4.1-11-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3081*)

SECTION 40. 329 IAC 4.1-11-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-2 Contingency plan

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. (a) The owner or operator of:

- (1) an incinerator or high efficiency boiler;
- (2) a chemical waste landfill;
- (3) an alternative disposal facility; or
- (4) a mobile facility;

shall prepare and maintain a contingency plan in accordance with 40 CFR 264.51 through 40 CFR 264.54.

(b) The contingency plan must **be as follows**:

(1) ~~be~~ Designed to minimize hazards to human health and the environment from **any of the following**:

- (A) Fires.
- (B) Explosions. ~~or~~
- (C) Any unplanned sudden or nonsudden release of PCB waste to **any of the following**:
 - (i) Air.
 - (ii) Soil.
 - (iii) Surface water. ~~or~~
 - (iv) Ground water. ~~and~~

(2) Meet the requirements of 40 CFR 264.51 through 40 CFR 264.54.

(c) ~~The~~ **A** person required to prepare a contingency plan shall provide copies of the contingency plan to the:

- (1) local emergency planning committee; and
- (2) ~~the~~ emergency management director;

for the county in which the facility is located before operation of the facility begins. (*Solid Waste Management Board; 329 IAC 4.1-11-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 41. 329 IAC 4.1-11-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-3 Use of contingency plan

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 3. ~~The~~ **An** owner or operator of a facility described in section 2(a) of this rule shall carry out the provisions of the contingency plan immediately whenever there is:

- (1) a fire;
- (2) **an** explosion; or
- (3) **a** release of PCB waste;

that could threaten human health or the environment. (*Solid Waste Management Board; 329 IAC 4.1-11-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 42. 329 IAC 4.1-11-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-4 Emergency coordinator

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. (a) ~~The~~ **An** owner or operator of a facility described in section 2(a) of this rule shall designate an employee as the emergency coordinator as required in 40 CFR 264.55.

(b) The emergency coordinator shall carry out the duties described in 40 CFR 264.56 that are appropriate for the facility. (*Solid Waste Management Board; 329 IAC 4.1-11-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 43. 329 IAC 4.1-12-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-12-1 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. ~~Owners~~ **An owner or operators operator** of the following types of facilities shall comply with the financial assurance requirements in 329 IAC 3.1-15:

- (1) An incinerator or high efficiency boiler.
- (2) A chemical waste landfill.
- (3) An alternative disposal facility.

(*Solid Waste Management Board; 329 IAC 4.1-12-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 44. 329 IAC 4.1-13-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-13-1 Disposal in MSWLF units or nonmunicipal solid waste landfill units

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) A person who disposes of waste containing or contaminated with PCBs in a MSWLF unit or a nonmunicipal solid waste landfill unit shall comply with all requirements of (1) 40 CFR 761, Subpart D, as incorporated by reference at 329 IAC 4.1-4. and (2) 329 IAC 10-8-1.

(b) In addition to the requirements of subsection (a), person who disposes of any waste containing PCBs in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17 or a nonmunicipal solid waste landfill shall:

- (1) obtain written authorization from the commissioner prior to disposal of any quantity of the waste; and
- (2) comply with any conditions in the written authorization by the commissioner.

(c) In addition to the requirements of subsection (a), person who disposes of a waste listed in Table 1 in a MSWLF unit that meets the design requirements of 329 IAC 10-17 shall:

- (1) obtain written authorization from the commissioner prior to disposal of any quantity of the waste; and
- (2) comply with any conditions in the written authorization by the commissioner.

Table 1.

Waste that contains PCBs at a concentration less than 50 ppm PCBs; resulting from a source that had a PCB concentration greater than or equal to 50 ppm PCBs.

Items or wastes containing inadvertently generated PCBs.

(d) Instead of following the requirements of subsections (a) through (c) of this section, a person who disposes of a waste that contains PCBs at a concentration of less than fifty (50) parts per million resulting from a source that had a PCB concentration less than fifty (50) parts per million PCBs in a MSWLF unit or a nonmunicipal solid waste landfill unit shall provide a signed letter to the landfill stating that the PCB concentration in the source was less than fifty (50) parts per million PCBs.

(e) Fluorescent light ballasts containing PCBs that are leaking or no longer intact must be disposed of in accordance with 40 CFR 761.62(a) or 40 CFR 761.62(c).

(f) Nonleaking fluorescent light ballasts containing PCBs must be disposed of as follows:

- (1) Dispose of the ballasts only in a MSWLF unit that meets the design requirements of 329 IAC 10-17.
- (2) Place the ballasts in a container that meets the packaging requirements in 40 CFR 761.60(b)(2)(iv) as incorporated by reference in 329 IAC 4.1-4.
- (3) Fill the interstitial space in the container with absorbent

material capable of absorbing all liquid content of the ballasts and capacitors.

(4) Segregate containers of fluorescent light ballasts from organic liquids disposed of in the landfill unit.

(5) Before compacting with heavy equipment, cover containers of fluorescent light ballasts with a layer of:

- (A) daily cover material;
- (B) alternative daily cover material; or
- (C) solid waste;

that is thick enough to prevent crushing of the containers.

(6) Collect leachate from the landfill unit and monitor the leachate for PCBs.

(7) Comply with all applicable requirements of 329 IAC 10-8-1.

(g) Nonleaking fluorescent light ballasts containing PCBs must not be disposed of in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17. (*Solid Waste Management Board; 329 IAC 4.1-13-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; errata filed Jul 14, 2000, 10:59 a.m.: 23 IR 3091*)

SECTION 45. 329 IAC 4.1-13-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-13-2 Disposal in other solid waste land disposal facilities

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. Any wastes containing or contaminated with PCBs must not be disposed of in:

(1) a construction/demolition site as defined at 329 IAC 10-2-36; or

(2) a restricted waste site as defined at 329 IAC 10-2-159.

(*Solid Waste Management Board; 329 IAC 4.1-13-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3083*)

SECTION 46. 329 IAC 4.1-13-3 IS ADDED TO READ AS FOLLOWS:

329 IAC 4.1-13-3 Disposal of waste containing PCBs; state authorization

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 3. (a) This section does not apply to the disposal of PCB household waste, as defined at 40 CFR 761.3.

(b) As follows, if the requirements of section 1 of this rule do not include a requirement for approval by the U.S. EPA Regional Administrator before disposal of a specific waste, then:

(1) In addition to compliance with the requirements of section 1 of this rule, a person who disposes of any waste containing PCBs in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17 or in a nonmunicipal solid waste landfill that is not specifically

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permitted to accept the waste shall do the following:

(A) Obtain written authorization from the commissioner before disposal of any quantity of the waste.

(B) Comply with any conditions for disposal in the written authorization by the commissioner.

(2) In addition to compliance with the requirements of section 1 of this rule, a person who disposes of a waste listed in Table 1 in a MSWLF unit that meets the design requirements of 329 IAC 10-17 shall do the following:

(A) Obtain written authorization from the commissioner before disposal of any quantity of the waste.

(B) Comply with any conditions for disposal in the written authorization by the commissioner.

Table 1.

Waste that contains PCBs at a concentration less than fifty (50) ppm PCBs, resulting from a source that had a PCB concentration greater than or equal to fifty (50) ppm PCBs. Items or wastes containing inadvertently generated PCBs.

(Solid Waste Management Board; 329 IAC 4.1-13-3)

SECTION 47. 329 IAC 4.1-13-4 IS ADDED TO READ AS FOLLOWS:

329 IAC 4.1-13-4 Disposal of wastes; notification to landfills

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. A person who disposes of a waste that contains PCBs at a concentration of less than fifty (50) parts per million resulting from a source that had a PCB concentration less than fifty (50) parts per million PCBs in a:

(1) MSWLF; or

(2) nonmunicipal solid waste landfill;

unit shall provide a written and signed notification to the landfill stating that the PCB concentration in the source was less than fifty (50) parts per million PCBs. (Solid Waste Management Board; 329 IAC 4.1-13-4)

SECTION 48. 329 IAC 4.1-13-5 IS ADDED TO READ AS FOLLOWS:

329 IAC 4.1-13-5 Disposal of fluorescent light ballasts containing PCBs

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) Fluorescent light ballasts containing PCBs that are:

(1) leaking; or

(2) no longer intact;

must be disposed of in accordance with 40 CFR 761.62(a) or 40 CFR 761.62(c).

(b) Nonleaking fluorescent light ballasts containing PCBs must be disposed of as follows:

(1) Dispose of the ballasts only in a MSWLF unit that meets the design requirements of 329 IAC 10-17.

(2) Place the ballasts in a container that meets the packaging requirements in 40 CFR 761.60(b)(2)(iv) as incorporated by reference in 329 IAC 4.1-4.

(3) Fill the interstitial space in the container with absorbent material capable of absorbing all liquid content of the ballasts and capacitors.

(4) Segregate containers of fluorescent light ballasts from organic liquids disposed of in the landfill unit.

(5) Before compacting with heavy equipment, cover containers of fluorescent light ballasts with a layer of:

(A) daily cover material;

(B) alternative daily cover material; or

(C) solid waste;

that is thick enough to prevent crushing of the containers.

(6) Collect leachate from the landfill unit and monitor the leachate for PCBs.

(c) Nonleaking fluorescent light ballasts containing PCBs must not be disposed of in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17. (Solid Waste Management Board; 329 IAC 4.1-13-5)

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 July 18, 2006 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 amendments to 329 IAC 4.1, regulation of wastes containing PCBs.

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

Additional information regarding this action may be obtained from Kiran Verma, Rules, Planning and Outreach Section, (317) 232-8899 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management
100 North Senate Avenue

Indianapolis, Indiana 46204-2251

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of 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 655 BOARD OF FIREFIGHTING
PERSONNEL STANDARDS AND EDUCATION**

Proposed Rule
LSA Document #05-249

DIGEST

Amends 655 IAC 1-1-1, 655 IAC 1-1-1.1, 655 IAC 1-1-6.1, 655 IAC 1-1-7, 655 IAC 1-1-9, 655 IAC 1-1-12, and 655 IAC 1-1-13 for the purpose of making changes to the Board's certification requirements, processes, and procedures and making conforming section changes. Repeals 655 IAC 1-1-14. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

None of the proposed changes should have an economic impact beyond what is already imposed by the existing rule. The proposed amendments will not impose requirements or costs on small businesses under IC 4-22-2.1-5

655 IAC 1-1-1	655 IAC 1-1-9
655 IAC 1-1-1.1	655 IAC 1-1-12
655 IAC 1-1-6.1	655 IAC 1-1-13
655 IAC 1-1-7	655 IAC 1-1-14

SECTION 1. 655 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-1 Title; purpose; scope; availability

Authority: IC 22-14-2-7
Affected: IC 22-14-2-7

Sec. 1. (a) This rule shall be known as the administrative rule for the board of firefighting personnel standards and education for general use and distribution under that title. Whenever the term "this rule" is used throughout this rule, it shall mean the administrative rule for the board.

(b) The purpose of this rule is to provide for the administration of a voluntary program for certification of:

- (1) fire service personnel;
 - (2) fire department instructors; ~~and~~
 - (3) firefighting training and education programs; ~~and~~
 - (4) **nonfire service persons;**
- by the board.

(c) This rule is available for ~~purchase~~ **review and copying** from the board, ~~402 302~~ West Washington Street, Room ~~E241~~, **E239**, Indianapolis, Indiana 46204. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-1; filed May 26, 1989, 2:15 p.m.; 12 IR 1869; filed Jul 18, 1996, 3:00 p.m.; 19 IR 3384; readopted filed Aug 27, 2001, 10:55 a.m.; 25 IR 203; errata, 26 IR 383*)

SECTION 2. 655 IAC 1-1-1.1 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-1.1 Definitions

Authority: IC 22-14-2-7
Affected: IC 10-19; IC 22-14-2-7

Sec. 1.1. (a) The definitions in this section apply throughout this article.

(b) "Authority having jurisdiction", for purposes of NFPA standards adopted by the board, means the board.

(c) "Authorized testing agency" means any person or organization that complies with the requirements for testing under this title.

(d) "Authorized training entity" means any person or organization that teaches board-approved programs or courses in compliance with this title.

(e) "Board" means the board of firefighting personnel standards and education.

(f) **"Department" means the Indiana department of homeland security created under IC 10-19.**

~~(f)~~ (g) "Fire service person" means a person **at least** eighteen (18) years of age ~~or older~~ who is engaged in **any of the following:**

- (1) Fire suppression.
- (2) Fire code enforcement.
- (3) Fire education. ~~or~~
- (4) Fire investigation.

~~(g)~~ "Lead evaluator" means any person who supervises or coordinates the administration of practical skills examinations and signs off on practical skills examination forms.

~~(h)~~ "Nonfire service person" means a person eighteen (18) years of age ~~or older~~.

~~(i)~~ **"Six-hour (h) "Indiana instructor update class" test"** means a course of instruction at the conclusion of which a student shall test that requires the applicant to do the following:

- (1) Describe, ~~orally or~~ in writing, the following:
 - (A) The procedures for voluntary certification under the rules of the board.

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(B) The procedures by which a certification program may be accredited by the International Fire Service Accreditation Congress.

(C) The requirements for certification as an Instructor I and Instructor II/III.

(D) The difference between a cognitive examination and a practical skills examination.

(E) Instructional planning and development methods and techniques and instructional materials and aids.

(F) The evaluation and testing procedures used by the following:

(i) A proctor under this title.

(G) The evaluation and testing procedures used by (ii) A lead evaluator under this title.

(H) (G) The responsibilities and duties of a proctor, lead evaluator, and evaluator under this title.

(2) Design or develop an evaluation and grading system for a cognitive examination and a practical skills examination.

(i) "Lead evaluator" means any person who does the following:

(1) Supervises or coordinates the administration of practical skills examinations.

(2) Signs off on practical skills examination forms.

(j) "Nonfire service person" means a person at least eighteen (18) years of age. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-1.1; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3384; filed Sep 24, 1999, 10:02 a.m.: 23 IR 326; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; filed Nov 16, 2001, 4:37 p.m.: 25 IR 1156; errata filed Jan 8, 2002, 1:55 p.m.: 25 IR 1645; errata, 26 IR 383*)

SECTION 3. 655 IAC 1-1-6.1 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-6.1 Instructor I and Instructor II/III

Authority: IC 22-14-2-7

Affected: IC 22-14-2-7

Sec. 6.1. (a) An Instructor I shall have authorization in the following areas:

(1) To teach the requirements for the following:

(A) Indiana mandatory training.

(B) Basic Firefighter.

(C) Firefighter I.

(D) Firefighter II.

(2) To sign the applications for the following:

(A) Indiana mandatory training.

(B) Basic Firefighter.

(C) Firefighter I.

(D) Firefighter II.

(3) (1) To teach from prepared materials.

(4) (2) To serve as an evaluator for practical skills examinations.

(3) To serve as proctor and lead evaluator for Indiana

mandatory training written and practical skills examinations.

(b) An Instructor II/III shall have authorization in the following areas:

(1) To teach the requirements for the following:

(A) Indiana mandatory training.

(B) Basic Firefighter.

(C) Firefighter I.

(D) Firefighter II.

(2) To sign the applications for the following:

(A) Indiana mandatory training.

(B) Basic Firefighter.

(C) Firefighter I.

(D) Firefighter II.

(3) To teach from prepared materials.

(4) (1) To teach from personally written lesson plans that are in addition to prepared materials.

(5) (2) To teach and sign applications for advanced firefighter courses.

(6) (3) To issue certificates of successful completion to students in the instructor's advanced courses.

(7) (4) To proctor and grade written tests as required by the board.

(8) (5) To evaluate all practical skills required by the board as a lead evaluator.

(9) To teach the six-hour up-date class.

(*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-6.1; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3386; filed Sep 24, 1999, 10:02 a.m.: 23 IR 327; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; errata, 26 IR 383*)

SECTION 4. 655 IAC 1-1-7 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-7 Revocation of certification

Authority: IC 22-14-2-7

Affected: IC 4-21.5-3-6; IC 22-12-7-7

Sec. 7. (a) Upon receipt of evidence that information provided to the board, upon which a certification was issued, was falsified, the board shall impose an appropriate sanction following the provisions of IC 4-21.5-3-6 and IC 22-12-7-7(4).

(b) The board may take action with respect to the certification of any instructor I fire service person or H/HH may be suspended or revoked by the board nonfire service person in accordance with the provisions of IC 4-21.5-3-6 and IC 22-12-7-7(4) upon information provided to the board that such instructor I or H/HH the fire service person or nonfire service person has:

(1) failed to uphold and respect a student's right to privacy, dignity, and safety; and

(2) been convicted of an offense, including, without limitation, arson and child molestation, if the acts that resulted in the conviction have a direct bearing on whether or not the

person shall be entrusted to ~~serve as an instructor I or H/H~~
perform the activities permitted under any certification
held by the fire service person or nonfire service person; or
(3) failed to comply with the board's rules.

(c) Review may be initiated by the board in the absence of external written requests or complaints. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-7; filed May 26, 1989, 2:15 p.m.: 12 IR 1871; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; filed Nov 16, 2001, 4:37 p.m.: 25 IR 1159; errata, 26 IR 383*)

SECTION 5. 655 IAC 1-1-9 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-9 Reciprocity for equivalent training

Authority: IC 22-14-2-7

Affected: IC 22-14-2-7

Sec. 9. (a) **Except as provided in subsection (d), a fire fighter service person or nonfire service person** who can provide evidence of having completed training and testing equivalent to the requirements of the board for a particular classification shall be entitled to receive that certification from the board when all other prerequisites are met.

(b) **Certification of the comparable level of certification by the International Fire Service Accreditation Congress or the United States Department of Homeland Security are deemed to be evidence of training and testing equivalent to the requirements of the board for that certification under the board's rules. Certifications by the National Board on Fire Service Professional Qualifications, P.O. Box 690632, Quincy, MA 02269 that are issued within the six (6) calendar years immediately preceding the date of application for board certification shall be acceptable for purposes of reciprocal certification at the level evidenced by such Pro-Board certification.**

(c) **Completion of training provided by the department, as evidenced by a certificate of completion issued by the department, shall be acceptable for purposes of reciprocal certification at the level evidenced by such certificate of completion.**

(d) **In order to receive reciprocity for equivalent training for Instructor I and Instructor II/III certification, the applicant shall, in addition to the evidence required in subsection (a), provide evidence of having passed the Indiana instructor update test.**

(e) **Reciprocal certification shall be granted to an applicant as follows:**

(1) **The applicant has an original certificate for the certification level from an entity whose programs are substantially similar to the programs contained in the board's current rules. Programs accredited by the Inter-**

national Fire Service Accreditation Congress are deemed to be substantially similar. Any seal or authenticating number on the certificate shall be intact and unaltered in any way.

(2) **The applicant presents an original of the certificate or copy of the certificate that contains a statement by the applicant, under penalty of perjury, that the copy is a true and correct copy of the original to the board at the time of application.**

(*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-9; filed May 26, 1989, 2:15 p.m.: 12 IR 1871; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; errata, 26 IR 383*)

SECTION 6. 655 IAC 1-1-12 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-12 Application and testing procedures; appeals; challenges; reciprocity

Authority: IC 22-14-2-7

Affected: IC 4-21.5

Sec. 12. (a) **Applications for certification shall:**

(1) be made on a form approved by the executive director of the department;

(2) include all attachments required on the application; and

(3) bear an original and legible signature not mechanically reproduced, of the authorized instructor who is accepting responsibility for the competency: signatures as required on the application form.

(b) **Basic firefighter test results submitted with applications for certification are to be completed with the following:**

(1) The month, day, and year that the written test was given:

(2) The written test score:

(3) The signature of the authorized instructor who administered and graded the written test and evaluated the practical skills examination:

(c) **The authorized training entity shall send a list of students requesting examination to the authorized testing entity not less than fifteen (15) days before the requested examination date. Preregistration is required for all certification examinations:**

(d) (b) An application for a course number shall be submitted to the authorized testing entity shall prepare a roster of preregistered students and send it to the lead evaluator or proctor as applicable: agency not fewer than thirty (30) days before the commencement of the course. The director of the training division of the department may approve the issuance of course numbers for applications that are submitted fewer than thirty (30) days before the commencement of the course if the director finds that the issuance of the course numbers is necessary to provide the continuation of training for fire service persons.

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~~(c)~~ **(c) Each request for a written cognitive examination shall be received by the authorized testing entity shall verify student registration and prerequisites and shall mail confirmations to all properly registered examination applicants approximately two (2) weeks prior to the examination date: not fewer than fifteen (15) days before the date that the test will be administered, and all requests shall be in writing.**

~~(d)~~ **(d) The authorized testing entity shall obtain the form and content of each written cognitive examination from the board.**

~~(e)~~ **(e) All practical skills examinations shall be have been administered at the conclusion before the administration of the training course: cognitive written examination.**

~~(f)~~ **(f) Practical skills examinations shall test all of the practical skills contained in the objectives required for the certification that is the subject of the practical skills examination.**

~~(g)~~ **(g) The content of each practical skills examination shall be obtained from the board.**

(h) Each request for a practical skills examination shall be received by the authorized testing entity not fewer than fifteen (15) days before the date that the test will be administered, and all requests shall be in writing.

~~(i)~~ **(i) Practical skills examination procedures shall be as follows:**

- ~~(1)~~ **(1) All examinations shall be graded on a pass/fail basis.**
- ~~(2)~~ **(2) Individual test participants shall be verified upon arrival at the examination site to determine that their name appears on the roster to be able to take the examination.**
- ~~(3)~~ **(3) Any individual not on the official examination site roster will not be allowed into the examination.**

(2) Sign-in and sign-out sheets, on a form approved by the executive director of the department, shall be provided by the lead evaluator. Each applicant shall sign in when entering the examination area and sign out when leaving the examination area. Each entrance and exit from the examination area shall be evidenced by the applicant signing in and out as described above.

~~(4)~~ **(3) A photo identification must be provided by the applicant along with all prerequisite documentation.**

~~(5)~~ **(4) Once all admission requirements have been verified, the individual will be allowed to take the examination.**

~~(6)~~ **(5) Once the examination has begun, the entrance to the examination site will be secured, and no additional individuals will be permitted to enter, other than employees of the department or members of the board.**

~~(7)~~ **(6) The lead evaluator shall make certain that all paperwork, necessary equipment, and props are:**

- (A) in order;**
- (B) in place; and**
- (C) in working order;**

before the evaluation begins.

~~(8)~~ **(7) Additional evaluators, where needed as determined by the lead evaluator, shall be selected by the lead evaluator. from a list provided by the authorized testing entity:**

~~(9)~~ **(8) All evaluators shall use standards adopted by the board in this title.**

~~(10)~~ **(9) The lead evaluator shall**

~~(A)~~ **sign all evaluation forms; and**

~~(B)~~ **ensure that evaluation forms are:**

(A) properly completed in ink by any assisting evaluator; and

(B) returned to the lead evaluator immediately following the examination.

~~(11)~~ **(10) The lead evaluator shall be responsible for the following:**

(A) Maintaining a safe environment while the examination is in progress.

(B) Ensuring that applicable safety and risk management protocols are followed.

~~(12)~~ **(11) The lead evaluator shall return all examination paperwork to the authorized testing organization agency within three (3) working days after the examinations are completed.**

~~(13)~~ **(j) The procedures for written cognitive examinations shall be as follows:**

(1) A minimum of seventy percent (70%) grade is required to pass the examination.

(2) One (1) or more proctors shall monitor each examination.

~~(3)~~ **(3) Individual test participants will be verified upon arrival at the examination site to determine that their name appears on the roster to be able to take the examination.**

~~(4)~~ **(4) Any individual not on the official examination site roster will not be allowed into the examination. Walk-in registrations shall not be accepted.**

~~(5)~~ **(3) A photo identification must be provided by the applicant along with all prerequisite documentation.**

~~(6)~~ **(4) Once all admission requirements have been verified, the individual applicant will be allowed to take the examination.**

(5) Sign-in and sign-out sheets, on a form approved by the executive director of the department, shall be provided by the proctor. Each applicant shall sign in when entering the examination room and sign out when leaving the examination room. Each entrance and exit from the examination room shall be evidenced by the applicant signing in and out as described above.

(7) (6) Once the examination has begun, the entrance to the examination site will be secured, and no additional individuals will be permitted to enter, other than employees of the department or members of the board.

(8) (7) Each examination participant applicant shall sign and date the student registration form.

~~(9)~~ **(8) Applicants shall be seated at**

least one (1) foot away from each other ~~participant~~ **applicant**.
~~(10)~~ (9) Any ~~examination participant~~ **applicant** observed talking to another ~~examination participant~~ **applicant** while either has his or her answer sheet in his or her possession shall:

(A) be immediately dismissed from the examination; and shall

(B) receive a score of zero (0) on the examination.

~~(11)~~ (10) Any ~~examination participant~~ **applicant** observed copying from another ~~participant's~~ **applicant's** paper shall:

(A) be immediately dismissed from the examination; and

(B) receive a score of zero (0) on the examination.

~~(12)~~ (11) The maximum time allowed for each examination shall be three (3) hours.

~~(13)~~ (12) At the end of the examination period, the proctor shall ensure that:

(A) each ~~student~~ **applicant** returns ~~the~~:

(i) ~~the~~ test booklet;

(ii) ~~the~~ completed answer sheet; and

(iii) ~~the~~ completed registration form; and

(B) no marks were made on the test booklet.

~~(14)~~ (13) The proctor shall:

(A) seal all test booklets and answer sheets; and

(B) return them within three (3) working days to the authorized testing agency for scoring.

~~(15)~~ (14) If more than one (1) room is being used for the examination, a minimum of one (1) proctor per room shall be required.

(15) A proctor shall remain in the room at all times that the examination is being conducted, unless the examination is being conducted at the offices of the department and only one (1) student is taking the examination.

(16) A proctor shall not discuss any test question or possible answer thereto with any student taking the examination.

~~(17)~~ The (k) No oral examination procedure for cognitive examinations shall be as follows: **permitted**.

~~(1)~~ Requests for oral examination shall:

(A) be made in writing to the board; and

(B) specify the level of testing requested and the basis for the request for oral examination.

(2) The board shall review the request and determine whether the basis meets one (1) or more of the following criteria:

(A) Physical disability;

(B) Mental disability;

(C) Educational disability.

(3) If one (1) or more of the review criteria is met, the request shall be granted and the applicant shall be notified in writing of the scheduled date and location of the oral examination.

(4) Applicants shall meet all other examination requirements and prerequisites for the level of examination being requested.

(5) A minimum of seventy percent (70%) grade is required to pass the examination.

(6) One (1) or more proctors shall monitor each examination.

(7) Individual test participants will be verified upon arrival at the examination site to determine that their name appears on the roster to be able to take the examination.

(8) Any individual not on the official examination site roster will not be allowed into the examination. Walk-in registrations shall not be accepted.

(9) A photo identification must be provided by the applicant along with all prerequisite documentation.

(10) Once all admission requirements have been verified, the individual will be allowed to take the examination.

(11) Once the examination has begun, the entrance to the examination site will be secured, and no additional individuals will be permitted to enter.

(12) Each examination participant shall sign and date the student registration form.

(13) The maximum time allowed for each examination shall be eight (8) hours.

(14) At the end of the examination period, the proctor shall ensure that:

(A) each student returns:

(i) the test booklet;

(ii) the completed answer sheet; and

(iii) the completed registration form; and

(B) no marks were made on the test booklet.

(15) The proctor shall seal all test booklets and answer sheets and return them within three (3) working days to the authorized testing agency for scoring.

(16) The proctor/participant ratio shall not exceed one (1) proctor for each participant.

~~(17)~~ (I) A student may retake any examination within ninety (90) days after receipt of notification of a failing score on ~~such~~ the examination. If the student fails to achieve a passing score on the retake examination, the student may do one (1) of the following:

(1) Complete a second course of instruction for the certification for which the failed retest examination was given and achieve a passing score on the cognitive examinations for the certification.

(2) At any time after one (1) year from the date on which the student took the failed retest examination, take the examination again.

~~(18)~~ (m) All appeals shall be heard by the board under IC 4-21.5. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-12; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3387; filed Sep 24, 1999, 10:02 a.m.: 23 IR 328; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; errata, 26 IR 383*)

SECTION 7. 655 IAC 1-1-13 IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-13 Qualifications of evaluators and proctors

Authority: IC 22-14-2-7

Affected: IC 22-12-7-7

Proposed Rules

Sec. 13. (a) **Except as provided in section 6.1(a) of this rule**, the qualifications for lead evaluator shall be as follows:

- (1) Certification as at least an Instructor II/III.
- (2) ~~Specialty classification Certification~~ in the course being evaluated.
- (3) ~~Has mastered the curriculum of the course being evaluated.~~
- (4) Possesses adequate supervisory skills for the proper supervision of the students and any assisting evaluators.
- (5) (3) Has experience in the objective evaluation of performance skills.
- (6) (4) Has signed a written acknowledgement prepared by the board concerning the following:
 - (A) Commitment to serve as lead evaluator.
 - (B) Acceptance of assignments by the board.
 - (C) Commitment to uphold the board's practices and policies.
 - (D) Acknowledgement and acceptance of conditions concerning the administration of practical skills examinations.
- (7) ~~Has successfully completed the six-hour up-date class.~~
- (8) ~~Is (5) Did not instruct the lead instructor for the host department where applicants for certification in the material that is the subject of the examination. is taking place.~~

(b) An ~~assisting~~ evaluator must be certified as an Instructor I.

(c) ~~Assisting~~ Evaluators may be used in their respective departments or other departments if:

- (1) they are part of a countywide system; or if
- (2) there are ~~students~~ **applicants for certification** from their respective departments taking part in the examination; so long as they have not taught the subject matter in the course being evaluated.

(d) ~~The instructor certification of any evaluator who fails to abide by the rules of the board with respect to practical skills examinations shall be subject to disciplinary action by the board. Such disciplinary action shall be pursuant to IC 22-12-7-7(4).~~

~~(e)~~ (d) A proctor must be one (1) of the following:

- (1) Certified as at least an Instructor II/III.
- (2) **The** holder of a valid teacher's license.
- (3) A faculty member at an institution of higher learning.
- (4) A staff member of an authorized training entity.

(f) ~~The instructor certification of any proctor who fails to abide by the rules of the board with respect to written cognitive examinations shall be subject to disciplinary action by the board. Such disciplinary action shall be pursuant to IC 22-12-7-7(4).~~

(g) ~~The instructor certification of any proctor who fails to abide by the rules of the board with respect to oral cognitive examinations shall be subject to disciplinary action by the board. Such disciplinary action shall be pursuant to IC 22-12-7-7(4).~~

(e) A proctor shall not proctor an examination for applicants for certification whom the proctor instructed in the material that is the subject of the examination. (*Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-13; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3389; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; filed Nov 16, 2001, 4:37 p.m.: 25 IR 1160; errata, 26 IR 383*)

SECTION 8. 655 IAC 1-1-14 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 29, 2006 at 9:00 a.m., at the Marriott Hotel and Convention Center, 7202 East 21st Street, Salons 1 and 2, Indianapolis, Indiana the Board of Firefighting Personnel Standards and Education will hold a public hearing on amendments to 655 IAC 1 for the purpose of making changes to the Board's certification requirements, processes, and procedures and making conforming section changes.

The Board of Firefighting Personnel Standards and Education has authority to adopt these rules under IC 22-14-2-7. These revisions are for the purpose of clarifying the Board's rules to ensure that regulated entities are given a clear explanation of the conditions that apply when certification is requested under the Board's rules, and none of the proposed changes should have an economic impact beyond what is already imposed by the existing rules. The proposed amendments will not impose requirements or costs on regulated entities 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 W239 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Roger Johnson
State Fire Marshal
Board of Firefighting Personnel Standards and Education

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

Proposed Rule
LSA Document #06-37

DIGEST

Amends 655 IAC 1-1-5.1 for the purpose of deleting certifications. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

None of the proposed changes should have an economic impact beyond what is already imposed by the existing rule. The

proposed amendments will not impose requirements or costs on small businesses under IC 4-22-2.1-5

655 IAC 1-1-5.1

SECTION 1. 655 IAC 1-1-5.1, AS AMENDED AT 29 IR 477, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

655 IAC 1-1-5.1 Certifications under this rule; requirements

Authority: IC 22-14-2-7

Affected: IC 22-14-2-7

Sec. 5.1. (a) Any Indiana fire service person may enter the voluntary certification program by submitting an application and verification by competency based testing for the certification sought. Applications shall be as follows:

- (1) Legibly signed by the authorized instructor who has taken responsibility for the verified competencies.
- (2) Legibly completed in full.
- (3) Provided by the board upon request.

(b) Any Indiana nonfire service person may enter the voluntary certification program by submitting an application and verification by competency based testing for the certification sought. Applications shall be as follows:

- (1) Legibly signed by the authorized instructor who has taken responsibility for the verified competencies.
- (2) Legibly completed in full.
- (3) Provided by the board upon request.

(c) Certifications are available for the following:

- (1) Fire service person as follows:

Certification	Requirements
Basic Firefighter	655 IAC 1-2.1-2 and 655 IAC 1-2.1-3
Firefighter I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-4
Firefighter II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-5
Driver/Operator-Pumper	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6
Driver/Operator-Aerial	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.1
Driver/Operator-Wildland Fire Apparatus	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.2
Driver/Operator-Aircraft Crash and Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.3
Driver/Operator-Mobile Water Supply	655 IAC 1-2.1-2 and 655 IAC 1-2.1-6.4
Airport Firefighter-Aircraft Crash and Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-7
Fire Officer-Strategy and Tactics	655 IAC 1-2.1-2 and 655 IAC 1-2.1-7.1
Fire Officer I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-8
Fire Officer II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-9
Fire Officer III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-10
Fire Officer IV	655 IAC 1-2.1-2 and 655 IAC 1-2.1-11
Public Fire and Life Safety Educator I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-16
Public Fire and Life Safety Educator II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-17
Public Fire and Life Safety Educator III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-18
Safety Officer	655 IAC 1-2.1-2 and 655 IAC 1-2.1-22
Firefighter-Wildland Fire Suppression I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-23
Firefighter-Wildland Fire Suppression II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-23.1
Emergency Vehicle Technician I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-25 through 655 IAC 1-2.1-35
Emergency Vehicle Technician II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-36 through 655 IAC 1-2.1-60
Fire Service Engineering Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-61 through 655 IAC 1-2.1-64
Motor Sports Emergency Responder	655 IAC 1-2.1-2 and 655 IAC 1-2.1-65 through 655 IAC 1-2.1-74
Rope Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75
Rope Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-96
Rope Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-97
Rescue Technician-Surface Water Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.1
Vehicle and Machinery Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.2
Vehicle and Machinery Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-98
Vehicle and Machinery Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-99
Confined Space Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.3
Confined Space Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-100

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Confined Space Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-101
Structural Collapse Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.4
Structural Collapse Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-102
Structural Collapse Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-103
Trench Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-75.5
Trench Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-104
Trench Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-105
Swift Water Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-76.1
Swift Water Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-106
Swift Water Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-107
Wilderness Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-108
Wilderness Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-109
Wilderness Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-110
Land-Based Firefighter-Marine Vessel Fires	655 IAC 1-2.1-2 and 655 IAC 1-2.1-88(a)
Fire Medic I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-89
Fire Medic II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-90
Fire Medic III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-91
Fire Medic IV	655 IAC 1-2.1-2 and 655 IAC 1-2.1-92
Public Information Officer	655 IAC 1-2.1-2 and 655 IAC 1-2.1-93
Juvenile Firesetter Intervention Specialist I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-94
Juvenile Firesetter Intervention Specialist II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-95
National Incident Management System-First Responder-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-112
National Incident Management System-First Responder-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-113
National Incident Management System-First Responder-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-114
National Incident Management System-First Responder-Command	655 IAC 1-2.1-2 and 655 IAC 1-2.1-115

(2) Fire department instructors as follows:

Certification	Requirements
Instructor I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-19
Instructor II/III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-20
Instructor-Swift Water Rescue	655 IAC 1-2.1-2 and 655 IAC 1-2.1-19.1

(3) Firefighting training and education programs as follows:

Certification	Requirements
Basic Firefighter	655 IAC 1-2.1-3
Firefighter I	655 IAC 1-2.1-4(a)
Firefighter II	655 IAC 1-2.1-5(a)
Driver/Operator-Pumper	655 IAC 1-2.1-6(a)
Driver/Operator-Aerial	655 IAC 1-2.1-6.1(a)
Driver/Operator-Wildland Fire Apparatus	655 IAC 1-2.1-6.2(a)
Driver/Operator-Aircraft Crash and Rescue	655 IAC 1-2.1-6.3(a)
Driver/Operator-Mobile Water Supply	655 IAC 1-2.1-6.4(a)
Fire Officer-Strategy and Tactics	655 IAC 1-2.1-7.1(a)
Airport Firefighter-Aircraft Crash and Rescue	655 IAC 1-2.1-7(a)
Fire Officer I	655 IAC 1-2.1-8(a)
Fire Officer II	655 IAC 1-2.1-9(a)
Fire Officer III	655 IAC 1-2.1-10(a)
Fire Officer IV	655 IAC 1-2.1-11(a)

Fire Inspector I	655 IAC 1-2.1-12(a)
Fire Inspector II	655 IAC 1-2.1-13(a)
Fire Inspector III	655 IAC 1-2.1-14(a)
Fire Investigator I	655 IAC 1-2.1-15(a)
Public Fire and Life Safety Educator I	655 IAC 1-2.1-16(a)
Public Fire and Life Safety Educator II	655 IAC 1-2.1-17(a)
Public Fire and Life Safety Educator III	655 IAC 1-2.1-18(a)
Safety Officer	655 IAC 1-2.1-22(a)
Firefighter-Wildland Fire Suppression I	655 IAC 1-2.1-23(a)
Firefighter-Wildland Fire Suppression II	655 IAC 1-2.1-23.1(a)
Hazardous Materials First Responder-Awareness	655 IAC 1-2.1-24
Hazardous Materials First Responder-Operations	655 IAC 1-2.1-24.1
Hazardous Materials Technician	655 IAC 1-2.1-24.2
Hazardous Materials-Incident Command	655 IAC 1-2.1-24.3
Emergency Vehicle Technician I	655 IAC 1-2.1-25 through 655 IAC 1-2.1-35
Emergency Vehicle Technician II	655 IAC 1-2.1-36 through 655 IAC 1-2.1-60
Fire Service Engineering Technician	655 IAC 1-2.1-61 through 655 IAC 1-2.1-64
Motor Sports Emergency Responder	655 IAC 1-2.1-65 through 655 IAC 1-2.1-74
Rope Rescuer-Awareness	655 IAC 1-2.1-75(a)
Rope Rescuer-Operations	655 IAC 1-2.1-96(a)
Rope Rescuer-Technician	655 IAC 1-2.1-97(a)
Rescue Technician-Surface Water Rescue	655 IAC 1-2.1-75.1
Vehicle and Machinery Rescuer-Awareness	655 IAC 1-2.1-75.2(a)
Vehicle and Machinery Rescuer-Operations	655 IAC 1-2.1-98(a)
Vehicle and Machinery Rescuer-Technician	655 IAC 1-2.1-99(a)
Confined Space Rescuer-Awareness	655 IAC 1-2.1-75.3(a)
Confined Space Rescuer-Operations	655 IAC 1-2.1-100(a)
Confined Space Rescuer-Technician	655 IAC 1-2.1-101(a)
Structural Collapse Rescuer-Awareness	655 IAC 1-2.1-75.4(a)
Structural Collapse Rescuer-Operations	655 IAC 1-2.1-102(a)
Structural Collapse Rescuer-Technician	655 IAC 1-2.1-103(a)
Trench Rescuer-Awareness	655 IAC 1-2.1-75.5(a)
Trench Rescuer-Operations	655 IAC 1-2.1-104(a)
Trench Rescuer-Technician	655 IAC 1-2.1-105(a)
Swift Water Rescuer-Awareness	655 IAC 1-2.1-76.1(a)
Swift Water Rescuer-Operations	655 IAC 1-2.1-106(a)
Swift Water Rescuer-Technician	655 IAC 1-2.1-107(a)
Wilderness Rescuer-Awareness	655 IAC 1-2.1-108(a)
Wilderness Rescuer-Operations	655 IAC 1-2.1-109(a)
Wilderness Rescuer-Technician	655 IAC 1-2.1-110(a)
Land-Based Firefighter-Marine Vessel Fires	655 IAC 1-2.1-88(a)
Fire Medic I	655 IAC 1-2.1-89
Fire Medic II	655 IAC 1-2.1-90
Fire Medic III	655 IAC 1-2.1-91
Fire Medic IV	655 IAC 1-2.1-92
Public Information Officer	655 IAC 1-2.1-93
Juvenile Firesetter Intervention Specialist I	655 IAC 1-2.1-94
Juvenile Firesetter Intervention Specialist II	655 IAC 1-2.1-95
National Incident Management System-First Responder-Awareness	655 IAC 1-2.1-112
National Incident Management System-First Responder-Operations	655 IAC 1-2.1-113
National Incident Management System-First Responder-Technician	655 IAC 1-2.1-114

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National Incident Management System-First Responder-Command	655 IAC 1-2.1-115
Instructor I	655 IAC 1-2.1-19(a)
Instructor II/III	655 IAC 1-2.1-20(a)
Instructor-Swift Water Rescue	655 IAC 1-2.1-19.1
(4) Nonfire service person as follows:	

Certification	Requirements
Fire Inspector I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-12
Fire Inspector II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-13
Fire Inspector III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-14
Fire Investigator I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-15
Hazardous Materials First Responder-Awareness	655 IAC 1-2.1-24 and 655 IAC 1-2.1-2
Hazardous Materials First Responder-Operations	655 IAC 1-2.1-24.1 and 655 IAC 1-2.1-2
Hazardous Materials-Technician	655 IAC 1-2.1-24.2 and 655 IAC 1-2.1-2
Hazardous Materials-Incident Command	655 IAC 1-2.1-24.3 and 655 IAC 1-2.1-2
Public Fire and Life Safety Educator I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-16
Public Fire and Life Safety Educator II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-17
Public Fire and Life Safety Educator III	655 IAC 1-2.1-2 and 655 IAC 1-2.1-18
Swift Water Rescuer-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-76.1
Swift Water Rescuer-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-106
Swift Water Rescuer-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-107
Public Information Officer	655 IAC 1-2.1-2 and 655 IAC 1-2.1-93
Juvenile Firesetter Intervention Specialist I	655 IAC 1-2.1-2 and 655 IAC 1-2.1-94
Juvenile Firesetter Intervention Specialist II	655 IAC 1-2.1-2 and 655 IAC 1-2.1-95
National Incident Management System-First Responder-Awareness	655 IAC 1-2.1-2 and 655 IAC 1-2.1-112
National Incident Management System-First Responder-Operations	655 IAC 1-2.1-2 and 655 IAC 1-2.1-113
National Incident Management System-First Responder-Technician	655 IAC 1-2.1-2 and 655 IAC 1-2.1-114
National Incident Management System-First Responder-Command	655 IAC 1-2.1-2 and 655 IAC 1-2.1-115

(Board of Firefighting Personnel Standards and Education; 655 IAC 1-1-5.1; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3384; filed Sep 24, 1999, 10:02 a.m.: 23 IR 326; readopted filed Aug 27, 2001, 10:55 a.m.: 25 IR 203; filed Nov 16, 2001, 4:37 p.m.: 25 IR 1157; errata, 26 IR 383; filed Jul 14, 2004, 10:00 a.m.: 27 IR 4010; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2693; filed Sep 21, 2005, 1:30 p.m.: 29 IR 477)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 29, 2006 at 9:00 a.m., at the Marriott Hotel and Convention Center, 7202 East 21st Street, Salons 1 and 2, Indianapolis, Indiana the Board of Firefighting Personnel Standards and Education will hold a public hearing on a proposed amendment to 655 IAC 1-1-5.1 for the purpose of deleting certifications.

The Board of Firefighting Personnel Standards and Education has authority to adopt these rules under IC 22-14-2-7. The amendments are for the purpose of clarifying the Board's rules by deleting certifications, and none of the proposed changes should have an economic impact beyond what is already imposed by the existing rules. The proposed amendments will

not impose requirements or costs on regulated entities under IC 4-22-2-24(d)(3).

Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room W239 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Roger Johnson
State Fire Marshal
Board of Firefighting Personnel Standards and
Education

**TITLE 864 STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS**

Proposed Rule
LSA Document #05-295

DIGEST

Amends 864 IAC 1.1-4.1-7 to implement rule changes based on SEA 139-2005 (P.L.194-2005) to change the number of examination attempts for registration as a professional engineer. Amends 864 IAC 1.1-4.1-8 to implement rule changes based on SEA 139-2005 (P.L.194-2005) to bring the termination of application in conformity with the examination attempts for registration as a professional engineer. Amends 864 IAC 1.1-4.1-9 to implement rule changes based on SEA 139-2005 (P.L.194-2005) to change the number of examination attempts for registration as an engineer intern. *NOTE: LSA Document #05-295, printed at 29 IR 2356, was resubmitted for publication.* 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:

U.S. Census Bureau North American Standard Classification System 541330 Engineering Services

The State Board of Registration of Professional Engineers (Board) has the authority to promulgate rules in accordance with IC 25-31-1-7, including establishing the requirements and examination attempts for registration as a professional engineer and an engineer intern. This proposed rule will not impose any costs or requirements on small businesses under IC 4-22-2.1-5.

864 IAC 1.1-4.1-7

864 IAC 1.1-4.1-8

864 IAC 1.1-4.1-9

SECTION 1. 864 IAC 1.1-4.1-7 IS AMENDED TO READ AS FOLLOWS:

864 IAC 1.1-4.1-7 Examination attempts for registration as a professional engineer

Authority: IC 25-31-1-7

Affected: IC 25-31-1-14

Sec. 7. (a) This section applies to the examination for registration as a professional engineer.

(b) An applicant who does not pass the entire fundamentals of engineering examination (Part I) in the first attempt shall be entitled to take ~~it one~~ **(+) the examination two (2) additional time provided that times. However,** the applicant's:

(1) second examination is must be taken at either of the next two (2) regularly scheduled examinations after the failure of the first examination; **and**

(2) third examination must be taken at either of the next two (2) regularly scheduled examinations after the failure

of the second examination.

(c) An applicant who took the fundamentals of engineering examination two (2) times before July 1, 2005, shall not be entitled to further examination attempts under subsection (b). An applicant who took the fundamentals of engineering examination one (1) time before July 1, 2005, shall be entitled to two (2) additional examination attempts as long as the requirements stated in subsection (b) for timing of each examination attempt are met.

~~(c)~~ (d) Upon the exhaustion of the examination attempts allowed under subsection (b), the application shall be deemed terminated.

~~(d)~~ (e) An applicant who does not pass the principles and practice examination (Part II) and Part III on the first attempt shall be entitled to take ~~them one~~ **(+) the examinations two (2) additional time provided that times. However,** the applicant's:

(1) second examination is must be taken at either of the next two (2) regularly scheduled examinations after the failure of the first examination; **and**

(2) third examination must be taken at either of the next two (2) regularly scheduled examinations after the failure of the second examination.

(f) An applicant who took the principles and practice examination two (2) times before July 1, 2005, shall not be entitled to further examination attempts under subsection (b). An applicant who took the principles and practice examination one (1) time before July 1, 2005, shall be entitled to two (2) additional examination attempts as long as the requirements stated in subsection (b) for timing of each examination attempt are met.

~~(e)~~ (g) If the applicant passed Part II or Part III of the examination on the first attempt, the applicant will not be required to retake the passed part in the second examination allowed by subsection ~~(d)~~: (e).

~~(f)~~ (h) Upon the exhaustion of the examination attempts allowed by subsection ~~(d)~~: (e), the application shall be deemed terminated.

~~(g)~~ (i) If an application is terminated under subsection ~~(f)~~: (h), the applicant shall not lose credit for a previous passing of the fundamentals of engineering examination. However, the applicant shall lose credit for passing either Part II or Part III.

~~(h)~~ (j) For purposes of this section, examination attempts out of state count. (*State Board of Registration for Professional Engineers; 864 IAC 1.1-4.1-7; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3906; filed Jul 24, 1989, 5:00 p.m.: 12 IR 2284; filed Sep 24, 1992, 9:00 a.m.: 16 IR 728; filed Mar 28, 1995, 2:00 p.m.: 18 IR 2107; readopted filed Jun 21, 2001, 9:01 a.m.: 24 IR 3824*)

SECTION 2. 864 IAC 1.1-4.1-8 IS AMENDED TO READ

Proposed Rules

AS FOLLOWS:

864 IAC 1.1-4.1-8 Terminated applications; reapplication for admission, qualifications

Authority: IC 25-31-1-7

Affected: IC 25-31-1-12; IC 25-31-1-14

Sec. 8. (a) An individual whose application has been deemed terminated under section ~~7(c)~~, ~~7(f)~~, **7(d)**, **7(h)**, or ~~9(d)~~ **9(e)** of this rule may reapply for admission to the applicable examination.

(b) In order for readmission to be granted, the applicant must meet the education and experience requirements in effect at the time of reapplication and must have completed the following:

- (1) Since the termination of the application, nine (9) or more semester credit hours of college level courses related to the applicant's examination deficiency.
- (2) Appropriate experience of the type required under IC 25-31-1-12 for at least two (2) years subsequent to the termination of the application.

Under this subsection, the date of termination shall be deemed to be the date the ~~second~~ **third** examination was taken.

(c) An applicant who is readmitted to an examination under this section shall be treated as if the applicant had not previously taken the examination for all purposes under sections 5 and 7 of this rule.

(d) Individuals may be deemed terminated partially or completely because of out-of-state examination attempts. Therefore, an applicant will be required to comply with subsection (b) even if the first, second, **third**, or ~~both~~ **all** examination attempts are out of state.

(e) Individuals shall be deemed terminated under section ~~7(f)~~ **7(d)** or ~~9(d)~~ **9(e)** of this rule on the basis of all fundamentals of engineering examination attempts. Therefore, applicants will be required to comply with subsection (b) once the applicant has had ~~two (2)~~ **three (3)** fundamentals of engineering examination attempts regardless of whether ~~they~~ **the examination attempts** were as:

- (1) an engineering intern applicant; or
- (2) a professional engineer applicant.

(f) For purposes of this section and sections 7 and 9 of this rule, an examination attempt:

- (1) means the actual taking of the examination; and
- (2) does not include a failure to appear to take the examination.

(State Board of Registration for Professional Engineers; 864 IAC 1.1-4.1-8; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3907; errata filed Feb 5, 1990, 4:15 p.m.: 13 IR 1066; filed Nov 15, 1990, 1:35 p.m.: 14 IR 757; filed Sep 24, 1992, 9:00 a.m.: 16 IR 728; filed Mar 28, 1995, 2:00 p.m.: 18 IR 2108; readopted filed Jun 21, 2001, 9:01 a.m.: 24 IR 3824)

SECTION 3. 864 IAC 1.1-4.1-9, AS AMENDED AT 28 IR 603, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

864 IAC 1.1-4.1-9 Examination attempts for certification as an EI

Authority: IC 25-31-1-7

Affected: IC 25-31-1-13; IC 25-31-1-14

Sec. 9. (a) This section applies to the examinations for certification as an EI.

(b) An applicant who does not pass the examination may take ~~it one (1) the examination two (2) additional time provided that~~ **times. However, the applicant requests to applicant's:**

- (1) **second examination must be admitted to taken at** either of the next two (2) regularly scheduled examinations **after the failure of the first examination; and**
- (2) **third examination must be taken at either of the next two (2) regularly scheduled examinations after the failure of the second examination.**

(c) **An applicant who took the examination two (2) times before July 1, 2005, shall not be entitled to further examination attempts under subsection (b). An applicant who took the examination one (1) time before July 1, 2005, shall be entitled to two (2) additional examination attempts as long as the requirements stated in subsection (b) for timing of each examination attempt are met.**

~~(c)~~ **(d)** An applicant who took the examination the first time on a college campus, as allowed by 864 IAC 1.1-2-4(b), may take the examination ~~one (1) two (2) additional time times~~ provided the applicant **does the following:**

- (1) Complies with subsection (b).
- (2) Pays the fees under **the following:**
 - (A) 864 IAC 1.1-12-1(1). ~~and~~
 - (B) 864 IAC 1.1-12-2.
- (3) Submits a certified copy of educational transcripts showing any degree conferred.
- (4) Provides three (3) references as required under IC 25-31-1-13(a). ~~and~~
- (5) Otherwise qualifies for admission to the examination.

~~(d)~~ **(e)** Upon the exhaustion of the examination attempts allowed by this section, the application shall be deemed terminated.

~~(e)~~ **(f)** For ~~the~~ purposes of this section, examination attempts out of state count. *(State Board of Registration for Professional Engineers; 864 IAC 1.1-4.1-9; filed Jun 21, 1988, 4:00 p.m.: 11 IR 3907; filed Sep 24, 1992, 9:00 a.m.: 16 IR 729; filed Mar 28, 1995, 2:00 p.m.: 18 IR 2108; readopted filed Jun 21, 2001, 9:01 a.m.: 24 IR 3824; filed Sep 16, 2004, 9:00 a.m.: 28 IR 603, eff Nov 1, 2004)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 15,

2006 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the State Board of Registration for Professional Engineers will hold a public hearing on proposed amendments to implement rule changes based on SEA 139-2005 (P.L.194-2005), including changes to the number of examination attempts for registration as a professional engineer, changes to bring the termination of application in conformity with the examination attempts for registration as a professional engineer, and changes to the number of examination attempts for registration as an engineer intern.

The State Board of Registration of Professional Engineers has the authority to promulgate rules in accordance with IC 25-31-1-7, including establishing the requirements and examination attempts for registration as a professional engineer and an engineer intern. The proposed rule is being promulgated to implement rule changes based on SEA 139-2005 (P.L.194-2005) to increase the number of examination attempts for registration as a professional engineer and an engineer intern from two to three. This proposed rule will have some costs on the regulated entities. The regulated entity will have to pay to register to sit for another licensing examination, which is paid directly to the testing vendor. However, the regulated entity is given another opportunity to sit for the licensing examination before being required to obtain additional education and to reapply to sit for the licensing examination. This proposed rule will not have any costs on small businesses. The Board did not rely on any data, studies, or analyses in determining the imposition of the requirement or cost.

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
Executive Director
Indiana Professional Licensing Agency

TITLE 876 INDIANA REAL ESTATE COMMISSION**Proposed Rule**

LSA Document #06-40

DIGEST

Amends 876 IAC 3-6-2 to incorporate by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). Amends 876 IAC 3-6-3 to update the revisions to USPAP based upon the changes in the 2006 edition. 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:**

U.S. Census Bureau North American Standard Classification

System 531320 Offices of Real Estate Appraisers

The Real Estate Appraiser Licensure and Certification Board (Board) has the authority to recommend to the Indiana Real Estate Commission (Commission) rules governing the real estate appraisers licensed and certified under IC 25-34.1-3-8. Under IC 25-34.1-2-5.1, the Commission also has the authority to promulgate rules establishing standards for the competent practice of the various occupations regulated in IC 25-34.1. There are 2,945 appraisers licensed in the state of Indiana. Although the proposed rule affects the practices of appraisers specifically, the small business for which these appraisers are employed will also be affected because of the licensees' compliance. The number of small businesses affected by this proposed rule will be less than that; however, the Board is unable to determine the actual number of small businesses. This rule also applies to real estate brokers doing appraising in Indiana. There are approximately 26,735 real estate brokers and real estate business entities licensed in Indiana. Although the proposed rule affects the practices of broker performing appraisals specifically, the small business for which these brokers are employed will also be affected because of the licensees' compliance. The estimated number of small businesses affected by this rule is 26,235, which includes the following: 18 partnerships, 79 professional corporations, 645 limited liability companies, 1,544 corporations, and 6,033 independent brokers (sole proprietors). The costs imposed on these small businesses are because the licensed and certified appraisers and real estate broker that are directly affected by this rule will have to comply with the most recent Uniform Standard of Professional Appraisal Practice (USPAP) requirements.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Board and Commission estimate that there will be no annual reporting. The 2006 USPAP that is being incorporated in the Board and Commission's proposed rule requires some record keeping requirements. The Board and Commission estimate that there will be no administrative costs incurred by small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Board and Commission estimate that there will be an impact on small businesses as a result of compliance with this rule. In order to comply with this proposed rule, an appraiser may have to replace 2005 USPAP edition with the 2006 USPAP edition. Assuming all appraisers purchase the book, the cost the purchase the book is \$30, which will cost all licensed or certified appraisers in Indiana approximately \$88,350 (2,945 licensed and certified appraisers × \$30). Compliance with the new 2006 edition of the USPAP is not intend to have or will have minimal compliance costs because appraisers and broker doing appraisals

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: The Uniform Standards of Professional Appraisal Practice is the national standard for professional appraisal practice that appraisers are

expected to follow. The Board and Commission are incorporating these standards in their rules to keep current with the national standards. In addition, the federal government requires appraisers to use and comply with the Uniform Standards of Professional Appraisal Practice as a requirement for federal agencies.

- Supporting Data, Studies, or Analyses: The Board and Commission have not relied on any studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

The proposed rule was permitted by IC 25-34.1-3-8 for the Board to enforce and administer its article and by IC 25-34.1-2-5.1 to establish the standards of the competent practice of real estate brokers. The Board and Commission have not analyzed alternatives to this proposed rule.

A. Establishment of less stringent compliance or reporting requirements for small businesses.

The Board is incorporating these standards in their rules to keep current with the national standards. In addition, the federal government requires appraisers to use and comply with the Uniform Standards of Professional Appraisal Practice as a requirement for federal agencies. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Because there are no reporting requirements, there was no need to establish less stringent schedules or deadlines for small business compliance.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

There are no other reporting requirements imposed by the proposed rule. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The standards imposed by this rule were developed by the Appraisal Foundation's Appraisal Standards Board. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

This proposed rule does not impose additional reporting requirements or costs. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

876 IAC 3-6-2

876 IAC 3-6-3

SECTION 1. 876 IAC 3-6-2, AS AMENDED AT 28 IR 2717, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

876 IAC 3-6-2 Uniform Standards of Professional Appraisal Practice

Authority: IC 25-34.1-3-8

Affected: IC 4-22-2; IC 25-34.1

Sec. 2. (a) That certain document being titled Uniform Standards of Professional Appraisal Practice, ~~2005~~ **2006** edition, as published by the Appraisal Standards Board of the Appraisal Foundation, ~~1029 Vermont Avenue, 1155 15th Street, NW, Suite 900, 1111, Washington, D.C. 20005,~~ copyright ~~2005;~~ **2006**, is hereby incorporated by reference as if fully set out in this rule except for the revisions stated in section 3 of this rule. The Statements on Appraisal Standards are adopted as part of this rule. The Advisory Opinions are not adopted as part of this rule. The Comments are adopted as part of this rule.

(b) No subsequent editions, amendments, supplements, or releases of the Uniform Standards of Professional Appraisal Practice will be in effect in Indiana or adopted by the commission except by following the rulemaking provisions of IC 4-22-2.

(c) As used in this article, "appraiser" refers to the following:

- (1) Indiana licensed trainee appraiser.
- (2) Indiana licensed residential appraiser.
- (3) Indiana certified residential appraiser.
- (4) Indiana certified general appraiser.

(Indiana Real Estate Commission; 876 IAC 3-6-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1766; filed May 10, 1999, 12:42 p.m.: 22 IR 2879; filed Apr 24, 2000, 12:48 p.m.: 23 IR 2243; filed May 25, 2001, 2:42 p.m.: 24 IR 3068; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed May 13, 2002, 2:05 p.m.: 25 IR 3181; filed May 1, 2003, 12:15 p.m.: 26 IR 3043; filed Apr 8, 2004, 3:25 p.m.: 27 IR 2738; filed Apr 18, 2005, 2:30 p.m.: 28 IR 2717)

SECTION 2. 876 IAC 3-6-3, AS AMENDED AT 28 IR 2717, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

876 IAC 3-6-3 Deletions from the Uniform Standards of Professional Appraisal Practice

Authority: IC 25-34.1-3-8

Affected: IC 25-1-11-5; IC 25-34.1

Sec. 3. (a) Standards 6 through 10 are deleted.

(b) The references to Standards 6 through 10 of the Uniform Standards of Professional Appraisal Practice are deleted or revised as follows:

(1) Under the fourth paragraph of the Preamble, in the ~~sixth~~ **seventh** bullet point, delete "ten" from the first sentence and the last three (3) sentences.

(2) In the third sentence in the Ethics Rules, delete "Standards 1 through 10" and insert "Standards 1 through 5".

(3) In the second Comment under the Ethics Rule, delete the comma after "5-3" and ~~"6-8,"~~ **"6-9,** 8-3, and 10-3" and before

"5-3", insert "and".

(4) In the second Comment under the Management category of the Ethics Rule, delete the comma after "5-3" and ~~"6-8; "6-9, 8-3, or 10-3"~~ and before "5-3", insert "or".

(5) In the last paragraph of the Comment under the Record Keeping category under the Ethics Rule, delete "STANDARDS 2 and 8" and insert "STANDARD 2", delete "or an Appraisal Report (for assignments under STANDARD 10)," and delete the comma after ~~"2-2(c)(ix); "2-2(c)(viii)" and "8-2(c)(ix); "8-2(c)(viii), and 10-2(b)(ix)"~~.

(6) In the third to last paragraph of the Comment following the Departure Rule, delete ~~"6-7(p); 8-2(a)(xi); 8-2(b)(xi); 8-2(c)(xi); 10-2(a)(x); and 10-2(b)(x)"~~ and before ~~"2-2(c)(xi)"~~, insert "and".

(7) In the next to last paragraph of the Comment following the Departure Rule, delete the comma after ~~"5-3"~~ and ~~"6-1, 6-3, 6-6, 6-7, 6-8, 7-1, 7-2, 7-5, 7-6, 8-1, 8-2, 8-3, 9-1, 9-2, 9-3, 9-5, 10-1, 10-2, and 10-3"~~ and before ~~"5-3"~~, insert "and".

(6) In the comment under the Problem Identification category under the Scope of Work Rule, delete "SR 6-2, SR 7-2, and SR 9-2" and, before "SR 4-2", insert "and".

(8) (7) In the Comment under Standards Rule 1-4(g), delete "(See Standard 7)" and "(See Standard 9)".

(9) (8) In the last paragraph of the Comment under Standard 3, delete the comma after "5-3" and ~~"6-8; "6-9, 8-3, and 10-3"~~ and before "5-3", insert "and".

(10) (9) In two (2) locations that appear in the Comment under Standard 3-1(c), delete "(STANDARD 1, 3, 4, 6, 7, or 9)" and insert "(STANDARD 1, 3, or 4)".

(11) (10) Delete the last sentence in the Comment under Standard 3-2(d) and insert the following: "However, data and analyses provided by the reviewer to support a different value conclusion must match, at a minimum, the reporting requirements for a Summary Appraisal Report for real property appraisal (SR 2-2(b)) and an appraisal consulting report for real property appraisal consulting (SR 5-2)."

(12) (11) Any references to Standards 6 through 10 in the Statements on Appraisal Standards are deleted and shall not apply.

(c) In the Definitions, delete the title and text of the Comment under Real Property.

(d) Delete the third paragraph of the Preamble.

(e) Add the following sentences to the end of the text of the Supplemental Standards Rule, "Any such supplemental standard shall not be considered part of this title. However, this does not preclude the possibility of disciplinary sanctions under IC 25-1-11-5(a)(3) where appropriate." (*Indiana Real Estate Commission; 876 IAC 3-6-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; errata filed May 8, 1995, 4:30 p.m.: 18 IR 2262; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1767; filed May 10, 1999, 12:42 p.m.: 22 IR 2880; errata, 22 IR 3420; filed Apr 24, 2000, 12:48 p.m.: 23 IR 2244; filed May 25, 2001, 2:42*

p.m.: 24 IR 3068; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed May 13, 2002, 2:05 p.m.: 25 IR 3181; filed May 1, 2003, 12:15 p.m.: 26 IR 3044; filed Apr 8, 2004, 3:25 p.m.: 27 IR 2739; filed Apr 18, 2005, 2:30 p.m.: 28 IR 2717)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 25, 2006 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to incorporate by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) and to update the revisions to USPAP based upon the changes in the 2006 edition.

The Real Estate Appraiser Licensure and Certification Board (Board) has the authority to recommend to the Indiana Real Estate Commission (Commission) rules governing the real estate appraisers licensed and certified under IC 25-34.1-3-8. The Commission also has the authority to promulgate rules establishing standards for the competent practice of the various occupations regulated in IC 25-34.1. The proposed rule simply incorporates the 2006 edition of USPAP and updates the exclusions based on the 2006 edition. USPAP is the national standard for professional appraisal practice that appraisers are expected to follow. The Board is incorporating these standards in their rules to keep current with the national standards. In addition, the federal government requires appraisers to use and comply with the Uniform Standards of Professional Appraisal Practice as a requirement for federal agencies. The Board has not relied upon any data, studies, or analyses in determining the imposition of requirement or cost.

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
Executive Director
Indiana Professional Licensing Agency

Readopted Rules

Final Readopted Rules

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Final Rule
LSA Document #06-49(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.

170 IAC 1-1.1

170 IAC 7-7

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING
ARE READOPTED:

- | | |
|---------------|--|
| 170 IAC 1-1.1 | Practice and Procedure Before the Commis-
sion |
| 170 IAC 7-7 | Expedited Procedure for Resolving Inter-
connection Disputes Between Telecommu-
nications Carriers |

LSA Document #06-49(F)

Intent to Readopt Rules Published: March 1, 2006; 29 IR 2053

Filed with Secretary of State: April 6, 2006, 11:00 a.m.

1 Year Requirement (IC 4-22-2-25)

**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

LSA Document #05-189

April 6, 2006

VIA HAND DELIVERY

Representative Michael Murphy, Chair
Administrative Rules Oversight Committee
c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attn: Sarah Burkman

RE: LSA #05-189

Dear Representative Murphy:

On behalf of the Indiana State Department of Health (Department), I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the Department has determined that the promulgation of the captioned rule to establish rules regarding the reporting, monitoring, case management, and preventive procedures to protect from lead poisoning will not be completed within one year after publication of the notice of intent to adopt a rule.

The Department published its notice of intent to adopt a rule for the captioned document on August 1, 2005 (28 IR 3324). The rule is to be published as a proposed rule in the April 1, 2006 Indiana Register. The authority for rule adoption is IC 16-41-39.4-1.

The promulgation of this rule has taken longer than anticipated. The latest Centers of Disease Control and Prevention (CDC) guidelines and recommendations were studied and incorporated as appropriate. The draft received scrutiny and went through numerous revisions before the Department adopted the proposed rules pursuant to the statutory mandate, IC 16-41-39.4-1, on January 11, 2006. A public hearing is scheduled for May 9, 2006.

The body with the authority to adopt rules, the Indiana State Department of Health Executive Board meets every other month. If the Department is able to present the rule for final adoption to the Indiana State Department of Health Executive Board at their next meeting following the public hearing, it is highly unlikely that the rule can be submitted to the Attorney General for legal review, and then be signed by the Governor before the 365 day time period runs out on July 31, 2006.

This notice setting forth the expected date of approval of LSA #05-189 as April 1, 2007 is being submitted in a timely manner.

April 7, 2006 is the two hundred and fiftieth day after publication of the notice of intent to adopt a rule.

Sincerely,

Sue Uhl
Deputy State Health Commissioner

cc: Stephen Barnes, Managing Editor, Legislative Services
Agency

**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

LSA Document #05-190

April 6, 2006

VIA HAND DELIVERY

Representative Michael Murphy, Chair
Administrative Rules Oversight Committee
c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attn: Sarah Burkman

RE: LSA #05-190

Dear Representative Murphy:

On behalf of the Indiana State Department of Health (Department), I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the Department has determined that the promulgation of the captioned rule to regulate who may operate a radiation machine and what level of training and experience are required for the operator will not be completed within one year after publication of the notice of intent to adopt a rule.

The Department published its notice of intent to adopt a rule for the captioned document on August 1, 2005 (28 IR 3324). The rule is to be published as a proposed rule in the April 1, 2006 Indiana Register. The authority for rule adoption is IC 16-41-35-29.

The promulgation of this rule has taken longer than anticipated. The Department drafted and adopted proposed rules pursuant to the statutory mandate, IC 16-41-35-29, on November 9, 2005. The proposed rule was submitted to the Office of Management and Budget on November 22, 2005. The proposed rule was approved for fiscal impact by the Office of Management and Budget on February 15, 2006. A public hearing is scheduled for April 24, 2006.

The body with the authority to adopt rules, the Indiana State

Department of Health Executive Board meets every other month. If the Department is able to present the rule for final adoption to the Indiana State Department of Health Executive Board at a meeting after the public hearing, it is highly unlikely that the rule can be submitted to the Attorney General for legal review, and then be signed by the Governor before the 365 day time period runs out on July 31, 2006.

This notice setting forth the expected date of approval of LSA #05-190 as January 1, 2007 is being submitted in a timely manner. April 7, 2006 is the two hundred and fiftieth day after publication of the notice of intent to adopt a rule.

Sincerely,

Sue Uhl
Deputy State Health Commissioner

cc: Stephen Barnes, Managing Editor, Legislative Services Agency

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #05-191

April 6, 2006

VIA HAND DELIVERY
Representative Michael Murphy, Chair
Administrative Rules Oversight Committee
c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attn: Sarah Burkman

RE: LSA #05-191

Dear Representative Murphy:

On behalf of the Indiana State Department of Health (Department), I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the Department has determined that the promulgation of the captioned rule to establish a licensure program for personal services agencies will not be completed within one year after publication of the notice of intent to adopt a rule.

The Department published its notice of intent to adopt a rule for the captioned document on August 1, 2005 (28 IR 3325). The authority for this rule adoption is IC 16-27-4-20.

The promulgation of this rule has taken longer than anticipated. The Department drafted and adopted proposed rules pursuant to the statutory mandate, IC 16-27-4-20, on November 9, 2005.

The proposed rule was submitted to the Office of Management and Budget for approval of fiscal impact on November 22, 2006. No approval or disapproval has been received from the Office of Management and Budget.

The body with the authority to adopt rules, the Indiana State Department of Health Executive Board meets every other month. At this time it is impossible for the rule to continue through the promulgation process, be submitted to the Attorney General for legal review, and then be signed by the Governor before the 365 day time period runs out on July 31, 2006.

This notice setting forth the expected date of approval of LSA #05-191 as April 1, 2007 is being submitted in a timely manner. April 7, 2006 is the two hundred and fiftieth day after publication of the notice of intent to adopt a rule.

Sincerely,

Sue Uhl
Deputy State Health Commissioner

cc: Stephen Barnes, Managing Editor, Legislative Services Agency

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #05-193

April 6, 2006

VIA HAND DELIVERY
Representative Michael Murphy, Chair
Administrative Rules Oversight Committee
c/o Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Attn: Sarah Burkman

RE: LSA #05-193

Dear Representative Murphy:

On behalf of the Indiana State Department of Health (Department), I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the Department has determined that the promulgation of the captioned rule to require hospitals to implement a medical errors reporting system and report medical errors reporting data to the department may not be completed within one year after publication of the notice of intent to adopt a rule.

The Department published its notice of intent to adopt a rule for the captioned document on August 1, 2005 (28 IR 3325). The

rule was published as a proposed rule in the February 1, 2006 Indiana Register. The authority for rule adoption is IC 16-19-3-5, IC 16-21-1-7, and IC 16-40-4-9.

The promulgation of this rule has taken longer than anticipated. The Department drafted and adopted proposed rules on January 9, 2006. A public hearing was held on February 23, 2006. This rule has been delayed to allow LSA Doc. #05-321, a similar rule, to be adopted at the same time as this rule. These two rules complement and affect each other.

The Department's Executive Board, which is the final authority for rulemaking in the agency, meets every other month.. Whether a quorum is present at a bi-monthly meeting of the Executive Board and the time frame for rule review by the Attorney General's office is beyond the control of the department. Even with a quorum present it may not be possible to finally adopt this rule in one meeting. For these reasons, it is unlikely that the rule can be submitted to the Attorney General for legal review, and then be signed by the Governor before the 365 day time period runs out on July 31, 2006.

This notice setting forth the expected date of approval of LSA #05-193 as January 1, 2007 is being submitted in a timely manner. April 7, 2006 is the two hundred and fiftieth day after publication of the notice of intent to adopt a rule.

Sincerely,

Sue Uhl
Deputy State Health Commissioner

cc: Stephen Barnes, Managing Editor, Legislative Services
Agency

TITLE 326 AIR POLLUTION CONTROL BOARD**SECOND NOTICE OF COMMENT PERIOD**

LSA Document #05-197(APCB)

DEVELOPMENT OF NEW RULES CONCERNING CERTAIN SOURCE CATEGORIES EMITTING VOLATILE ORGANIC COMPOUNDS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules concerning volatile organic compound (VOC) emissions from three (3) specific source categories that are currently subject to 326 IAC 8-1-6 New facilities; general reduction requirements. The new rules for these specific source categories will be contained in 326 IAC 8. 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: August 1, 2005, Indiana Register (28 IR 3355).

CITATIONS AFFECTED: 326 IAC 8-1-6; 326 IAC 8-5-1; 326 IAC 8-5-6; 326 IAC 8-5-7; 326 IAC 8-5-8.

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**

The purpose of this rulemaking is to increase the clarity, predictability, and timeliness of air permits for certain new sources of VOC emissions. Currently, new facilities not regulated by a provision in 326 IAC 8 that have potential emissions of twenty-five (25) tons or more per year of VOC are required to reduce VOC emissions using best available control technology (BACT). "Facility" is defined at 326 IAC 1-2-27 to mean individual pieces of equipment, a structure, or installation. Establishing BACT is a case-by-case determination based on the maximum reduction in emissions that is technically feasible, while taking into account energy, environmental, and economic impact. Such analyses are time intensive, cause delays in permit issuance, and do not always provide predictability to the permit applicant. Establishing industry specific BACT standards in place of case-by-case BACT analyses improves the clarity, predictability, and timeliness of permit decisions involving sources that are currently subject to 326 IAC 8-1-6.

This rulemaking will establish specific control options for three (3) specified source categories with potential emissions of twenty-five (25) tons or more per year of VOC in lieu of a case-by-case specific BACT analysis and determination under 326 IAC 8-1-6.

The specific control options for the three (3) source specific categories are based on current control requirements that IDEM has established for 326 IAC 8-1-6 BACT determinations for the following VOC emitting activities: foundry core operations, fuel grade ethanol production, and heatset web offset lithographic printing presses. For each source specific category, the rule provides the applicability, definitions, emission limitations, general compliance, recordkeeping, and reporting requirements that apply to that particular rule. For foundry core making operations using amine gas, an amine gas scrubber system would be established as BACT for addressing VOC emissions. BACT for fuel grade ethanol production operations with the potential to emit twenty-five (25) tons or more of VOC per year would be any of the following control technologies that can achieve an overall VOC control efficiency of ninety-eight percent (98%) or greater: Regenerative or recuperative thermal oxidizer, a wet scrubber, or an enclosed flare. For heatset web offset lithographic printing presses, the specified BACT would be one (1) of three (3) types of thermal oxidizers that achieves a VOC reduction efficiency of ninety-eight percent (98%) or greater.

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 is no fiscal impact on existing sources since they are already subject to BACT. For new sources, the rule should not impose costs beyond what is currently required, since new sources could already be subject to BACT on a case by case basis. The rule should reduce costs for new sources because a BACT analysis would not be required as part of a permit application.

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 Sean Gorman, Rules Section, Office of Air Quality at (317) 234-3533 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from August 1, 2005, through August 31, 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:

Dalton Corporation (DC)
International Truck and Engine Corporation (ITEC)
Indiana Cast Metals Association (INCMA)
Indiana Steel Environmental Group (ISEG)
National Oilseed Processors Association (NOP)
Eli Lilly and Company (ELC)
Printing Industry of Illinois/Indiana Association (PIIIA)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The BACT rule should be revised to identify

specific control options for the specific source categories identified in the notice to increase certainty of regulatory obligations for those and to speed up the permitting process for those sources. (ISEG)

Comment: Revising the BACT rule to identify specific control options for specific source categories in lieu of the case-by-case BACT determination process will eliminate uncertainty of regulatory obligations for sources in those source categories and will speed up permit reviews. (ELC)

Response: IDEM has proposed BACT for foundry core operations, fuel grade ethanol production, and heatset web offset lithographic printing presses in the draft rule language. IDEM plans to propose BACT for soybean oil extraction operations and other source specific source categories in future rulemakings.

Comment: Allowing a presumption that an acid scrubber constitutes BACT for foundry core making installations, in lieu of case-by-case BACT analysis and determination, should reduce cost and shorten time involved in obtaining permits. (DC, INCMA, ITEC)

Response: IDEM has proposed that an acid scrubber constitutes BACT for foundry core making installations utilizing amine gas to catalyze the adhesive binder in the draft rule language.

Comment: For foundry core operations, this rulemaking should not specify total enclosure of the core machines to improve capture efficiency. (ITEC)

Response: IDEM has proposed that foundry core making processes meet a capture efficiency of one hundred percent (100%). IDEM has proposed that the amine gas scrubber system must have an amine gas destruction of ninety-nine percent (99%) or better, and that total non-amine VOC emissions for the installation shall not exceed five-hundredths (0.05) pound of VOC per pound of resin. Achieving these requirements will essentially require total enclosure, but this was not specified in the draft rule.

Comment: For foundry core operations, this rulemaking should not specify thermal oxidizers as BACT for foundry core operations. (ITEC)

Response: IDEM has not proposed that thermal oxidizers constitute BACT for foundry core making installations using amine gas to catalyze the adhesive binder in the draft rule language.

Comment: For foundry core making operations, compliance and recordkeeping requirements should be placed in 326 IAC 8-1-12, however, the section titles and language in the section refer to "coating facilities". This language might need to be changed to a more general description such as "VOC-emitting facility". (INCMA)

Response: Compliance certification and reporting and recordkeeping requirements for the source specific operations were outlined for each specific source category in its respective rule section.

Comment: New specified source categories should be placed in 326 IAC 8-5-5, but the title of that section should be changed

from "Miscellaneous Operations" to "Specific Operations". (DC, INCMA)

Response: IDEM proposes to add a new section for each source specific BACT in 326 IAC 8-5: Miscellaneous Operations. IDEM is not proposing to change the name of that rule from "Miscellaneous Operations" to "Specific Operations" as part of this rulemaking.

Comment: The four (4) control options being considered by IDEM as BACT for soybean oil extraction, catalytic oxidizer, wet scrubber, flare, and regenerative thermal oxidizer, have never been used at soybean oil extraction plants and have never been established as BACT in previous soybean oil extraction BACT determinations. (NOPA)

Comment: The control option most appropriate to designate as BACT for soybean oil extraction options is a solvent collection and recovery system, inclusive of condensing followed by add-on emission control consisting of a mineral oil scrubber system. Use of this system is consistent with U.S. EPA's NESHAP for solvent extraction for vegetable oil production. The gallon per ton format, a two-tenth (.2) gallon of total solvent lost per ton of soybeans crushed limit, and monitoring and recordkeeping/reporting requirements should also be incorporated as BACT. (NOPA)

Comment: The NESHAP rule language for solvent extraction for vegetable oil production should be incorporated by reference and amended as necessary to reconcile the incorporated text with BACT regulations. (NOPA)

Response: IDEM has decided not to specify BACT for soybean oil extraction operations in the draft rule language at this time. Those operations, where applicable, will continue to be subject to the requirements of 326 IAC 8-1-6 New facilities: general reduction requirements. IDEM will conduct further research into appropriate BACT options and will propose BACT for soybean oil extraction operations in a future rulemaking.

Comment: Emissions from a heatset web offset lithographic printing press can be controlled by catalytic and recuperative thermal oxidizer systems, in addition to regenerative thermal oxidizers. All three (3) technologies should be identified as BACT, and the choice of the control system should be left to the source. (PIIIA)

Response: IDEM has specified that regenerative thermal oxidizers, recuperative thermal oxidizers, and catalytic oxidizers all constitute BACT for heatset web offset lithographic printing press operations in the draft rule language. The operation may choose any of the three (3) control options as long as it achieves an overall control efficiency of ninety-eight percent (98%) or greater for VOCs.

Comment: Any amendment to the applicability of the BACT rule in ozone nonattainment areas needs to carefully and clearly articulate the boundaries of the rule. There should be some minimum threshold for the amount of potential VOC emissions from new equipment that trigger the BACT evaluation. The applicability threshold should be at a high enough level so that most projects that trigger a BACT evaluation actually require controls. (ELC)

Comment: The applicability of the BACT rule should not be extended in ozone nonattainment areas. Unless the boundaries of the BACT rule applicability are carefully and clearly articulated in the rule, then it would result in increased administrative review, cause more permitting delays, and could impose BACT controls where expense is not warranted. (ISEG)

Comment: The BACT rule should apply only to new equipment additions and not modifications to existing emission sources. The cost of retrofitting existing sources for BACT controls make it more likely that the BACT evaluation may not result in additional or improved controls. (ELC)

Comment: The BACT provision's applicability should be revised to apply only to nonattainment areas, rather than to all facilities with the potential to emit more than twenty-five (25) tons per year in both attainment and nonattainment areas. (PIIIA)

Response: IDEM has determined that it is not necessary for state implementation plan purposes to revise the applicability of 326 IAC 8-1-6 in ozone nonattainment areas.

Comment: The BACT rule should exempt VOC sources that are subject to MACT rules, but are otherwise subject to state BACT requirements because there is no Article 8 RACT rule that applies to that source type. BACT will likely be the same as MACT in that situation, and so a BACT determination would be wasted effort. (ELC)

Response: IDEM will examine the source categories individually to determine whether the MACT standard can serve as BACT or not, rather than propose to exempt all such categories as a group.

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:

#05-197(APCB) 8-1-6 Source Specific BACT
Sean Gorman 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 May 31, 2006.

Additional information regarding this action may be obtained

from Sean Gorman, Rules Development Section, Office of Air Quality, (317) 234-3533 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 8-5-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-5-1 Applicability of rule

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

Affected: IC 13-17-1; IC 13-17-3; IC 13-14-8-7

Sec. 1. ~~326 IAC 8-5~~ This rule pertaining to miscellaneous operations shall apply to the following:

(1) Facilities or sources existing as of January 1, 1980, of the types described in ~~326 IAC 8-5-2~~ section 2 of this rule and facilities or sources existing as of November 1, 1980, of the types described in ~~326 IAC 8-5-3~~, ~~326 IAC 8-5-4~~, and ~~326 IAC 8-5-5~~; sections 3 through 5 of this rule located in the following counties:

- (A) Clark.
- (B) Elkhart.
- (C) Floyd.
- (D) Lake.
- (E) Marion.
- (F) Porter. and
- (G) St. Joseph. Counties; and

(2) Sources or facilities, construction of which commences after January 1, 1980, of the types described in ~~326 IAC 8-5-2~~ section 2 of this rule and sources or facilities, construction of which commences after November 1, 1980, of the types described in ~~326 IAC 8-5-3~~, ~~326 IAC 8-5-4~~, and ~~326 IAC 8-5-5~~; sections 3, 4, and 5 of this rule located anywhere in the state.

(3) Any asphalt paving application made after January 1, 1980. ~~shall be regulated by this rule (326 IAC 8-5).~~

(4) Facilities or sources, construction of which commences after January 1, 2007, of the types described in sections 6 through 8 of this rule located anywhere in the state.

(Air Pollution Control Board; 326 IAC 8-5-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2543; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 2. 326 IAC 8-5-6 IS ADDED TO READ AS FOLLOWS:

326 IAC 8-5-6 Foundry core making operations

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

Affected: IC 13-17-1; IC 13-17-3; IC 13-14-8-7

Sec. 6. (a) This section applies to phenolic-urethane cold-box core making processes:

- (1) constructed or modified after January 1, 2007;
- (2) that use amine gas to catalyze the adhesive binder; and
- (3) that have potential VOC emissions of twenty-two and seven-tenths (22.7) megagrams (twenty-five (25) tons) or more per year.

(b) The following definitions apply throughout this section:

- (1) "Amine gas" means a gas used to catalyze the phenolic-urethane resin binder.
- (2) "Phenolic-urethane cold-box core making process" means a core production line that:
 - (A) includes one (1) or more core machines and the mixer; and
 - (B) produces cores through the binding of sand and other inorganic particles through the use of binding adhesives containing solvents.

(c) The owner or operator of a core making process shall install, and operate at all times the core machine is in operation, an amine gas scrubber system, with a capture efficiency of one hundred percent (100%) and an amine gas destruction efficiency of ninety-nine percent (99%) or resulting in an outlet amine gas concentration less than one (1) part per million by volume. Total nonamine volatile organic compound emissions shall not exceed five-hundredths (0.05) pound per pound of resin.

(d) To ensure and verify compliance with the control efficiency requirement, the source shall monitor and maintain records of the following:

- (1) The flow rate of the amine gas scrubber to ensure that the three (3) hour average flow rate, as measured by a continuous parameter monitoring system, does not fall below the minimum level established during the most recent compliance demonstration.
- (2) The pH of the scrubber solution to ensure the three (3) hour average pH of the scrubber solution, as measured by a continuous parameter monitoring system, does not exceed 4.5 or the pH of the scrubber solution, as measured once every eight (8) hours during process operation, does not exceed 4.5.

(Air Pollution Control Board; 326 IAC 8-5-6)

SECTION 3. 326 IAC 8-5-7 IS ADDED TO READ AS FOLLOWS:

326 IAC 8-5-7 Fuel grade ethanol production operations

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

Affected: IC 13-17-1; IC 13-17-3; IC 13-14-8-7

Sec. 7. (a) This section applies to fuel grade ethanol production sources:

- (1) constructed or modified after January 1, 2007;
- (2) that use fermentation, distillation, and dehydration to produce ethanol and dried distillers grain and solubles (DDGS); and
- (3) that have potential VOC emissions of twenty-two and seven-tenths (22.7) megagrams (25 tons) or more per year. This rule will apply only to sources that are classified as dry-mills and have no wet milling operations.

(b) The following definitions apply throughout this section:

(1) "Dry mill" means an ethanol production source that uses the whole corn kernel to produce a meal that is then used to produce alcohol. The byproduct of a dry mill is the DDGS.

(2) "Fuel grade ethanol production source" means a source that produces ethanol that is then denatured with a denaturant to make it unfit for human consumption.

(3) "Wet milling" means a process by which corn is soaked or steeped to soften the corn kernel so that it can be separated into its various components, such as the following:

- (A) Gluten.
- (B) Germ.
- (C) Protein.
- (D) Fiber.
- (E) Starch.

(c) The owner or operator of a fuel grade ethanol production source shall install and operate VOC emission controls for each fermentation, distillation and dehydration, DDGS dryer or dryers, and ethanol load-out operation with the potential to emit VOC uncontrolled of twenty-two and seven-tenths (22.7) megagrams (twenty-five (25) tons) or more per year. The source shall use at least one (1) of the following control devices at the level specified in this section to satisfy this requirement:

(1) A regenerative or recuperative thermal oxidizer with a capture efficiency of one hundred percent (100%) and an overall control efficiency of not less than ninety-eight percent (98%) or a volatile organic compound concentration of not more than ten (10) parts per million. To ensure compliance with the control efficiency requirement, the owner or operator shall do all of the following:

(A) Continuously monitor the operating temperature of the oxidizer to ensure that the three (3) hour average temperature, as measured by a continuous temperature monitor, is greater than or equal to the minimum temperature established during the most recent compliance demonstration.

(B) Maintain continuous temperature records for the thermal oxidizer and the three (3) hour average temperature used to demonstrate compliance during the most recent compliant stack test.

(C) Monitor the duct pressure or fan amperage once per day to ensure that the three (3) hour average duct pressure or fan amperage, as measured by a continuous parameter monitoring system, is within the normal range established during the most recent compliance demonstration.

(D) Maintain daily records of the duct pressure or fan amperage for the thermal oxidizer.

(2) A wet scrubber with a capture efficiency of one hundred percent (100%) and an overall control efficiency of not less than ninety-eight percent (98%) or a volatile organic compound concentration of not more than twenty (20) ppm. To ensure compliance with the control effi-

ciency requirement, the owner or operator shall do all of the following:

(A) Monitor the pressure drop of the scrubber at least once per day when the associated emission unit is in operation to ensure that the pressure drop across the scrubber is within the normal range established during the latest stack test.

(B) Monitor the scrubber flow rate at least once per day when the associated emission unit is in operation to ensure that the flow rate of the scrubber is greater than the minimum flow rate established during the latest stack test.

(C) Maintain daily records of pressure drop and flow rate for the scrubber during normal operation.

(3) An enclosed flare with a capture efficiency of one hundred percent (100%) and an overall control efficiency of not less than ninety-eight percent (98%). To ensure compliance with the control efficiency requirement, the owner or operator shall do all of the following:

(A) Continuously monitor the presence of a flare pilot flame using a thermocouple or any other equivalent device to detect the presence of a flame when the associated emission unit is in operation.

(B) Maintain records of temperature or other parameters sufficient to demonstrate the presence of a pilot flame when the loading rack is in operation.

(Air Pollution Control Board; 326 IAC 8-5-7)

SECTION 4. 326 IAC 8-5-8 IS ADDED TO READ AS FOLLOWS:

326 IAC 8-5-8 Heatset web offset lithographic printing press operations

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

Affected: IC 13-17-1; IC 13-17-3; IC 13-14-8-7

Sec. 8. (a) This section applies to heatset web offset lithographic printing press facilities:

- (1) constructed or modified after January 1, 2007; and
- (2) that have potential VOC emissions of twenty-two and seven-tenths (22.7) megagrams (twenty-five (25) tons) or more per year.

(b) The following definitions apply throughout this section:

(1) "Heatset" means a class of web offset lithography that requires a heated dryer to evaporate the ink oils and solvents from the printing inks.

(2) "Lithographic printing" means a printing process where a planographic plate is used and the image area is commonly defined by oleophilic and hydrophilic printing areas. This process differs from other printing methods where the image is a raised or recessed surface.

(3) "Offset" describes the process where an image is transferred from a plate to an intermediary surface, such as a rubber cylinder, before being transferred to the substrate.

(4) "Permanent total enclosure" means a capture system as defined in 40 CFR part 51, Appendix M*.

(5) "Web" means the substrate that is printed in a continuous roll fed process.

(c) The owner or operator of a heatset web offset lithographic printing press shall install, and operate at all times the facility is operating, a control device of one (1) of the following types with an overall control efficiency of ninety-eight percent (98%) or greater:

(1) Regenerative thermal oxidizer.

(2) Recuperative thermal oxidizer.

(3) Catalytic oxidizer.

(d) To ensure compliance with the control efficiency requirement, the owner or operator of the facility shall monitor and record the following:

(1) The operating temperature of the oxidizer to ensure that the three (3) hour average temperature, as measured by a continuous temperature monitor, is greater than or equal to the minimum temperature established during the most recent compliance demonstration.

(2) The duct pressure or fan amperage to ensure that the three (3) hour average duct pressure or fan amperage, as measured by a continuous parameter monitoring system, is within the normal range established during the most recent compliance demonstration.

(3) As an alternative to subdivision (2) for any capture system that is a permanent total enclosure or for any facility using only oil-based paste inks and varnishes, the pressure differential across the enclosure wall and the surrounding atmosphere to ensure that the three (3) hour average pressure differential across the enclosure wall and the surrounding atmosphere, as measured by a continuous parameter monitoring system, is less than negative seven-thousandths (-0.007) inches of water column (in. w.c.) or a value established during the most recent compliance demonstration.

*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 is 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 8-5-8)

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 August 2, 2006, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Air Pollution Control Board will hold a public hearing on new rules 326 IAC 8-5-6, 326 IAC 8-5-7, and 326 IAC 8-5-8, and amendments to 326 IAC 8-5-1.

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

Additional information regarding this action may be obtained from Sean Gorman, Rules Development Section, Office of Air Quality, (317) 234-3533 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana 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

SECOND NOTICE OF COMMENT PERIOD

LSA Document #05-268(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING OPEN BURNING FOR FIRE EXTINGUISHER TRAINING

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 4-1 to provide exemptions for additional fuels used for fire extinguisher training. 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: October 1, 2005, Indiana Register (29 IR 151).

Second Notice of Comment Period: May 1, 2006, Indiana Register.

CITATIONS AFFECTED: 326 IAC 4-1-3.

AUTHORITY: IC 13-15-2-1; IC 13-17-3-4; IC 14-17-9-1.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

IDEM is proposing amendments to the open burning rules under 326 IAC 4-1-3 to allow the use of natural gas, propane, and methane in addition to clean petroleum products for fire extinguisher training. Currently portable containers filled with not more than fourteen (14) gallons of fuel such as kerosene, gasoline, or diesel fuel are allowed for fire extinguisher training. Adding natural gas, methane, or propane at 326 IAC 4-1-3(c)(8)(D) and 326 IAC 4-1-3(c)(8)(E) provides sources subject to the rule with the ability to use alternative clean burning fuels. Consistent with the fourteen (14) gallons of clean petroleum products daily usage limit currently in the rule, IDEM proposes that natural gas and methane daily usage be limited to twenty-nine thousand seven hundred (29,700) cubic feet and the amount of propane daily usage be limited to two hundred twelve (212) gallons to limit oxides of nitrogen (NO_x) emissions. These usage limits ensure that NO_x emissions from propane, methane, and natural gas will not exceed the amount of NO_x emissions from using fourteen (14) gallons of clean petroleum products.

The Occupational Safety and Health Administration (OSHA) requires fire safety training for employees who are expected to use a fire extinguisher. There are no federal requirements under Title 40, Protection of Environment, of the Code of Federal Regulations (CFR) for U.S. EPA that govern fire extinguisher training. Affected parties will include the affected sources' staff and fire extinguisher training personnel, IDEM compliance staff, local fire and health departments, and adjacent landowners.

IDEM also proposes two (2) updates:

- 1) adding "Vegetation from agricultural land if the open burn occurs in an unincorporated area" at 326 IAC 4-1-3(a)(1)(B) to provide consistency with state statutory changes enacted and effective in 2003 codified at IC 13-17-9-1; and
- 2) amending 326 IAC 4-1-3(c)(3) to update citations to Natural Resources Commission rules to provide consistency with such rules.

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):

NIFL Element: Allowing the use of twenty-nine thousand seven hundred (29,700) cubic feet of natural gas or methane or two hundred twelve (212) gallons of propane per day (326 IAC 4-1-3(c)(8)) as an exempted fuel for fire extinguisher training.

- (1) 326 IAC 4-1-3 was approved into the Indiana state implementation plan (SIP) on February 1, 1996, as part of Indiana's fifteen percent (15%) rate of progress plan control measures for volatile organic compounds (VOC) and is therefore enforceable by the state and U.S. EPA. VOC is one

(1) of the air pollutants that contributes to the formation of ground level ozone. Open burning restrictions are not required under federal law, but Indiana has included open burning restrictions in ozone nonattainment areas as a measure to meet the national ambient air quality standards for ozone. In addition, the Occupational Safety and Health Administration (OSHA) requires fire safety training for employees that are expected to use a fire extinguisher. Under 326 IAC 4-1-3(c)(8), certain types of fires are allowed without written approval from the department. One of these is a fire fueled by clean petroleum products for fire extinguisher training. IDEM received requests to allow the use of natural gas, propane, and methane as acceptable fuels for fire extinguisher training. These three (3) fuels are clean burning similar to "clean petroleum products." Federal law does not require notification of open burning activities.

(2) One of the companies requesting this rule change, NiSource Inc., states that the cost differential for using natural gas or propane instead of fuels defined as clean petroleum products is minimal in terms of fuel cost. Some unquantifiable savings would likely occur from elimination of disposal fees associated with the small volume of water that is used currently to float the fuels during training. One form of cost savings for the applicant would come from the time saved in preparing and submitting burning applications. This includes time to gather information for inclusion on the forms, time to complete burn variance application forms, notifications to affected parties forms, cover letters, as well as time to prepare and send letters to the county health departments to notify them of the application for the variances. Additional effort and time is spent to check on the status of applications and answer questions during the review. Upon receipt of the final approvals, time is spent to review them and prepare transmittal memos that highlight any new requirements with recommended compliance procedures. For NiSource Inc., this process typically involves three and five-tenths (3.5) staff days for their five (5) requested sites. If the proposed changes are enacted, additional training locations may be requested, saving staff travel time and time away from work.

(3) IDEM relied on the February 1, 1996, Federal Register approval of 326 IAC 4-1-3 into the SIP and the information supplied by NiSource, Inc., (Lake County) in their request to allow the use of natural gas and propane and International Truck and Engine (Marion County) in their request to allow the use of methane as additional acceptable fuels for fire extinguisher training.

Potential Fiscal Impact

This rulemaking is expected to provide cost savings to the regulated community and IDEM in the form of additional approved fuel options for the regulated community and a reduction in the number of open burning approval applications received by IDEM. 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 Suzanne Whitmer, Rules Section, Office of Air Quality at (317) 232-8229 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from October 1, 2005, through November 3, 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:

International Truck and Engine Corp. (ITEC)

NiSource, Inc. (NSE)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: We support rule changes to provide an exemption from the requirement to obtain a fire training variance for the use of propane, natural gas, and methane for fire extinguisher training at 326 IAC 4-1-3(c)(8). It will relieve IDEM and the regulated community of unnecessary paperwork burden. (NSE)(ITEC)

Response: IDEM agrees with the request and will add propane, natural gas, and methane to the list of fuels that may be used for fire extinguisher training.

Comment: Amend the definition of clean petroleum products at 326 IAC 4-1-0.5(2) to "clean fuel" and add additional fuels including propane, natural gas, and methane to the list of acceptable fuels. Amend the terminology of "clean petroleum products" to "clean fuel" throughout the rule. (NSE)(ITEC)

Response: The focus of this rulemaking is to add propane, natural gas, and methane to the list of fuels approved for fire extinguisher training at 326 IAC 4-1-3(c)(8). The term "clean petroleum products" is used elsewhere in the rule and to change it would broaden the scope of this rulemaking beyond its original intent.

Comment: At 326 IAC 4-1-3(c)(8)(B) change the language concerning noncombustible container or enclosure to better reflect the intent of using a burn pan intended to prevent soil contamination. We recommend amending "enclosed on all sides with a bottom" to "that has enclosed sides and a bottom". It is impractical to require the use of a burn pan for these gaseous fuels. Delete the requirement to use a noncombustible container or enclosure for these gaseous fuels when used for fire fighting and fire extinguisher training. (NSE)

Comment: Amend 326 IAC 4-1-3(c)(8)(B) on the use of noncombustible container or enclosure to add "in a manner to prevent contamination of soils or uncontrolled spread of the fire". (ITEC)

Response: IDEM proposes to amend clause (B) as requested to better describe the burn pan and will not require the use of these pans for the gaseous fuels.

Comment: We recommend placing no volume limit on the combustion of either propane or natural gas for fire extinguisher training exemption. However, if a limit is included in the rule,

we recommend it be based on an equivalence in emissions to the fourteen (14) gallon limit currently in the rule. Installing a fuel meter for fire extinguisher training purposes would be problematic and costly. We would like to work with IDEM to reach a mutually agreeable volume limit and verification methodology. (NSE)

Comment: We recommend exempting natural gas, methane, or propane from the fourteen (14) gallons of fuel burned per day. (ITEC)

Response: IDEM worked with the commentators to reach an agreeable equivalent volume limit equal to fourteen gallons of fuel currently in the rule. IDEM determined that fourteen (14) gallons of gasoline will create two and ninety-seven hundredths (2.97) pounds of NO_x per day. Applying the NO_x emission factor results in equivalency determinations of two hundred twelve (212) gallons of propane and twenty-nine thousand seven hundred (29,700) cubic feet of natural gas or methane. These amounts will be added to the rule at 326 IAC 4-1-3(c)(8). Suggested methods of compliance may include fuel metering or record keeping, although no specific methodology will be specified in the rule.

Comment: Under 326 IAC 4-1-3(c)(8)(A), the notifications to the local fire department and health department should not apply when using either natural gas, propane, or methane in a controlled fashion for fire extinguisher training. (ITEC)

Response: The notifications to the local fire departments are necessary to provide adequate response time if fire extinguisher training fires get out of control and emergency calls need to be made. Local health departments can better answer complaint calls concerning visible smoke if they are adequately notified of the scheduling of training classes. All agencies need to be aware of burning activities being conducted.

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:

#05-268(APCB) Fire extinguisher training
Suzanne Whitmer 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 May 31, 2006.

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 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 4-1-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 4-1-3 Exemptions

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9

Sec. 3. (a) ~~IC 13-1-1-2~~ **IC 13-17-9** exempts certain types of open burning for maintenance purposes listed as follows:

(1) A person may open burn the following:

(A) Vegetation from **any of the following**:

(i) A farm.

(ii) An orchard.

(iii) A nursery.

(iv) A tree farm. ~~or~~

(v) A cemetery.

~~(v)~~ (vi) A drainage ditch.

(vii) **Agricultural land, if the open burn occurs in an unincorporated area.**

(B) Wood products derived from **the following**:

(i) Pruning or clearing a roadside by a county highway department.

~~(C) Wood products derived from (ii)~~ (ii) The initial clearing of a public utility right-of-way so long as the open burn occurs in an unincorporated area.

~~(D)~~ (C) Undesirable:

(i) wood structures on real property; or

(ii) wood remnants of the demolition of a predominantly wooden structure originally located on real property; located in an unincorporated area.

~~(E)~~ (D) Clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad rights-of-way, but not including railroad ties.

(2) All open burning that is allowed under this subsection must comply with the following conditions:

(A) A person who open burns shall extinguish the fire if the fire creates a nuisance or fire hazard.

(B) Burning may not be conducted during unfavorable meteorological conditions such as **any of the following**:

(i) High winds.

(ii) Temperature inversions. ~~or~~

(iii) Air stagnation.

(C) All fires must be attended at all times during burning until completely extinguished.

(D) All asbestos containing materials must be removed before the burning of a structure.

(E) Asbestos containing materials may not be burned.

(b) The types of fires identified in subsection (c) are allowed under this rule. Unless specified otherwise, the following conditions apply to any fire allowed by this subsection:

(1) Fires must be attended at all times and until completely extinguished.

(2) If at any time a fire creates a:

- (A) ~~a~~ pollution problem;
- (B) ~~a~~ threat to public health;
- (C) ~~a~~ nuisance; or
- (D) ~~a~~ fire hazard;

it shall be extinguished.

(3) No burning shall be conducted during unfavorable meteorological conditions such as **any of the following**:

- (A) High winds.
- (B) Temperature inversions. ~~or~~
- (C) Air stagnation. ~~or~~
- (~~B~~) (D) When a pollution alert or ozone action day has been declared.

(4) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

(5) Adequate firefighting equipment shall be on site for extinguishing purposes during burning times.

(6) Burning shall be conducted during daylight hours only, and all fires shall be extinguished **prior to before** sunset.

(c) The following types of fires are allowed:

(1) Recreational or ceremonial fires, such as fires for scouting activities, and fires used for cooking purposes, such as camp fires, subject to the conditions in subsection (b)(1) through (b)(5) and the following conditions:

(A) Only:

- (i) clean wood products;
- (ii) paper;
- (iii) charcoal; or
- (iv) clean petroleum products;

may be burned.

(B) The local fire department and health department must be notified at least twenty-four (24) hours **prior to before** any burning where the size of the pile being burned is more than one hundred twenty-five (125) cubic feet.

(C) Fires shall:

- (i) not be ignited **prior to before** two (2) hours before the recreational activity is to take place; and ~~shall~~
- (ii) be extinguished upon conclusion of the activity.

(D) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet and only one (1) pile may be burned at a time.

(E) The fires shall not be used for disposal purposes.

(F) Fires shall not take place within five hundred (500) feet of any fuel storage area or pipeline.

(2) Private residential burning, where the building contains four (4) or fewer dwelling units. Burning is prohibited in apartment and condominium complexes and mobile home parks. Beginning June 23, 1995, residential open burning is

prohibited in the counties listed in section 4.1(c) of this rule. Burning shall be subject to the conditions in subsection (b) and the following conditions:

(A) Burning shall be in a noncombustible container that: ~~is~~

- (i) **is** sufficiently vented to induce adequate primary combustion; and
- (ii) has enclosed sides and a bottom.

(B) Only clean wood products and paper may be burned.

(3) Waste oil burning where waste oil originates from spillage during testing of an oil well and has been collected in a properly constructed and located burn off pit as prescribed in ~~310 IAC 7-1-37(a)~~ **312 IAC 16-5-11** in the ~~department of natural resources (DNR)~~ **commission** rules. ~~oil and gas operations~~. Burning shall be subject to the conditions in subsection (b) and the following conditions:

(A) Each oil pit may be burned once every two (2) months.

(B) The fire must be extinguished within thirty (30) minutes of ignition.

(4) **Department of natural resources (DNR)** burning, to facilitate prescribed burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, natural area management, and firefighting or prevention; United States Department of the Interior burning, to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore, for example; and United States Department of Agriculture, Forest Service burning, to facilitate wildlife habitat maintenance, forestry purposes, natural area management, ecosystem management, and firefighting or prevention. Burning shall be subject to conditions in subsection (b)(1) through (b)(5) and the following conditions:

(A) If the fire creates a:

- (i) nuisance;
- (ii) fire hazard; or
- (iii) pollution problem;

it shall be extinguished.

(B) No burning shall be conducted during unfavorable meteorological conditions, such as **any of the following**:

- (i) High winds.
- (ii) Temperature inversions. ~~or~~
- (iii) Air stagnation. ~~or~~
- (iv) When a pollution alert or ozone action day has been declared.

(C) Only vegetation and clean petroleum products may be burned.

Burning by the U.S. Forest Service for firefighting or prevention is not subject to the conditions in subsection (b) or this subdivision.

(5) Burning of marijuana by federal, state, and local law enforcement offices. Burning shall be subject to the conditions in subsection (b), and only clean petroleum products shall be used for ignition purposes.

(6) Burning, for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject

to the conditions in subsection (b)(1) through (b)(5) and the following conditions:

(A) Burning shall only occur between October 1 and May 15.

(B) Burning shall not be conducted for the purpose of disposal.

(7) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions in subsection (b).

(8) Burning of clean petroleum products, **natural gas, methane, or propane** for fire extinguisher training, subject to the conditions in subsection (b) and the following conditions:

(A) The local fire department and health department must be notified at least twenty-four (24) hours in advance of the date, time, and location of the burning.

(B) Limits on fuels used for fire extinguisher training include a total of not more than:

(i) fourteen (14) gallons of clean petroleum products;

(ii) two hundred twelve (12) gallons of propane; or

(iii) twenty-nine thousand seven hundred (29,700) cubic feet of natural gas or methane;

may be burned per day.

~~(B)~~ (C) All burning of clean petroleum products shall take place in a noncombustible container or enclosure **that has** enclosed ~~on all sides with~~ and a bottom.

~~(C)~~ **A total of no more than fourteen (14) gallons of fuel may be burned per day:**

~~(D)~~ **Only one (1) fire may be allowed to burn at a time:**

~~(E)~~ (D) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination **or uncontrolled spread of the fire.**

(E) Only one (1) fire may be allowed to burn at a time.

(Air Pollution Control Board; 326 IAC 4-1-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2419; filed May 24, 1995, 10:00 a.m.: 18 IR 2408; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3341; 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 August 2, 2006, 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 4-1-3.

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

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (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

IC 13-14-9.5 NOTICE OF READOPTION

LSA Document #05-231(F)

READOPTION OF RULES IN TITLE 326 UNDER IC 13-14-9.5

PURPOSE OF NOTICE

Pursuant to IC 13-14-9.5-4(c), the Indiana Department of Environmental Management (IDEM) is publishing a notice of readoption of rules in Title 326 (326 IAC 17.1 concerning public records; confidential information; confidential agreements) of the Indiana Administrative Code. With this notice, IDEM is providing notice that the following rules are readopted.

READOPTED RULES: 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. The readoption of these rules is effective on January 1, 2007.

AUTHORITY: IC 13-14-9.5.

HISTORY

First Notice of Comment Period: September 1, 2005, Indiana Register (28 IR 3664).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rulemaking that was adopted under a provision of IC 13 and was in force on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, expire on January 1 of the seventh year after the year in which each rule takes effect. Those rules that are being

readopted are specifically listed in the "Readopted Rules" section of this notice.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-9.5-4 requires that the following procedure be followed to readopt rules:

- (1) A notice listing all rules to be readopted by their titles and subtitles shall be submitted to Legislative Services Agency for publication in the Indiana Register.
- (2) If a person submits a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule that readopts all rules in one (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 that rule.
- (3) If no written request is provided with 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.

NOTICE OF READOPTION

The following rules received no comments during the first notice of comment period and are not exempt from the readoption process under IC 13-14-9.5:

- (1) 326 IAC 17.1-1.
- (2) 326 IAC 17.1-2.
- (3) 326 IAC 17.1-3.
- (4) 326 IAC 17.1-4.
- (5) 326 IAC 17.1-5.
- (6) 326 IAC 17.1-6.
- (7) 326 IAC 17.1-7.
- (8) 326 IAC 17.1-8.
- (9) 326 IAC 17.1-9.

Therefore, the above listed rules are readopted pursuant to IC 13-14-9.5-4. The rules will be submitted to the Secretary of State for filing and will be effective on January 1, 2007. The rules will remain in effect until their next expiration date, January 1, 2014. However, all rules are subject to amendment or repeal under IDEM's regular rulemaking process found at IC 13-14-9.

Thomas W. Easterly, Commissioner
Indiana Department of Environmental Management

LSA Document #05-231(F)

First Notice of Comment Period: September 1, 2005, 28 IR 3664

Filed with Secretary of State: April 10, 2006, 11:05 a.m.

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

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

Small Business Assistance Program Ombudsman: 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

TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND DRAFT RULE LSA Document #06-121(APCB)

DEVELOPMENT OF AMENDMENTS TO RULE 326 IAC 6.5-7-13 CONCERNING TECHNICAL CORRECTIONS TO THE SOURCE IDENTIFICATION (ST. MARY'S IN ST. JOSEPH COUNTY)

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 6.5-7-13 to update the source identification from St. Mary's to Holy Cross Services Corporation 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 6.5-7-13.

AUTHORITY: IC 13-14-8; IC 13-17-3-11.

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 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.

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 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 purpose of this rulemaking is to update the source identification at 326 IAC 6-5-7-13 changing the source name from St. Mary's to Holy Cross Services Corporation. The reason for this technical amendment is to correctly identify the permittee at St. Mary's College as Holy Cross Services Corporation. This rule when amended will be submitted to U.S. EPA as a revision to the state implementation plan.

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 technical amendment with no substantive effect on an existing Indiana 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 326 IAC 6.5-7-13 as required by federal rule. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) This rule constitutes a technical amendment with no substantive effect on an existing Indiana rule.
- (2) 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.
- (3) 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 Patrick Brady, Rules Development Section, Office of Air Quality (317) 233-8628 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 6.5-7-13, AS AMENDED AT 29 IR 476, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6.5-7-13 Holy Cross Services Corporation (Saint Mary's Campus)

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) **Holy Cross Services Corporation (Saint Mary's Campus)** 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
Holy Cross Services Corporation (Saint Mary's Campus) Natural gas fired with fuel oil No. 2 as a backup	03	56P	Boiler No. 1 gas fired 31.5 MMBtu/Hr.	3.9	0.014	

IC 13-14-9 Notices

Natural gas fired with fuel oil No. 2 as a backup	01	54P	Boiler No. 2 gas fired 63 MMBtu/Hr.	3.9	0.014
100% natural gas	02	55P	Boiler No. 3 gas fired 63 MMBtu/Hr.		

(b) Boiler No. 3, 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; filed Oct 3, 2005, 10:00 a.m.: 29 IR 476*)

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 June 7, 2006 at 1:00 p.m. at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 6.5-7-13.

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 Patrick Brady, Rules Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act Coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana 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 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD LSA Document #06-96(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULE 327 IAC 4-1 CONCERNING SEWER BANS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rule 327 IAC 4-1 concerning the restriction of additional flow to overloaded wastewater treatment facilities. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: 327 IAC 4-1.

AUTHORITY: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2; IC 13-18-4-3.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rulemaking is an outcome of recommendations by a workgroup formed in response to a petition to the Water Pollution Control Board (WPCB) by the Save Our Knobs (SOK) and Greenville Concerned Citizens (GCC) organizations who proposed amendment of 327 IAC 5-10. Among the workgroup's conclusions was a recommendation to amend 327 IAC 4-1 to restrict new connections at small wastewater treatment plants found to be discharging insufficiently treated wastewater as a result of poor operation and maintenance. The rule, 327 IAC 4-1, currently gives the Commissioner of IDEM the authority to limit new connections to wastewater treatment plants that are hydraulically or organically overloaded. IDEM proposes to amend the rule to grant the Commissioner authority to issue a sewer connection ban when a wastewater treatment plant is found to be discharging insufficiently treated wastewater as a result of poor operation and maintenance. Minor corrections to rule language and definitions will also be accomplished in this rulemaking.

Alternatives To Be Considered Within the Rulemaking

1. This rulemaking will grant the Commissioner of IDEM the authority to impose a ban on further sewer connections to a wastewater treatment facility to prevent water quality violations due to the discharge or bypassing of insufficiently treated wastewater resulting from poor maintenance and operation practices.

2. Definitions for terms defined but otherwise not used in the existing rule, including combined sewer, effluent limitation, and point source, will be deleted. The definition of water pollution treatment/control facility will be amended to agree with the definition found in 327 IAC 3.

3. In 327 IAC 4-1-3, the Commissioner is directed to notify a facility when it has reached or is approaching ninety percent (90%) of its "maximum hydraulic or organic design capacity." As the word "maximum" serves no discernible purpose and, in the absence of any known definition in this context, introduces

confusion, it will be deleted.

4. The term "sewage" will be revised to "wastewater" where appropriate.

Applicable Federal Law

There is no federal law pertaining to the prevention of new connections to wastewater treatment systems.

Potential Fiscal Impact

Once a sewer ban connection has been imposed, in order for a facility to be released from the sewer connection ban, the facility will be required to improve the operation and/or maintenance deficiencies that resulted in the discharge or bypassing of insufficiently treated wastewater. As these improvements would otherwise be required by the application of already existing regulations, there is no anticipated fiscal impact to this rule.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) 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

The proposed amendment reflects one of the recommendations of an external workgroup formed as a result of "First Notice of Comment Period #05-51 (WPCB), Development of a New Rule concerning Operation and Maintenance of Small Wastewater Treatment Facilities" published in the Indiana Register on April 1, 2005. The workgroup was made up of IDEM staff and a cross section of stakeholders.

At this time, no workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Rebecca Schmitt, Rules Development Section, Office of Water Quality at (317) 234-0986 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#06-96(WPCB) [Sewer Ban]
Rebecca Schmitt
Rules Development Section
Office of Water 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 twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may also be submitted by facsimile at the IDEM fax number: (317) 232-8636, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Compliance Branch at (317) 233-2545.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 31, 2006.

Additional information regarding this action may be obtained from Donald Daily, Compliance Evaluation Section, Office of Water Quality, (317) 232-8636 or (800) 451-6027 (in Indiana).

Bruno Pigott
Assistant Commissioner
Office of Water Quality

TITLE 327 WATER POLLUTION CONTROL BOARD**SECOND NOTICE OF COMMENT PERIOD**
LSA Document #05-218(WPCB)**DEVELOPMENT OF AMENDMENTS TO RULES AND A NEW RULE 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) has developed draft rule language for amendments to rules and a new rule at 327 IAC 2-1, 327 IAC 2-1.5, and 327 IAC 5-2 concerning establishment of a Combined Sewer Overflow (CSO) wet weather limited use subcategory and permit compliance schedules for qualifying communities affected by CSOs. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: #05-218(WPCB) September 1, 2005, Indiana Register (28 IR 3685).

CITATIONS AFFECTED: 327 IAC 2-1; 327 IAC 2-1.5; 327 IAC 5-1; 327 IAC 5-1.5; 327 IAC 5-2.

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 published 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.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

This statute requires IDEM to identify, as part of the second notice published in the Indiana Register, the estimated fiscal impact and expected benefits of any elements of the draft rule that are not imposed under federal law. IDEM seeks comments on these elements as well as specific fiscal impact information. The following elements of the draft rule are “not imposed under federal law” (NIFL elements) and have been identified as either having an estimated fiscal impact or providing an expected benefit to entities regulated under the draft rule:

The concept of a CSO wet weather limited use subcategory of the recreational use designation is not explicitly identified in federal law; however, the long term control plan is a federal concept. CSO communities have largely been consistently in violation of NPDES permit limits during and for some time following a CSO discharge event. The wet weather limited use subcategory established through this rulemaking will alleviate compliance issues for CSO communities that comply with the requirements of this rule and will allow time to achieve the NPDES permit limits through a compliance schedule included in the CSO community’s NPDES permit. A CSO community affected by this rulemaking will not incur any additional fiscal impact that it is not already subject to under state statute IC 13-18-3-2.5(a), SECTION 4, of SEA 620 created by the 2005 state legislature.

Potential Fiscal Impact

IDEM does not believe that this rulemaking creates a fiscal impact for the affected CSO communities because both the wet weather limited use subcategory designation and the compliance schedule requirements are imposed by the originating state statute. CSO communities will benefit under this rulemaking due to the establishment of a subcategory of the recreational use designation that lessens restrictions during and for a time period

following CSO discharge events as long as the affected community is complying with the requirements of these amendments and new rule. IDEM requests public comment on the economic impact and benefit from this rule.

Public Participation and Workgroup Information

This rulemaking implements IC 13-18-3-2.5(a) SECTION 4, of Senate Enrolled Act 620, the statute written into law in the 2005 legislative session regarding the establishment of a CSO wet weather limited use subcategory of the recreational use designation for waters receiving CSOs. Therefore, no workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact MaryAnn Stevens, Rules Section, Office of Water Quality at (317) 232-8635 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from September 1, 2005, through September 30, 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:

#05-218(WPCB) [CSO Wet Weather Subcategory]

MaryAnn Stevens

Rules Section

Office of Water Quality

Indiana Department of Environmental Management

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, Room N1255, 100 North Senate Avenue, Indianapolis, Indiana. Comments also may be submitted by facsimile to (317) 232-8406, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Office of Water Quality, Rules Section at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with another sent through the postal system.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered, or faxed by May 30, 2006.

Additional information regarding this rulemaking action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635, or technical information concerning the CSO wet weather limited use subcategory of the recreational use designation for waters receiving combined sewer overflows may be obtained from Cyndi Wagner, Wet Weather Section, Office of Water Quality, 317-233-0473 or

(800) 451-6027 (in Indiana).

DRAFT RULE

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

327 IAC 2-1-3 Surface water use designations; multiple uses

Authority: IC 13-14-8; IC 13-14-9; IC 13-18-3

Affected: IC 13-18-4

Sec. 3. (a) The following water uses are designated by the water pollution control board:

(1) **Except as provided in subsection (c)**, surface waters of the state are designated for full body contact recreation as provided in section 6(d) of this rule.

(2) All waters, except as described in subdivision (5), will be capable of supporting:

(A) a well-balanced, warm water aquatic community; and

(B) where natural temperatures will permit, ~~will be capable of supporting~~ put-and-take trout fishing.

All waters capable of supporting the natural reproduction of trout as of February 17, 1977, shall be so maintained.

(3) All waters ~~which that~~ are used for public or industrial water supply must meet the standards for those uses at the points where the water is withdrawn. This use designation and its corresponding water quality standards are not to be construed as imposing a user restriction on those exercising or desiring to exercise the use.

(4) All waters ~~which that~~ are used for agricultural purposes must, as a minimum, meet the standards established in section 6(a) of this rule.

(5) All waters in which naturally poor physical characteristics (including lack of sufficient flow), naturally poor chemical quality, or irreversible man-induced conditions, which came into existence ~~prior to before~~ January 1, 1983, and having been established by use attainability analysis, public comment period, and hearing:

(A) may qualify to be classified for limited use; and

(B) must be evaluated for restoration and upgrading at each triennial review of this rule.

Specific waters of the state designated for limited use are listed in section 11(a) of this rule.

(6) All waters ~~which that~~:

(A) provide unusual aquatic habitat; ~~which~~

(B) are an integral feature of an area of exceptional natural beauty or character; or ~~which~~

(C) support unique assemblages of aquatic organisms; may be classified for exceptional use. Specific waters of the state designated for exceptional use are listed in section 11(b) of this rule.

(b) Where multiple uses have been designated for a body of water, the most protective of all simultaneously applicable standards will apply.

(c) A CSO wet weather limited use designation is established as a subcategory of the recreational use designation established under subsection (a). This subcategory shall be applied in accordance with section 3.1 of this rule. (*Water Pollution Control Board; 327 IAC 2-1-3; filed Sep 24, 1987, 3:00 p.m.: 11 IR 580; filed Feb 1, 1990, 4:30 p.m.: 13 IR 1019; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1348*)

SECTION 2. 327 IAC 2-1-3.1 IS ADDED TO READ AS FOLLOWS:

327 IAC 2-1-3.1 CSO wet weather limited use designation

Authority: IC 13-14-8; IC 13-14-9; IC 13-18-3-2.5
Affected: IC 13-14-2-6; IC 13-14-9-14; IC 13-18-4

Sec. 3.1. (a) The CSO wet weather limited use subcategory established under section 3 of this rule shall be applied to waters receiving wet weather discharges from combined sewer overflows.

(b) To receive the CSO wet weather limited use subcategory designation, a CSO community must do the following:

- (1) Perform a use attainability analysis (UAA) to change the designated use of the waterbody receiving the wet weather discharges from combined sewer overflows.**
- (2) Submit the UAA to the department for approval.**
- (3) Submit a long term control plan (LTCP) to the department for approval.**
- (4) Fully implement the approved LTCP.**

(c) The LTCP submitted to the department must:

- (1) specify the water quality-based requirements that apply to combined sewer overflows during and immediately following wet weather events; and**
- (2) meet the requirements of Section 402(q) of the Clean Water Act.**

(d) Upon approval of a UAA and LTCP, the department shall do the following:

- (1) Incorporate the approved LTCP into:**
 - (A) the NPDES permit holder's NPDES permit; or**
 - (B) an order of the commissioner under IC 13-14-2-6.**
- (2) Begin a rulemaking under IC 13-14-9-14 to amend the designated use to a CSO wet weather limited use designation.**

(e) Upon completion of the rulemaking required under subsection (d), the department shall submit the amended recreational use designation to the U.S. EPA for approval.

(f) The water quality-based requirements for the CSO wet weather limited use designation shall:

- (1) be determined by the approved LTCP for the combined sewer system; and**
- (2) remain in effect during the time and to the physical extent that the recreational use designation that applied to the waters immediately before the application to the waters of the CSO wet weather limited use subcategory is**

not attained but for not more than four (4) days after the date the overflow discharge ends.

(*Water Pollution Control Board; 327 IAC 2-1-3.1*)

SECTION 3. 327 IAC 2-1-10 IS AMENDED TO READ AS FOLLOWS:

327 IAC 2-1-10 Reclassification proposals for limited or exceptional use designation

Authority: IC 13-14-8; IC 13-14-9; IC 13-18-3
Affected: IC 13-18-4

Sec. 10. (a) **Except as provided in subsection (c),** a person who wishes to propose that a particular body of the waters of the state be considered by the commissioner for limited use or exceptional use classification must submit to the commissioner a written proposal identifying the waterbody and the proposed classification, stating the rationale for the proposal, and including any other supporting documentation. After receiving the commissioner's recommendation on a proposal, if the board determines that a waterbody is appropriate for reclassification for limited use or exceptional use, it will initiate a rulemaking for that purpose.

(b) The commissioner will consider factors such as the following factors listed in subdivisions (1) and (2) in making recommendations to the board with regard to proposals for the reclassification of a waterbody for limited use or exceptional use. These factors are listed as guidelines to provide some insight into the way the commissioner's recommendations may be made, but are not intended to be all encompassing. Irrespective of these factors, the commissioner's recommendations generally will be case-by-case determinations based on professional judgment after on-site evaluations. **The commissioner will consider factors relating to the following:**

(1) Factors relating to Limited use designations such as any of the following:

- (A) The waterway has a Q(7),(10) low flow upstream of any existing or proposed discharge of one-tenth (0.1) cubic feet per second or less.**
- (B) Suitable habitat to support a well-balanced fish community is severely limited or absent.**
- (C) The waterway is affected by irreversible conditions, natural or man-induced, which that:**
 - (i) came into existence prior to before January 1, 1983; which**
 - (ii) are not practicably controllable; and**
 - (iii) prevent establishment of a well-balanced fish community.**

(D) The waterbody has no unique or exceptional features. and/or

(E) Potential or existing uses made of the waterbody by people in the immediate area would not be adversely affected by a limited use designation.

(2) Factors relating to Exceptional use designations such as any of the following:

(A) The presence of any of the following:

(i) A unique or exceptional habitat or species in the waterbody.

~~(B) the presence of~~ (ii) A rare or endangered species in the waterbody.

~~(C) the presence of~~ (iii) Exceptional aesthetic quality in the immediate environs of the waterbody.

~~(D)~~ (B) The waterbody:

(i) is within the boundaries of or flows through a designated natural area, nature preserve, or state or national park or forest;

~~(E) the water body~~ (ii) supports an excellent sports fishery; or

~~(F) the water body~~ (iii) possesses exceptional quality. or

~~(G)~~ (C) Intensive recreational use is made of the waterbody.

(c) A person seeking to obtain a CSO wet weather limited use subcategory designation shall do so in accordance with section 3.1 of this rule. (*Water Pollution Control Board; 327 IAC 2-1-10; filed Sep 24, 1987, 3:00 p.m.: 11 IR 585*)

SECTION 4. 327 IAC 2-1.5-5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 2-1.5-5 Surface water use designations; multiple uses

Authority: IC 13-14-8; IC 13-14-9; IC 13-18-3

Affected: IC 13-18-4; IC 13-30-2-1

Sec. 5. (a) The following water uses are designated by the board:

(1) ~~As~~ **Except as provided in subsection (c)**, surface waters of the state within the Great Lakes system are designated for full body contact recreation.

(2) All surface waters, except as described in subdivision (7), shall be capable of supporting a well-balanced, warm water aquatic community.

(3) Where natural temperatures will permit, surface waters shall be capable of supporting put-and-take trout fishing. All waters capable of supporting the natural reproduction of trout shall be so maintained. The following waters are designated as salmonid waters and shall be capable of supporting a salmonid fishery:

(A) Trail Creek and its tributaries downstream to Lake Michigan.

(B) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.

(C) Salt Creek above its confluence with the Little Calumet River.

(D) Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan.

(E) The Galena River and its tributaries in LaPorte County.

(F) The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line.

(G) The Indiana portion of the open waters of Lake Michigan.

(H) Those waters designated by the Indiana department of

natural resources for put-and-take trout fishing.

(4) All surface waters used for public water supply are designated as a public water supply. This use designation and its corresponding water quality criteria are not to be construed as imposing a user restriction on those exercising or desiring to exercise the use.

(5) All surface waters used for industrial water supply are designated as an industrial water supply. This use designation and its corresponding water quality criteria are not to be construed as imposing a user restriction on those exercising or desiring to exercise the use.

(6) All surface waters used for agricultural purposes are designated as an agricultural use water.

(7) Limited use waters are designated under section 19(a) of this rule pursuant to section 18 of this rule. All waters that are designated as a limited use water under section 19(a) of this rule must be evaluated for restoration and upgrading at each triennial review of this rule.

(8) Outstanding state resource waters are designated under section 19(b) of this rule pursuant to section 18 of this rule.

(b) Where multiple uses have been designated for a body of water, the most protective of all simultaneously applicable standards will apply.

(c) A CSO wet weather limited use designation is established as a subcategory of the recreational use designation established under subsection (a). This subcategory shall be applied in accordance with 327 IAC 2-1-3.1. (*Water Pollution Control Board; 327 IAC 2-1.5-5; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1369*)

SECTION 5. 327 IAC 2-1.5-18 IS AMENDED TO READ AS FOLLOWS:

327 IAC 2-1.5-18 Designation of a waterbody as a limited use water or an outstanding state resource water

Authority: IC 13-14-8; IC 13-14-9; IC 13-18-3

Affected: IC 13-18-4

Sec. 18. (a) **Except as provided in subsection (f)**, a person who wishes to propose that a waterbody within the Great Lakes system be considered by the commissioner for designation as a limited use or outstanding state resource water shall submit to the commissioner a written proposal:

(1) identifying the waterbody and the proposed designation stating the rationale for the proposal; and

(2) including any other supporting documentation.

(b) The commissioner shall evaluate the proposal considering the following:

(1) Waters that meet the following conditions may be considered for designation as a limited use water:

(A) Waters that have:

(i) naturally poor physical characteristics (that is, suitable habitat to support a well-balanced fish community is

severely limited or absent) including lack of sufficient flow ($Q_{7,10}$ low flow upstream of any existing or proposed discharge of one-tenth (0.1) cubic foot per second or less); (ii) naturally poor chemical quality; (iii) irreversible man-induced conditions that came into existence ~~prior to before~~ January 1, 1983; and (iv) no unique or exceptional features.

(B) No potential or existing uses made of the waterbody by people in the immediate area would be adversely affected by a limited use designation.

(C) The waterbody has been evaluated by a use attainability analysis.

(2) Factors that relate to outstanding state resource water designations may include, but are not limited to, the following:

(A) The presence of **any of the following**:

(i) A unique or exceptional habitat or species in the waterbody.

~~(B) The presence of~~ (ii) A rare or endangered species in the waterbody.

~~(C) The presence of~~ (iii) Exceptional aesthetic quality in the immediate environs of the waterbody.

~~(D) (B)~~ The waterbody:

(i) is within the boundaries of or flows through a designated natural area, nature preserve, or state or national park or forest;

~~(E) The waterbody~~ (ii) supports an excellent sports fishery; or

~~(F) The waterbody~~ (iii) possesses exceptional quality.

~~(G) (C)~~ Intensive recreational use is made of the waterbody.

~~(H) (D)~~ Designation as a natural, scenic, or recreational waterbody by the Indiana department of natural resources.

Irrespective of these factors, the commissioner's evaluation will generally be a case-by-case determination using information obtained from an on-site evaluation. If appropriate, the commissioner shall consult with the Indiana department of natural resources concerning the designation of a waterbody as an outstanding state resource water.

(c) After completion of the evaluation under subsection (b), if the commissioner determines that reclassification of the waterbody is appropriate, the commissioner shall initiate a rulemaking to include the waterbody either as a limited use water or an outstanding state resource water under section 19 of this rule.

(d) All waters that are designated as a limited use water under section 19(a) of this rule must be evaluated for restoration and upgrading at each triennial review of this rule.

(e) The department shall initiate a special designations rulemaking in accordance with the following:

(1) The special designations rulemaking shall be initiated for the **following purposes**: ~~of~~

(A) Determining **the following**:

(i) Whether any other designations in addition to:

(AA) outstanding state resource waters;

(BB) high quality waters;

(CC) limited use waters; and

(DD) outstanding national resource waters; should be established.

~~(B) determining~~ (ii) The appropriate factors to consider in designating a waterbody.

~~(C) (B)~~ Identifying a list of waterbodies for each special designation. ~~and~~

~~(D) (C)~~ Specifying antidegradation implementation procedures for **the following**:

(i) Outstanding state resource waters.

(ii) Outstanding national resource waters. ~~and for~~

(iii) Any other newly established designation.

(2) ~~Prior to Before~~ the presentation of proposed rules on special designations to the board, the department shall consult with:

(A) other state and federal agencies; and ~~with~~

(B) interested persons within Indiana;

as appropriate. The department shall provide information to the public on the history, intent, and importance of the current outstanding state resource water designation and the list of outstanding state resource waters.

(3) The department shall seek comment, as part of the second notice on special designations, on **the following**:

(A) Adding waterbodies to the list of outstanding national resource waters. ~~on~~

(B) The specific interim antidegradation implementation procedures included in 327 IAC 5-2-11.7 for outstanding state resource waters. ~~and on~~

(C) Procedures for addressing increases not included in the specific exceptions listed in 327 IAC 5-2-11.7(c)(2).

(4) The following statement shall be included in the second notice and shall be used as a guide during the special designation rulemaking, "The interim antidegradation implementation procedures for outstanding state resource waters in 327 IAC 5-2-11.7 are intended only to assure that a specific process exists to address proposed changes pending the completion of the special designation rulemaking. The board does not consider the specific procedures listed in 327 IAC 5-2-11.7 as a final policy statement or as binding on the board in the special designation rulemaking."

(5) The department shall present rules to the board on a schedule such that final rules may be adopted and made effective ~~prior to before~~ the expiration of 327 IAC 5-2-11.7.

(f) A person seeking to obtain a CSO wet weather limited use subcategory designation shall do so in accordance with 327 IAC 2-1-3.1. (*Water Pollution Control Board; 327 IAC 2-1.5-18; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1410; errata filed Aug 11, 1997, 4:15 p.m.: 20 IR 3378*)

SECTION 6. 327 IAC 5-2-10 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-2-10 Applicable limitations, standards, and conditions

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-18-3; IC 13-18-3-2.6

Affected: IC 13-11-2; IC 13-18-4

Sec. 10. (a) Each NPDES permit shall provide for and ensure compliance with all applicable requirements of the Clean Water Act (CWA), regulations promulgated under the CWA, and state law. For the purposes of this section, an applicable requirement is a statutory or regulatory requirement that takes effect under state law ~~prior to~~ **before** final administrative disposition of a permit. In addition to the requirements of sections 6, 8, 9, and 12 of this rule, permits shall contain terms and conditions that ensure compliance with the following requirements as applicable:

- (1) Effluent limitations and standards under Sections 301, 304, 307(a), 318, and 405 of the CWA.
- (2) Standards of performance for new sources under Section 306 of the CWA and 40 CFR 122.44(a).
- (3) In the case of a POTW, which primarily is designed and utilized for the treatment of wastewater from an industry of a particular class or category, the effluent limitations or standards that would apply under Section 301, 304, 306, 307, 318, or 405 of the CWA to the industry if it were a direct discharger. If the POTW receives sewage from domestic sources as well as industrial wastewater, the permit shall include composite (or hybrid) effluent limitations comprising the effluent:

- (A) limitations or standards applicable to the industrial wastewater, as specified in this subdivision; and ~~effluent~~
- (B) limitations applicable to the domestic sewage under Sections 301 and 304 of the CWA.

Such composite limitations will be cumulative for mass limitations and weighted in proportion to respective flows for concentration limitations.

- (4) Water quality standard based and other more stringent requirements. Any effluent limitations or other requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards under Sections 301, 304, 306, 307, 318, and 405 of the CWA where necessary to do the following:

- (A) Achieve water quality standards established by the water pollution control board or by EPA in accordance with Sections 118 and 303 of the CWA. Numeric water quality-based effluent limitations shall be established in accordance with sections 11.1 and 11.3 through 11.6 of this rule.
- (B) Attain or maintain a specified water quality through water quality related effluent limits established under Section 302 of the CWA.
- (C) Incorporate, in accordance with Section 301(b)(1)(C) of the CWA, any more stringent limitations, treatment standards, or schedules of compliance requirements established under federal or state law or regulations (including those adopted under interstate agreements or compacts such as the Ohio River Valley Water Sanitation Commission (ORSANCO)).
- (D) Ensure consistency with the requirements of a water

quality management plan approved by EPA under Section 208(b) of the CWA.

- (E) Incorporate alternative effluent limitations or standards where warranted by fundamentally different factors under 327 IAC 5-6.

- (5) The following requirements for toxic pollutant limitations:
 - (A) Limitations established under subdivision (1), (2), (3), or (4) to control pollutants meeting the criteria listed in clause (B). Such limitations shall be established in accordance with clause (C).

- (B) Limitations must control all toxic pollutants that **the**:
 - (i) ~~the~~ commissioner determines (based on information reported in a permit application or in a notification under section 9 of this rule or on other information) are or may be discharged at a level greater than the level that is allowed under the technology-based effluent limitations applicable to the permittee under the CWA (see 327 IAC 5-5-2(c)); or
 - (ii) ~~the~~ discharger does or may use or manufacture as an intermediate or final product or byproduct; however, limitations are not required under this subdivision merely because the discharger does or may use or manufacture a toxic pollutant under research or laboratory conditions.

- (C) The requirement that the limitations control the pollutants meeting the criteria of clause (B) shall be satisfied by **limitations on**:

- (i) ~~limitations on~~ those pollutants; or
- (ii) ~~limitations on~~ other pollutants that, in the judgment of the commissioner, will ensure treatment of the pollutants specified under clause (B) to the levels required by the CWA.

- (D) As used in this subdivision, "toxic pollutant" means:
 - (i) a pollutant listed as toxic under Section 307(a)(1) of the CWA; or
 - (ii) a pollutant or a combination of pollutants determined by the commissioner to have significant toxic characteristics when discharged into the waters of the state for organisms reasonably expected to be exposed to ~~such the~~ pollutant or pollutants.

- (6) Permits issued ~~prior to~~ **before the** promulgation by the administrator of applicable effluent limitations and standards (including best management practices) under Sections 301, 304, 307, 318, and 405 of the CWA shall contain such limitations and other conditions as the commissioner determines to be necessary to carry out those provisions of the CWA under 327 IAC 5-5-2(b) and Section 402(a)(1) of the CWA.

- (7) Best management practices to control or abate the discharge of pollutants where:

- (A) required under Section 304(e) of the CWA for the control of toxic and hazardous pollutants from ancillary industrial activities;
- (B) numeric effluent limitations are infeasible; or
- (C) the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the

purposes and intent of the CWA.

Examples of best management practices that may be appropriate under clause (B) include proper operation and maintenance criteria and sludge-handling requirements. Examples of best management practices that may be appropriate under clause (C) include the construction of sheds over material storage piles to prevent rainfall from leaching materials from these piles and creating a source of pollution, ditching and diversion of rainfall run-off to minimize or prevent contamination from a discharger's manufacturing operations, and the use of solid, absorbent materials for cleaning up leaks and drips as opposed to washing these materials down a floor drain creating additional sources of pollution.

(8) Twenty-four (24) hour reporting. Pollutants for which the permittee must report violations of maximum daily discharge limitations under section 8(10)(C)(iii) of this rule (twenty-four (24) hour reporting) shall be listed as such in the permit. This list shall include any:

(A) toxic pollutant or hazardous substance; or ~~any~~

(B) pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

(9) Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired in accordance with 327 IAC 5-3-10(a).

(10) Additional conditions applicable to POTWs shall be as follows:

(A) Any conditions imposed in grants made by the administrator to POTWs under Sections 201 and 204 of the CWA that are reasonably necessary for the achievement of effluent limitations required under Section 301 of the CWA.
(B) Requirements under Section 405 of the CWA governing the disposal of sewage sludge from POTWs or any other treatment works treating domestic sewage for any use for which rules have been established in accordance with any applicable rules.

(C) All POTWs shall identify, in terms of character and volume of pollutants, any significant indirect discharges into the POTW ~~which that~~ are subject to pretreatment standards under Section 307(b) and 307(c) of the CWA.

(D) All POTWs must provide adequate notice to the commissioner of the following:

(i) Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to Section 301 or 306 of the CWA if it were directly discharging those pollutants.

(ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by any source where ~~such the~~ change would:

(AA) render the source subject to pretreatment standards under Section 307(b) or 307(c) of the CWA; or ~~would~~

(BB) result in a modified application of ~~such the~~ standards.

As used in this clause, "adequate notice" includes information on the quality and quantity of effluent introduced into

the POTW and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(E) POTWs must develop and submit to the commissioner a POTW pretreatment program when required by 40 CFR 403 and 327 IAC 5-13-1 in order to assure compliance by industrial users of the POTW with applicable pretreatment standards established under Sections 307(b) and 307(c) of the CWA. The pretreatment program shall:

(i) meet the criteria of 327 IAC 5-13-2(f); and

(ii) once approved, ~~shall~~ be incorporated into the POTW's permit.

(11) Antidegradation requirements shall be as follows:

(A) In the case of effluent limitations established on the basis of Section 402(a)(1)(B) of the CWA, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under Section 304(b) of the CWA subsequent to the original issuance of ~~such the~~ permit to contain effluent limitations ~~which that~~ are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of Section 301(b)(1)(C), 303(d), or 303(e) of the CWA, a permit may not be renewed, reissued, or modified to contain effluent limitations ~~which that~~ are less stringent than the comparable effluent limitations in the previous permit except in compliance with Section 303(d)(4) of the CWA.

(B) A permit, with respect to which clause (A) applies, may be renewed, reissued, or modified to contain less stringent effluent limitations applicable to a pollutant if:

(i) material and substantial alterations or additions to the permitted facility occurred after permit issuance that justify the application of a less stringent effluent limitation;

(ii) information is available that:

(AA) was not available at the time of permit issuance (other than revised regulations, guidance, or test methods); and ~~that~~

(BB) would have justified the application of a less stringent effluent limitation at the time of permit issuance;

or the commissioner determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under Section 402(a)(1)(B) of the CWA;

(iii) a less stringent effluent limitation is necessary because of events:

(AA) over which the permittee has no control; and

(BB) for which there is no reasonably available remedy;

(iv) the permittee has received a permit modification under Section 301(c), 301(g) through 301(i), 301(k), 301(n), or 316(a) of the CWA; or

(v) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities, but has nevertheless been unable to achieve the

previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Item (ii) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of ~~such the~~ revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and ~~such the~~ revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of the CWA or for reasons otherwise unrelated to water quality.

(C) In no event may a permit with respect to which clause (A) applies be renewed, reissued, or modified to contain an effluent limitation that is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of ~~such the~~ limitation would result in a violation of a water quality standard under Section 303 of the CWA, 327 IAC 2-1, or 327 IAC 2-1.5 applicable to ~~such the~~ waters.

(12) For a POTW, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this subdivision. Alternatively, the commissioner may issue separate permits to the treatment works and to its users or may require a separate permit application from any user. The commissioner's decision to:

- (A) issue a permit with no conditions applicable to any user; ~~to~~
- (B) impose conditions on one (1) or more users; ~~to~~
- (C) issue separate permits; or ~~to~~
- (D) require separate applications;

and the basis for that decision shall be stated in the fact sheet for the draft permit for the treatment works.

(b) Notwithstanding the requirements of this section, where appropriate, NPDES permits for communities with wet weather discharges from combined sewer overflows (CSO) shall contain schedules of compliance requiring the permittee to take specific steps to achieve compliance with applicable standards, limitations, and other requirements.

(c) The schedule of compliance provided for in subsection (b) shall require compliance with applicable standards and limitations as soon as reasonably possible but may remain in effect as long as the NPDES permit requirements are in effect.

(d) The department shall, at the request of the permittee, incorporate into the NPDES permit a schedule of compliance for meeting the water quality-based requirements associated with CSOs during the period of development, approval, and implementation of a long term control plan (LTCP). The schedule of compliance may:

- (1) exceed the time frames specified in this title; and**
- (2) not exceed the period specified in an approved LTCP for implementation of the LTCP.**

(e) If the term of a schedule of compliance exceeds the term of the NPDES permit, as specified in an approved LTCP, the department shall continue the schedule of compliance through each successive permit term, not to exceed the time allowed under subsection (d). The permit shall specify the following:

- (1) That the schedule of compliance lasts beyond the term of the permit.**
- (2) The maximum time of the compliance schedule in accordance with subsection (d).**

(f) Upon request of the permittee, the department shall modify an existing NPDES permit that contains water quality-based requirements associated with CSOs to provide for a schedule of compliance. (*Water Pollution Control Board; 327 IAC 5-2-10; filed Sep 24, 1987, 3:00 p.m.: 11 IR 623; filed Feb 26, 1993, 5:00 p.m.: 16 IR 1743; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1426; errata filed Aug 11, 1997, 4:15 p.m.: 20 IR 3378*)

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 July 12, 2006, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board (board) will hold a public hearing on amendments to rules concerning water quality.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of this rule by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the drafted 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 MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

*Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251*

or call (317) 233-1785 or (317) 233-6565 (TDD). Speech and

hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours notification.

Copies of these rules are now on file at the Office of Water Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Room N1255 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruno Pigott
Assistant Commissioner
Office of Water Quality
Indiana Department of Environmental Management

TITLE 329 SOLID WASTE MANAGEMENT BOARD

CONTINUATION OF FIRST NOTICE

LSA Document #05-250(SWMB)

DEVELOPMENT OF NEW RULES AT 329 IAC 11.5 CONCERNING MERCURY SWITCHES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the addition of new rules at 329 IAC 11.5 concerning the collection of mercury switches in end-of-life vehicles. Since publication of the First Notice for this rulemaking in October 2005 (29 IR 221), the Indiana Legislature enacted Public Law 170-2006 regarding removing mercury switches from end-of-life vehicles. This rulemaking will implement P.L.170-2006 by proposing to add reporting requirements for motor vehicle recyclers and other persons that remove mercury switches from end-of-life vehicles to report to IDEM; the allowance for motor vehicle recyclers to remove and recycle mercury switch assemblies and ABS mercury switches and receive payment; the amount of the payment for a mercury switch removed from a vehicle; the procedure for the commissioner to pay a claim for the removal of a mercury switch; clarification of a "motor vehicle that is intentionally and unintentionally flattened, crushed, or baled"; clarification of the effect on the rule if the statutory authority expires; and any necessary definitions and requirements in order to meet the statutory provisions of HEA 1110-2006 (Public Law 170-2006) and establish an effective program.

IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: October 1, 2005, Indiana Register (29 IR 221).

CITATIONS AFFECTED: 329 IAC 11.5.

AUTHORITY: IC 4-22-2; IC 13-14-9; IC 13-14-8-1; IC 13-14-8-2; IC 13-15-2; IC 13-19-3-1; IC 13-30-2; P.L.170-2006.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

Vehicles have historically used mercury containing switches to turn on lights when the hood or trunk is opened and to operate some anti-lock brake systems (ABS systems). A mercury switch is a small bullet-shaped capsule that contains mercury and two electrical contacts. Domestic vehicles manufactured before 2001 and imported vehicles manufactured before 1992 may contain mercury switches. These switches do not pose a threat to human health or the environment when used in a properly maintained vehicle. Once a vehicle is sent for salvage and is shredded and sent to a smelter for reuse, the mercury contained in the switches can leak out and be released into the air or water.

House Enrolled Act 1110-2006 (Public Law 170-2006) requires the removal of mercury switches from motor vehicles and has the following additional provisions:

- Requires manufacturers of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from end-of-life vehicles.
- Exempts from mercury switch plan development requirements motor vehicle manufacturers that have never installed mercury switches in their motor vehicles.
- Requires the Indiana Department of Environmental Management (IDEM) to allow a public comment period on a plan of at least 30 days, and to act on the plan within 120 days.
- Requires motor vehicle recyclers to remove all mercury switches from end-of-life vehicles.
- Provides that motor vehicle recyclers include automotive salvage recyclers, automobile scrap yards, hulk crushers, scrap metal processors, and vehicle disposal facilities.
- Provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan and expire the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect.
- Provides for a payment out of the solid waste management fund (SWMF) to a motor vehicle recycler for each mercury switch removed:
 - (1) in an amount of at least \$1 and not more than \$5 as determined by the IDEM commissioner; and
 - (2) to the extent that the commissioner makes money available from the SWMF for that purpose.
- Allows money to be redirected to the SWMF for that purpose from the Indiana recycling promotion and assistance fund and the environmental management special fund (EMSF).
- Allows any person to contribute or assign assets to the solid waste management fund to be used by IDEM to make payments for mercury switches.
- Requires IDEM to report information on mercury switch removal to the legislative council and the environmental quality service council.

This rulemaking will implement P.L.170-2006 by proposing

to add reporting requirements for motor vehicle recyclers and other persons that remove mercury switches from end-of-life vehicles to report to IDEM; the allowance for motor vehicle recyclers to remove and recycle mercury switch assemblies and ABS mercury switches and receive payment; the amount of the payment for a mercury switch removed from a vehicle; the procedure for the commissioner to pay a claim for the removal of a mercury switch; clarification of a “motor vehicle that is intentionally and unintentionally flattened, crushed, or baled”; clarification of the effect on the rule if the statutory authority expires; and any necessary definitions and requirements in order to meet the statutory provisions of HEA 1110-2006 (Public Law 170-2006) and establish an effective program.

Alternatives to be Considered Within the Rulemaking

Alternative 3. This rulemaking will implement P.L.170-2006 by proposing to add reporting requirements for motor vehicle recyclers and other persons that remove mercury switches from end-of-life vehicles to report to IDEM; the allowance for motor vehicle recyclers to remove and recycle mercury switch assemblies and ABS mercury switches and receive payment; the amount of the payment for a mercury switch removed from a vehicle; the procedure for the commissioner to pay a claim for the removal of a mercury switch; clarification of a “motor vehicle that is intentionally and unintentionally flattened, crushed, or baled”; clarification of the effect on the rule if the statutory authority expires; and any necessary definitions and requirements in order to meet the statutory provisions of HEA 1110-2006 (Public Law 170-2006) and establish an effective program.

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, if the National Mercury Switch Recovery Program becomes effective, the Indiana statute regarding this program expires.

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 differences.

Applicable Federal Law

New federal regulations allow mercury containing devices to be managed as a universal waste with streamlined management standards. Indiana has a rulemaking that proposes to adopt these federal standards. Federal regulations (40 CFR 257.3) prohibit solid waste practices that violate the established environmental criteria and pose a reasonable probability of adverse effects on human health or the environment. If a National Mercury Switch Recovery Program is determined by the Commissioner to meet the goals of the statute, the Indiana statute regarding this program expires.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 3. This rulemaking does not result in any new costs to the regulated community, state or local governments that are not already imposed by state law (HEA 1110-2006; Public Law 170-2006).

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

An external workgroup will be established to discuss issues involved in this rulemaking. The workgroup will be made up of IDEM staff and a cross section of stakeholders.

If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality at (317) 232-3593 or (800) 451-6027 (in Indiana). Please provide your name, phone number and email 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:

#05-250(SWMB) [Mercury Switch Rule]

Marjorie Samuel

Rules, Planning, and Outreach Section

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204-2251.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Marjorie Samuel, Rules, Planning and Outreach Section, Office of Land Quality at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 30, 2006.

Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach, Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

Bruce H. Palin
Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

SECOND NOTICE OF COMMENT PERIOD

LSA Document #05-168(SWMB)

DEVELOPMENT OF NEW RULES, AMENDMENTS TO RULES, AND READOPTION OF RULES CONCERNING WASTE TIRE MANAGEMENT AT 329 IAC 15

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules and

amendments to rules in 329 IAC 15 to:

- make the rules clearer and maintain consistency with IC 13-20-13 and IC 13-20-14;
- allow regulated entities to use common industry units of measurement for waste tire reports and calculations;
- eliminate the requirement for facility signs and replace it with a requirement for waste tire storage sites and waste tire processing operations to provide a copy of their contingency plan to the local fire department;
- clarify the requirements for waste tire processing operations, including mobile waste tire processing operations;
- clarify that a waste tire processing operation that also meets the definition of a waste tire storage site because it accumulates one thousand (1,000) or more waste tires outdoors (or two thousand (2,000) or more waste tires in a completely enclosed structure) must register as a waste tire storage site and provide financial assurance, as required by Indiana law;
- remove the Annual Tire Summary form from the rule;
- update the Waste Tire Manifest form to make it easier to use and reproduce and to meet State Board of Accounts forms standards; and to
- clarify the financial assurance requirements for waste tire storage sites and the requirement to update the closure cost estimate.

As provided in IC 13-14-9.5-3, IDEM intends to readopt 329 IAC 15 in accordance with IC 13-14-9.5 using the rulemaking procedures in IC 13-14-9.

By this notice, IDEM is soliciting public comment on the draft rule language. IDEM is requesting comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: July 1, 2005, Indiana Register (28 IR 3062).

CITATIONS AFFECTED: ADDS 329 IAC 15-2-9.5; 329 IAC 15-2-13.2; 329 IAC 15-2-13.3; 329 IAC 15-2-13.4; 329 IAC 15-2-13.5; 329 IAC 15-3-6.5; 329 IAC 15-3-7.5; 329 IAC 15-5-3.5. AMENDS 329 IAC 15-1-1; 329 IAC 15-2-13; 329 IAC 15-3-3; 329 IAC 15-3-5; 329 IAC 15-3-6; 329 IAC 15-3-17; 329 IAC 15-3-20; 329 IAC 15-4-13; 329 IAC 15-4-14; 329 IAC 15-5-1; 329 IAC 15-5-3. REPEALS 329 IAC 15-2-2; 329 IAC 15-2-3; 329 IAC 15-2-8; 329 IAC 15-2-9; 329 IAC 15-2-11; 329 IAC 15-2-12. READOPTS 329 IAC 15-1-2; 329 IAC 15-1-3; 329 IAC 15-1-4; 329 IAC 15-2-1; 329 IAC 15-2-4; 329 IAC 15-2-5; 329 IAC 15-2-6; 329 IAC 15-2-7; 329 IAC 15-2-10; 329 IAC 15-2-14; 329 IAC 15-2-15; 329 IAC 15-3-1; 329 IAC 15-3-2; 329 IAC 15-3-4; 329 IAC 15-3-7; 329 IAC 15-3-8; 329 IAC 15-3-9; 329 IAC 15-3-10; 329 IAC 15-3-11; 329 IAC 15-3-12; 329 IAC 15-3-13; 329 IAC 15-3-14; 329 IAC 15-3-15; 329 IAC 15-3-16; 329 IAC 15-3-18; 329 IAC 15-3-19; 329 IAC 15-3-21; 329 IAC 15-4-1; 329 IAC 15-4-2; 329 IAC 15-4-3; 329 IAC 15-4-4; 329 IAC 15-4-5; 329 IAC 15-4-6; 329 IAC 15-4-7; 329 IAC 15-4-8; 329 IAC 15-4-9; 329 IAC 15-4-10; 329 IAC 15-4-11; 329 IAC 15-4-12; 329 IAC 15-4-15; 329 IAC 15-5-2; 329

IAC 15-5-4; 329 IAC 15-5-5; 329 IAC 15-5-6; 329 IAC 15-5-7; 329 IAC 15-5-8; 329 IAC 15-5-9; 329 IAC 15-5-10; 329 IAC 15-5-11; 329 IAC 15-5-12.

AUTHORITY: IC 13-14-8-4; IC 13-14-8-7; IC 13-14-9; IC 13-14-9.5; IC 13-20-13; IC 13-20-14.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The rules for waste tire management at 329 IAC 15 were effective on November 9, 2000. Since their implementation, IDEM has identified several areas where the rules are confusing or difficult to comply with. IDEM has also identified several areas where the rules can be streamlined and made easier and potentially less costly to follow.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

As required by IC 13-14-9-4, each element of the draft rule imposes either a restriction or a requirement that is "not imposed under federal law" (NIFL elements).

NIFL ELEMENT 1. Make the rules clearer and maintain consistency with IC 13-20-13 and IC 13-20-14. IDEM is proposing amendments to the following:

- Amend 329 IAC 15-1-1(b) to remove exclusions not authorized in IC 13-20-13-1. This would allow regulated entities to exclude the same activities, and possibly more, through IDEM approvals, while reducing the possibility that a facility may misjudge an exclusion and be found out of compliance with the rules.
- Amend 329 IAC 15-2-13 to provide a positive means for a facility to identify used tires.
- Add 329 IAC 15-3-3(e) and 329 IAC 15-3-6(d) to clarify that registration as a waste tire storage site or waste tire processing operation does not guarantee compliance with local zoning requirements.
- Add a provision in 329 IAC 15-3-5 to recognize a waste tire processor under contract to IDEM to clean up waste tire dumps as a registered processor.
- Remove the definition of "altered tire" and place those criteria in the management requirements in 329 IAC 15-3-17.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: After five (5) years, IDEM has found several areas where the rules can be streamlined and improved.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: This amendment does not change any requirement and will not result in any fiscal impact to regulated entities.

Availability for public inspection of all materials relied on by IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

NIFL ELEMENT 2. Allow regulated entities to use common industry units of measurement for waste tire reports and calculations in annual reports and the waste tire manifest. Remove the definition of "passenger tire equivalent" in 329 IAC 15-2-8. Remove the annual tire summary form from 329 IAC 15-3-20 and develop simplified forms for the annual tire summary in 329 IAC 15-3-20 and the annual tire report in 329 IAC 15-4-14.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: Under the current rule, waste tire storage sites and waste tire processing operations must recalculate the amount of tires they manage annually for the annual tire summary. This amendment would allow them to use common industry units instead of recalculating the passenger tire equivalent as now required.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: This amendment would reduce the time required to prepare the waste tire manifest, the annual tire summary, and the annual tire report. IDEM has no information to determine the actual cost savings involved.

Availability for public inspection of all materials relied on by IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

NIFL ELEMENT 3. Remove the requirement for signs and replace it with a requirement for waste tire storage sites and waste tire processing operations to provide a copy of the contingency plan to the local fire department.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: The sign requirement was originally conceived as a way to inform the public when the facility was open to receive waste tires and to provide for emergency notification. Many facilities do not accept waste tires from the public, and most counties have a 9-1-1 system for emergency notification. Having the facility's contingency plan on file with the local fire department will allow the fire department to contact the facility's emergency response coordinator in an emergency.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: This amendment will not result in any fiscal impact to regulated entities.

Availability for public inspection of all materials relied on by IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

NIFL ELEMENT 4. Clarify the requirements for waste tire processing operations, including mobile waste tire processing operations.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: The current rule did not provide separate requirements for mobile waste tire processors. These amendments would allow a mobile waste tire processor to operate at more than one site under a single registration. They would also add a requirement for a waste tire processing operation to show how it will restrict the number of waste tires it accumulates below the statutory threshold of one thousand (1,000) waste tires.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: This amendment does not change any requirement and will not result in any fiscal impact to regulated entities.

Availability for public inspection of all materials relied on by IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

NIFL ELEMENT 5. Add a new 329 IAC 15-3-7.5 to clarify that a waste tire processing operation that also meets the definition of a waste tire storage site because it accumulates one thousand (1,000) or more waste tires outdoors (or two thousand (2,000) or more waste tires in a completely enclosed structure) must register as a waste tire storage site and provide financial assurance as required by Indiana law. Repeal the definition of “storage” in 329 IAC 15-2-11 to be consistent with the definition of waste tire storage site in IC 13-11-2-251. The current rule language allows storage of one thousand (1,000) or more waste tires for up to six (6) months without registering as a waste tire storage site before the site can be considered an open dump. The waste tire statutes do not allow any such grace period. This amendment would correct the rules to comply with Indiana law.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: A significant number of waste tire processing operations have historically exceeded the statutory limit of one thousand (1,000) waste tires that may be accumulated without registering as a waste tire storage operation and providing financial assurance for the accumulated tires. This results in a large number of waste tires being stored without being covered by a surety bond or other financial assurance mechanism to cover the cost of cleaning up the sites. A notable example of this under funding is the CR3 waste tire processing facility in Muncie, Indiana that experienced a catastrophic fire in 2003. That facility had accumulated several million waste tires without financial assurance at the time the tires burned, resulting in cleanup costs of over four million dollars (\$4,000,000) that must be funded by taxpayers and recovered through lengthy court action. This amendment would help to ensure that intent of the General Assembly to require waste tire storage site operators to provide financial assurance to cover the cost of cleaning up their sites is carried out.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: This amendment imposes no costs or requirements that are not already imposed by Indiana law. This amendment would help insure that Indiana taxpayers are protected from the costs of cleaning up waste tire storage sites.

Availability for public inspection of all materials relied on by IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

NIFL ELEMENT 6. Update the Waste Tire Manifest form in 329 IAC 15-4-13 to be simpler to complete and to reproduce and to meet State Board of Accounts forms standards.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: The current manifest form does not meet State Board of Account standards. This amendment would bring this form into compliance with those standards and make it easier to use.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: While the manifest form would be easier to use, IDEM does not expect this amendment to result in a quantifiable cost savings.

Availability for public inspection of all materials relied on by IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

NIFL ELEMENT 7. Clarify 329 IAC 15-5-1 to clearly set out what activities must be covered by a waste tire storage site’s financial assurance. Clarify when the closure cost estimate must be revised by moving that requirement from 329 IAC 15-5-3(b) to a new 329 IAC 15-3-3.5.

Environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement: This section is currently ambiguous about what specific costs must be covered by financial assurance: removal of waste tires or final closure of the site in accordance with 329 IAC 15-3-21. This amendment would make no new requirements. It simply moves the existing requirement to periodically update the closure cost estimate to a new, separate section to emphasize this commonly-overlooked requirement.

Examples in which federal law is inadequate: There is no corresponding federal law.

Estimated fiscal impact and expected benefits: This amendment would clarify that financial assurance must cover all costs associated with final closure of the waste tire storage site, consistent with the rest of the waste tire rule and Indiana law. This amendment will not result in any increased costs to waste tire storage sites.

Availability for public inspection of all materials relied on by

IDEM in the development of this NIFL element: The materials relied on to develop this element are available for public inspection at the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

Potential Fiscal Impact

While the potential fiscal impact of this rulemaking cannot be estimated at this time, IDEM does not believe that the fiscal impact of this rulemaking will exceed five hundred thousand dollars (\$500,000) to the regulated entities. IDEM specifically requests comment on the fiscal impact of this rule to regulated entities.

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 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:

#05-168(SWMB) [Waste Tire Management]
 Marjorie Samuel
 Office of Land Quality
 Indiana Department of Environmental Management
 100 North Senate Avenue
 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.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from July 1, 2005 through July 31, 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 rule. Mailed comments should be addressed to:

#05-168(SWMB)[Waste Tire Management]
 Marjorie Samuel
 Office of Land Quality
 Indiana Department of Environmental Management
 100 North Senate Avenue
 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 (317) 232-3403, 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) 233-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 31, 2006.

DRAFT RULE

SECTION 1. 329 IAC 15-1-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-1-1 Applicability

Authority: IC 13-19-3-1; IC 13-20-13-11; IC 13-20-14-6

Affected: IC 13-11-2; IC 13-20-13-1; IC 13-30-2; IC 36-9-30

Sec. 1. (a) This article applies to the following:

- (1) Waste tire processing operations **as defined in IC 13-11-2-250.5.**
- (2) Waste tire storage sites **as defined in IC 13-11-2-251.**
- (3) Waste tire transporters **as defined in IC 13-11-2-252.**
- (4) **Retailers as defined in IC 13-11-2-194(a) and other sources of waste tires.**

(b) ~~This article does~~ **The provisions of 329 IAC 15-3 concerning waste tire storage site and waste tire processing operation certificates of registration do** not apply to the following:

- (1) A facility ~~that:~~
 - ~~(A) recycles or reuses waste tires; and~~
 - ~~(B) operates operated as a recycling facility~~ under a valid solid waste processing facility permit issued by the ~~department~~ **under 329 IAC 11-1-1 commissioner.**
- (2) A site ~~where at which~~ waste tires are stored ~~in conjunction with under~~ a recycling program approved by the ~~department~~ **commissioner.**
- (3) ~~A~~ **The site of a facility** that is used to retread tires at which fewer than five thousand (5,000) waste tires are present indoors within a completely enclosed structure.
- (4) A vehicle or container in which waste tires are stored for ~~less fewer~~ than thirty (30) days.
- (5) ~~Storage of waste tires in~~ A vehicle: ~~that is:~~
 - (A) **that is** properly licensed; ~~by the bureau of motor~~

vehicles; and

(B) **that is** capable of legally transporting waste tires; and

(C) in which the waste tires are completely enclosed.

(6) ~~Transformed; new; or remanufactured tires.~~

(7) ~~Waste tires in pieces less than two (2) inches in each dimension that are stored in compliance with the rules of the fire prevention and building safety commission.~~

(8) (6) Other uses of waste tires approved by the commissioner under one (1) of the following:

(A) ~~329 IAC 10-3-1(13).~~

(A) **329 IAC 10-3-1(16).**

(B) 329 IAC 11-3-1(15).

(C) 329 IAC 12-3-1(15).

(Solid Waste Management Board; 329 IAC 15-1-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 317; errata filed Sep 8, 2004, 3:30 p.m.: 28 IR 214)

SECTION 2. 329 IAC 15-2-9.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-2-9.5 “Retailer” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-194; IC 13-20-13-1; IC 13-30-2; IC 36-9-30

Sec. 9.5. “Retailer”, as defined in IC 13-11-2-194(a), means a person engaged in the business of selling new tires at retail in Indiana. (Solid Waste Management Board; 329 IAC 15-2-9.5)

SECTION 3. 329 IAC 15-2-13 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-2-13 “Used tire” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 13. “Used tire” means a tire that meets all of the following criteria:

(1) The tire is suitable for use on a motor vehicle as follows:

(A) The tire has **more than** two thirty-seconds ($\frac{2}{32}$) inch of remaining tread. ~~or the tire wear bars are not exposed.~~

(B) The tire has no cuts, slashes, or exposed cord.

(2) The tire is stored **as follows**:

(A) In a rack, stack, or row.

~~(B) The tire is stored~~ (B) Out of the weather to prevent accumulation of water or precipitation in the tires.

(3) **The following information is legibly marked on the sidewall of each tire:**

(A) **The amount of tread remaining on the tire, in thirty-seconds of an inch.**

(B) **The retail price of the tire.**

(Solid Waste Management Board; 329 IAC 15-2-13; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319; errata filed Oct 23, 2000, 9:50 a.m.: 24 IR 688)

SECTION 4. 329 IAC 15-2-13.2 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-2-13.2 “Waste tire” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-250; IC 13-30-2; IC 36-9-30

Sec. 13.2. (a) “Waste tire”, as defined in IC 13-11-2-250, means a tire that is not suitable for the tire’s original purpose.

(b) A used tire that meets all criteria in section 13 of this rule is not a waste tire. (Solid Waste Management Board; 329 IAC 15-2-13.2)

SECTION 5. 329 IAC 15-2-13.3 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-2-13.3 “Waste tire processing operation” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-250.5; IC 13-30-2; IC 36-9-30

Sec. 13.3. “Waste tire processing operation”, as defined in IC 13-11-2-250.5, means an operation that processes waste tires by cutting, shredding, or grinding. The term does not include a retail operation that cuts or shreds waste tires generated by the retail operation. (Solid Waste Management Board; 329 IAC 15-2-13.3)

SECTION 6. 329 IAC 15-2-13.4 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-2-13.4 “Waste tire storage site” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-251; IC 13-30-2; IC 36-9-30

Sec. 13.4. “Waste tire storage site”, as defined in IC 13-11-2-251, means a site at which at least:

(1) **one thousand (1,000) waste tires are accumulated outdoors or within a structure that is not completely enclosed; or**

(2) **two thousand (2,000) waste tires are accumulated indoors within a completely enclosed structure.**

(Solid Waste Management Board; 329 IAC 15-2-13.4)

SECTION 7. 329 IAC 15-2-13.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-2-13.5 “Waste tire transporter” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-252; IC 13-30-2; IC 36-9-30

Sec. 13.5. “Waste tire transporter”, as defined in IC 13-11-2-252, means a person who engages in the business of:

(1) **accepting waste tires from retailers; and**

(2) **transporting the waste tires to one (1) or more other locations.**

(Solid Waste Management Board; 329 IAC 15-2-13.5)

SECTION 8. 329 IAC 15-3-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-3-3 Registration of waste tire storage sites

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21-3; IC 13-30-2; IC 36-9-30

Sec. 3. (a) An application for registration of a waste tire storage site must be submitted on a form provided by the department. The completed application form must contain all information requested on the form. The following must be submitted with the application form:

(1) A United States Geological Survey (USGS) seven and one-half (7½) minute topographic map or equivalent that shows the boundaries of the waste tire storage site.

(2) A legible map of the waste tire storage site that shows **all of the following**:

(A) Property boundaries.

(B) On-site buildings.

(C) Location, **maximum** length, **maximum** width, and **maximum** height of each waste tire storage area. ~~and~~

(D) Separation distances between waste tire piles.

(3) A description of the **following**:

(A) Buildings, signs, notices, and alarms to be used for management of waste tires at the facility.

~~(4) A description of~~ (B) The program that will be used to manage waste tires at the facility, including the following:

~~(A)~~ (i) The anticipated sources and amounts of incoming waste tires.

~~(B)~~ (ii) The names and locations of the anticipated destinations of the waste tires.

(iii) **The maximum number of waste tires that can be stored at the site at any time.**

~~(C)~~ (iv) The method and schedule for **the following**:

(AA) Draining incoming waste tires.

~~(D)~~ ~~The method and schedule for~~ (BB) Preventing waste tires from accumulating water.

~~(5)~~ (4) The contingency plan required by section 18 of this rule.

~~(6)~~ (5) The closure cost estimate required by 329 IAC 15-5-3.

~~(7)~~ (6) Evidence of the financial assurance mechanism to be used to comply with the financial assurance requirements in 329 IAC 15-5.

~~(8)~~ (7) The application fee required by IC 13-20-21-3.

(b) Before beginning ~~storage~~ **accumulation** of waste tires, the person who applies for a certificate of registration for a waste tire storage site shall submit a copy of the:

(1) **completed application;**

(2) **contingency plan required by section 18 of this rule; and**

(3) **map of the waste tire storage site required by subsection (a)(2);**

to the fire department with jurisdiction over the waste tire storage site.

(c) A separate certificate of registration is required for each waste tire storage site.

(d) A new certificate of registration is required for a waste tire

storage site that is relocated.

(e) Registration under this rule does not guarantee that the waste tire storage site complies with applicable county or local ordinances. (*Solid Waste Management Board; 329 IAC 15-3-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 320*)

SECTION 9. 329 IAC 15-3-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-3-5 Requirements for waste tire processing operations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 5. (a) The owner or operator of a waste tire processing operation shall:

(1) possess a valid certificate of registration issued under this rule; and

(2) comply with all applicable requirements of this rule.

(b) A waste tire processing operation that is under contract to the department to remove waste tires from a waste tire storage site is registered for the purposes of this article as long as that waste tire processing operation complies with the terms of the contract. (*Solid Waste Management Board; 329 IAC 15-3-5; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321*)

SECTION 10. 329 IAC 15-3-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-3-6 Registration of waste tire processing operations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21-3; IC 13-30-2; IC 36-9-30

Sec. 6. (a) An application for registration of a waste tire processing operation must be completed on a form provided by the department. The completed application form must contain all information requested on the form. The following must be submitted with the application form:

(1) A United States Geological Survey seven and one-half (7½) minute topographic map or equivalent that shows the boundaries of the waste tire processing operation.

(2) A legible map of the waste tire processing operation that shows the following:

(A) Property boundaries.

(B) On-site buildings.

(C) **The location length, width, and height dimensions of each waste tire storage area to be used to hold waste tires for processing.**

(D) Separation distances between waste tire ~~piles~~ **holding areas and the following**:

(i) Buildings.

(ii) Fences.

(iii) Property boundaries.

(iv) Other waste tire holding areas.

(v) **Other accumulated materials.**

(3) A description of the **following**:

(A) Buildings, signs, notices, and alarms to be used to manage waste tires at the facility.

~~(4) A description of (B)~~ The program that will be used to manage waste tires at the facility, including the following:

~~(A)~~ (i) The anticipated sources and amounts of incoming waste tires.

~~(B)~~ (ii) The names and locations of the anticipated destinations of the waste tires.

~~(C)~~ (iii) The method and schedule for the following:

(AA) Draining incoming waste tires.

~~(D)~~ The method and schedule for (BB) Preventing waste tires from accumulating water.

~~(5) (4)~~ The contingency plan required by section 18 of this rule.

(5) A description of the measures the owner or operator will use to ensure that the operation will not accumulate either of the following:

(A) One thousand (1,000) or more waste tires at any time outdoors or in a structure that is not completely enclosed.

(B) Two thousand (2,000) or more waste tires indoors within a completely enclosed structure.

(6) The application fee required by IC 13-20-21-3.

(b) **Except as provided in section 6.5 of this rule:**

(1) a separate certificate of registration is required for each waste tire processing operation; **and**

~~(c)~~ (2) a new certificate of registration is required for a waste tire processing operation that is relocated.

(c) **Registration under this rule does not guarantee that the waste tire processing operation complies with applicable county or local ordinances.**

(d) **Before beginning processing of waste tires, the person who applies for a certificate of registration for a waste tire processing operation shall submit a copy of the:**

(1) completed application;

(2) contingency plan required by section 18 of this rule; **and**

(3) map of the waste tire processing operation required by subsection (a)(2);

to the fire department with jurisdiction over the waste tire processing operation. (*Solid Waste Management Board; 329 IAC 15-3-6; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321; errata filed Oct 23, 2000, 9:50 a.m.: 24 IR 688*)

SECTION 11. 329 IAC 15-3-6.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-3-6.5 Mobile waste tire processing operations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-250.5; IC 13-11-2-251; IC 13-20-13-4; IC 13-30-2; IC 36-9-30

Sec. 6.5. (a) Instead of following the requirements in section 6(b) of this rule, a waste tire processing operation may process waste tires at more than one (1) location under the same registration if the owner or operator does all of the following:

(1) **Processes waste tires only from:**

(A) existing registered or unregistered waste tire storage sites; or

(B) retailers or other sources of waste tires.

(2) Submits to the department all of the information required by section 6(a)(1) and 6(a)(2) of this rule for each location where waste tires are processed.

(3) Submits to the department the signature of the property owner for a particular location, as required by IC 13-20-13-4(a)(4), for each location where waste tires are processed.

(b) A waste tire processor who processes waste tires at more than one (1) location under this section shall do the following:

(1) Not process waste tires from a location other than the location where the waste tire processing operation is contracted or hired to operate.

(2) Obtain a separate registration under section 6 of this rule to process waste tires on property owned, leased, or otherwise controlled by the owner or operator of the waste tire processing operation. (*Solid Waste Management Board; 329 IAC 15-3-6.5*)

SECTION 12. 329 IAC 15-3-7.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-3-7.5 Waste tire processing operations that accumulate 1,000 or more waste tires

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-250.5; IC 13-11-2-251; IC 13-30-2; IC 36-9-30

Sec. 7.5. A waste tire processing operation that accumulates one thousand (1,000) or more waste tires must do the following:

(1) Register as a waste tire storage site.

(2) Comply with all requirements for waste tire storage sites in this rule including the financial assurance requirements of 329 IAC 15-5.

(*Solid Waste Management Board; 329 IAC 15-3-7.5*)

SECTION 13. 329 IAC 15-3-17 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-3-17 Waste tire management requirements

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-14-4; IC 13-30-2; IC 36-9-30

Sec. 17. (a) The owner or operator of a waste tire storage site or a waste tire processing operation shall operate that waste tire storage site or a waste tire processing operation in compliance with this section at all times.

(b) All wastewater from the waste tire storage site or waste tire processing operation must be discharged in accordance with the rules of the water pollution control board at 327 IAC 5 and 327 IAC 15. If wastewater is discharged to an on-site system, the system must be approved in accordance with the rules of the Indiana state department of health at 410 IAC 6-10.

(c) The waste tire storage site or waste tire processing operation must not do any of the following:

- (1) Pose a threat to human health or the environment.
- (2) Create a nuisance.

(d) Access to the waste tire storage site or waste tire processing operation must be allowed only when operating personnel are on duty. Access by persons who are not employees must be supervised at all times by the owner, the operator, or an employee of the waste tire storage site or waste tire processing operation.

(e) Subsection (d) does not apply to persons employed or contracted by federal, state, or local government agencies.

~~(f) A sign must be posted at each point of access to the waste tire storage site or waste tire processing operation from a public road. Each sign must be at least sixteen (16) square feet in size. Each sign must indicate all of the following:~~

- ~~(1) The name of the waste tire storage site or waste tire processing operation;~~
- ~~(2) The certificate of registration number;~~
- ~~(3) Whether the facility is a waste tire storage site or a waste tire processing operation;~~
- ~~(4) The operating hours or schedule;~~
- ~~(5) The schedule of fees charges by the waste tire storage site or waste tire processing operation;~~
- ~~(6) The name and telephone number of a designated emergency contact person to be contacted in case of an emergency;~~

~~(g) The designated emergency contact person required by subsection (f)(6) must be the following:~~

- ~~(1) Authorized to respond to a reported emergency or be capable of contacting a person authorized to respond to a reported emergency; and~~
- ~~(2) One (1) of the following:~~
 - ~~(A) The owner or operator, or an employee or contractor of the owner or operator, of the waste tire storage site or waste tire processing operation;~~
 - ~~(B) The emergency response coordinator required by section 19 of this rule;~~
 - ~~(C) An answering service that can contact the emergency response coordinator required by subsection (f)(6);~~
 - ~~(D) For a municipally owned facility, a local emergency agency and telephone number may be used;~~

~~(h) (f) The waste tire storage site or waste tire processing operation must maintain the following at the waste tire storage site or waste tire processing operation:~~

- ~~(1) A first aid kit.~~

(2) Fire extinguishing equipment that complies with the Indiana Fire Code as adopted by the fire prevention and building safety commission at 675 IAC 22.

(3) A telephone or other communication system capable of contacting the fire department and other emergency services.

~~(f) (g) Salvaging must not:~~

- ~~(1) interfere with the operation of the waste tire storage site or waste tire processing operation; or~~
- ~~(2) create a nuisance or a health hazard.~~

~~(f) (h) The owner or operator of a waste tire storage site or waste tire processing operation shall take all actions required to do the following:~~

- ~~(1) Prevent the breeding of mosquitoes. and~~
- ~~(2) Control any mosquito population.~~

~~(k) (i) The owner or operator of a waste tire storage site or a waste tire processing operation must not accept waste tires must not be accepted from a waste tire transporter that is not registered with the department in accordance with this article.~~

~~(f) (j) The owner or operator of a waste tire storage site or waste tire processing operation shall prevent water from accumulating in waste tires by doing all of the following:~~

- ~~(1) Waste tires must be drained:~~
 - ~~(A) on the day of receipt; and~~
 - ~~(B) as necessary thereafter to prevent accumulation of water in the waste tires.~~
- ~~(2) Within seven (7) days after receipt, whole waste tires must be:~~
 - ~~(A) altered or modified so that the tire cannot hold water by:~~
 - ~~(i) shredding;~~
 - ~~(ii) chopping;~~
 - ~~(iii) drilling with holes and stacking to assure drainage; or~~
 - ~~(iv) slitting longitudinally and stacking so the tires will not collect water;~~
 - ~~(B) covered; or~~
 - ~~(C) otherwise prevented from accumulating water.~~
- ~~(3) Waste tires must not be stored in areas of standing water.~~

~~(k) The owner or operator of a waste tire storage site shall only use a waste tire processing operation that is registered under this article to process waste tires at the waste tire storage site.~~

~~(l) Retailers and other sources of waste tires shall only use waste tire processing operations that are registered under this article to process waste tires they generate. (Solid Waste Management Board; 329 IAC 15-3-17; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)~~

SECTION 14. 329 IAC 15-3-20 IS AMENDED TO READ AS FOLLOWS:

IC 13-14-9 Notices

329 IAC 15-3-20 Record keeping and reporting

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 20. (a) The owner or operator of a waste tire storage site or a waste tire processing operation shall keep the following records:

- (1) Copies of the transporter manifest forms prepared in accordance with 329 IAC 15-4-14.
- (2) A copy of the certificate of registration.

(b) The owner or operator of a waste tire storage site or waste tire processing operation shall submit an annual tire summary to the department by January 31 of each year. The annual tire summary must cover the preceding calendar year. The annual tire summary must be submitted on the following form **provided by the commissioner** and must include all information requested on the form.

ANNUAL TIRE SUMMARY																																																														
Indiana Department of Environmental Management																																																														
Use of this form is required by 329 IAC 15-3-20(b) and IC 13-20-13-5.																																																														
Section A: Facility Information																																																														
Name:				Registration Number:																																																										
Mailing Address:		Street		City		State		Zip Code																																																						
Facility Contact Person:						Telephone Number (include area code):																																																								
Section B: Reporting Time Period																																																														
January 1 through December 31, 20____																																																														
Section C: Tire Summary Information for the Calendar Year																																																														
Number of Waste Tires _____ (Check unit of measure used)																																																														
Received at this Facility: _____ <input type="checkbox"/> whole waste tires <input type="checkbox"/> cubic yards <input type="checkbox"/> cubic feet <input type="checkbox"/> pounds <input type="checkbox"/> PTEs																																																														
Number of Waste Tires Disposed of by this Facility:																																																														
(Use these units: whole waste tires; cubic yards; cubic feet; pounds; PTEs)																																																														
Number	Unit	Destination				Disposal Method																																																								
Number of Whole Waste Tires Remaining in Storage				Number of Waste Tire Pieces Remaining in Storage																																																										
Passenger Tire Equivalents (PTEs) _____				Passenger Tire Equivalents (PTEs) _____																																																										
Section D: Conversion Factors																																																														
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="6" style="text-align: center;">Tire Pieces</th> <th colspan="3" style="text-align: center;">Whole Tires</th> </tr> <tr> <th style="text-align: left;">multiply</th> <th style="text-align: left;">by</th> <th style="text-align: left;">to obtain</th> <th style="text-align: left;">multiply</th> <th style="text-align: left;">by</th> <th style="text-align: left;">to obtain</th> <th style="text-align: left;">multiply</th> <th style="text-align: left;">by</th> <th style="text-align: left;">to obtain</th> </tr> </thead> <tbody> <tr> <td>pounds</td> <td>0.04</td> <td>PTE</td> <td>cubic feet</td> <td>0.8</td> <td>PTE</td> <td>cubic feet</td> <td>0.25</td> <td>PTE</td> </tr> <tr> <td>PTE</td> <td>25</td> <td>pounds</td> <td>cubic yards</td> <td>21.6</td> <td>PTE</td> <td>cubic yards</td> <td>6.75</td> <td>PTE</td> </tr> <tr> <td></td> <td></td> <td></td> <td>PTE</td> <td>1.25</td> <td>cubic feet</td> <td>PTE</td> <td>4</td> <td>cubic feet</td> </tr> <tr> <td></td> <td></td> <td></td> <td>PTE</td> <td>0.046</td> <td>cubic yards</td> <td>PTE</td> <td>0.15</td> <td>cubic yards</td> </tr> </tbody> </table>									Tire Pieces						Whole Tires			multiply	by	to obtain	multiply	by	to obtain	multiply	by	to obtain	pounds	0.04	PTE	cubic feet	0.8	PTE	cubic feet	0.25	PTE	PTE	25	pounds	cubic yards	21.6	PTE	cubic yards	6.75	PTE				PTE	1.25	cubic feet	PTE	4	cubic feet				PTE	0.046	cubic yards	PTE	0.15	cubic yards
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Section E: Certification

I certify that the information in this summary is true, accurate, and complete to the best of my knowledge:

Authorized Signature

Title

Date

(c) The annual tire summary must be signed by:

- (1) the owner or operator; or
- (2) a person designated by the owner or operator who is responsible for preparing and reviewing those documents as part of the person's duties in the regular course of business.

(d) The owner or operator of the waste tire storage site or waste tire processing operation shall **do the following**:

- (1) Keep a copy of all waste tire manifests received from waste tire transporters for one (1) year. ~~and~~
- (2) Make the waste tire manifests available at the waste tire storage site or waste tire processing operation during normal business hours for inspection and photocopying by the department.

(Solid Waste Management Board; 329 IAC 15-3-20; filed Oct 10, 2000, 3:10 p.m.: 24 IR 324)

SECTION 15. 329 IAC 15-4-13 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-4-13 Manifest forms

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 13. (a) A waste tire transporter shall prepare a manifest for each load of waste tires using the following form shown in **Figure 1 and including all information requested on the form.**

WASTE TIRE MANIFEST

Indiana Department of Environmental Management

Use of this form is required by 329 IAC 15-4-13 and IC 13-20-14-5.

GENERATOR

Generator Name _____	Shipment Origin _____
Mailing Address _____	Location Address _____
City _____ State _____ Zip Code _____	City _____ State _____ Zip Code _____
Telephone Number (including area code) _____	Telephone Number (including area code) _____

Description of Shipment:

Material: _____

(Whole tires; Shredded tires; etc.)

If whole tires, how many of each type: Passenger car tires _____ Truck tires _____ Other tires _____

If shredded tires, approximate weight (in tons) _____ or volume (in cubic yards) _____

Generator's Authorized Agent _____ Signature _____ Date of Shipment _____

TRANSPORTER

Registration No: _____	Telephone: (_____) _____
Transporter Name: _____	Driver's Name: _____
Address: _____	
City _____ State _____ Zip Code _____	

THE TRANSPORTER MUST GIVE A COMPLETED COPY OF THIS FORM TO THE GENERATOR.

I CERTIFY THAT THE MATERIAL DESCRIBED ABOVE WAS PICKED UP AT THE SITE DESCRIBED ABOVE.

Driver's Signature _____ Date of Pickup _____

DESTINATION

IC 13-14-9 Notices

Site Name: _____ Address: _____ City _____ State _____ Zip Code _____	Telephone: (____) _____ Permit/Registration No.: _____ State: _____
I CERTIFY THAT THE MATERIAL DESCRIBED ABOVE HAS BEEN ACCEPTED AND, TO THE BEST OF MY KNOWLEDGE, THIS INFORMATION IS TRUE AND ACCURATE.	
Name of Authorized Agent _____	Signature _____ Receipt Date _____

THE WASTE TIRE TRANSPORTER MUST COMPLETE THIS FORM FOR EACH SHIPMENT OF WASTE TIRES.

WASTE TIRE MANIFEST

State Form

Indiana Department of Environmental Management
Approved by the State Board of Accounts



INSTRUCTIONS:

1. Use of this form is required by 329 IAC 15-4-13 and IC 13-20-14-5. Use this form for regular or recurring shipments.
2. The Waste Tire Transporter must complete this form for each shipment of waste tires.
3. Pre-print or stamp generator, transporter, and receiving facility information. Fill in all remaining information.
4. Give a copy of this form to the generator (source) of the waste tires.
5. Give a second copy of this form to the receiver of the waste tires as listed in IC 13-20-14-4.
6. Keep a copy of this form for your records for at least one (1) year.
7. For more information, contact IDEM's Office of Land Quality, Solid Waste Permits Section, at (317) 232-0066.

GENERATOR (SOURCE OF WASTE TIRES)					
Name			Telephone (including area code)		
Address			Generator's Authorized Agent	Print Name	
City	State	Zip Code		Signature	
DESCRIPTION OF SHIPMENT					
Pickup Date		Time		Tire Types and Amounts <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Passenger <div style="border: 1px solid black; width: 100px; height: 20px; margin-top: 5px;"></div> </div> <div> <input type="checkbox"/> Truck <div style="border: 1px solid black; width: 100px; height: 20px; margin-top: 5px;"></div> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> <input type="checkbox"/> Oversize <div style="border: 1px solid black; width: 100px; height: 20px; margin-top: 5px;"></div> </div> <div> <input type="checkbox"/> Other <div style="border: 1px solid black; width: 100px; height: 20px; margin-top: 5px;"></div> </div> </div>	
Pickup Location					
Load Type (check one) <input type="checkbox"/> Whole Tire Count <input type="checkbox"/> Weight in Pounds <input type="checkbox"/> Volume in Cubic Yards <input type="checkbox"/> Weight in Tons					
TRANSPORTER					
Name			Telephone (including area code)		
Address			Permit/Registration No. _____ State _____		
City	State	Zip Code			

I CERTIFY, UNDER PENALTY OF PERJURY AS PROVIDED IN IC 35-44-2-1, THAT THE MATERIAL DESCRIBED ABOVE WAS PICKED UP AT THE SITE DESCRIBED ABOVE AND, TO THE BEST OF MY KNOWLEDGE, THIS INFORMATION IS TRUE AND ACCURATE.				
Driver's Name			Signature	
DESTINATION				
Name			Telephone (including area code)	
Address			Permit/Registration No. State	
City	State	Zip Code		
I CERTIFY, UNDER PENALTY OF PERJURY AS PROVIDED IN IC 35-44-2-1, THAT THE MATERIAL DESCRIBED ABOVE HAS BEEN ACCEPTED AND, TO THE BEST OF MY KNOWLEDGE, THIS INFORMATION IS TRUE AND ACCURATE.				
Name of Authorized Agent			Signature	Receipt Date

Figure 1

- (b) A waste tire transporter shall do **all of** the following:
- (1) Carry the manifest in the vehicle while transporting the waste tires described on the manifest.
 - (2) Retain a copy of the manifest for one (1) year.
 - (3) Provide a copy of the **completed** manifest to **the following**:
 - (A) The waste tire generator. ~~and~~
 - (B) The waste tire storage site or waste tire processing operation that receives the waste tires.
 - (4) Make a copy of the **completed** manifest available to the department upon request.

(c) A waste tire transporter may reproduce copies of the waste tire manifest form with complete information for the generator, transporter, and destination preprinted on the form as long as the:

- (1) form is substantially identical to the waste tire manifest form in subsection (a); and
- (2) preprinted information does not include waste tire amounts or signatures.

(Solid Waste Management Board; 329 IAC 15-4-13; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)

SECTION 16. 329 IAC 15-4-14 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-4-14 Reports

Authority: IC 13-19-3-1; IC 13-20-14-6
Affected: IC 13-30-2; IC 36-9-30

Sec. 14. (a) A waste tire transporter shall report annually to the department the number of waste tires ~~in passenger tire equivalents~~, transported by the waste tire transporter during the previous year, **using the form provided by the commissioner.**

- (b) The annual report:
- (1) is due on January 31;
 - (2) must cover the previous calendar year; and
 - (3) must be submitted with the annual registration fee required

by section 3 of this rule.
(Solid Waste Management Board; 329 IAC 15-4-14; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)

SECTION 17. 329 IAC 15-5-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-5-1 Financial assurance for waste tire storage sites

Authority: IC 13-19-3-1; IC 13-20-13-11
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. The owner or operator of a waste tire storage site shall do the following:

- (1) Prepare and submit to the department a closure cost estimate in accordance with section 3 of this rule.
- (2) Maintain financial assurance for removal of waste tires **and final closure of the site**, in an amount equal to or greater than the closure cost estimate, using one (1) of the following mechanisms:
 - (A) A trust fund in accordance with section 5 of this rule.
 - (B) A surety bond in accordance with section 6 of this rule.
 - (C) A letter of credit in accordance with section 7 of this rule.
 - (D) Insurance in accordance with section 8 of this rule.
- (3) Maintain financial assurance for removal of waste tires **and final closure of the site** as required by this rule until the department notifies the owner or operator of the waste tire storage site that final closure has been completed in accordance with 329 IAC 15-3-21.

(Solid Waste Management Board; 329 IAC 15-5-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)

SECTION 18. 329 IAC 15-5-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-5-3 Closure cost estimate

Authority: IC 13-19-3-1; IC 13-20-13-11
Affected: IC 13-30-2; IC 36-9-30

Sec. 3. (a) The owner or operator of a waste tire storage site shall submit to the department a written estimate of the cost of completing final closure of the site in accordance with 329 IAC 15-3-21. The original closure cost estimate must be submitted, on a form provided by the department, with the application for a certificate of registration. The closure cost estimate must include the following:

- (1) The methods that will be used to remove and properly dispose of all waste tires stored at the site.
- (2) The final destination of all waste tires removed from the site.
- (3) The name and address of the contractor or contractors to be used to remove the waste tires and complete final closure of the site.
- (4) The estimated cost of completing all activities required by 329 IAC 15-3-21.

~~(b) The owner or operator of a waste tire storage site shall submit to the department a revised written closure cost estimate:~~

- ~~(1) annually, no later than January 31 of each year; and~~
- ~~(2) whenever a change in the removal plan increases the closure cost estimate.~~

~~The revised closure cost estimate must meet the requirements of subsection (a).~~

~~(c) (b) The closure cost estimate must be based on the larger of the following:~~

- ~~(1) The cost of removing all waste tires, calculated in passenger tire equivalents, accumulated at the site;~~
- ~~(2) The cost of removing the maximum number of waste tires calculated in passenger tire equivalents; that the owner or operator anticipates will can be accumulated at the site at any time.~~

~~(d) (c) The closure cost estimate must be based on the projected costs of contracting a third party to complete final closure of the site. The closure cost estimate must include all costs for all activities required by 329 IAC 15-3-21.~~

~~(e) (d) Once the owner or operator of a waste tire storage site has completed an activity required in 329 IAC 15-3-21, the owner or operator may:~~

- ~~(1) revise the closure cost estimate indicating that the activity has been completed; and~~
 - ~~(2) revise that element of the closure cost estimate to zero (0).~~
- (Solid Waste Management Board; 329 IAC 15-5-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)*

SECTION 19. 329 IAC 15-5-3.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 15-5-3.5 Annual revision of closure cost estimate

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 3.5. The owner or operator of a waste tire storage site

shall submit to the department a revised written closure cost estimate:

- (1) annually, not later than January 31 of each year; and**
- (2) whenever a change in the removal plan increases the closure cost estimate.**

The revised closure cost estimate must meet the requirements of section 3 of this rule. *(Solid Waste Management Board; 329 IAC 15-5-3.5)*

SECTION 20. THE FOLLOWING ARE REPEALED: 329 IAC 15-2-2; 329 IAC 15-2-3; 329 IAC 15-2-8; 329 IAC 15-2-9; 329 IAC 15-2-11; 329 IAC 15-2-12.

SECTION 21. THE FOLLOWING ARE READOPTED: 329 IAC 15-1-2; 329 IAC 15-1-3; 329 IAC 15-1-4; 329 IAC 15-2-1; 329 IAC 15-2-4; 329 IAC 15-2-5; 329 IAC 15-2-6; 329 IAC 15-2-7; 329 IAC 15-2-10; 329 IAC 15-2-14; 329 IAC 15-2-15; 329 IAC 15-3-1; 329 IAC 15-3-2; 329 IAC 15-3-4; 329 IAC 15-3-7; 329 IAC 15-3-8; 329 IAC 15-3-9; 329 IAC 15-3-10; 329 IAC 15-3-11; 329 IAC 15-3-12; 329 IAC 15-3-13; 329 IAC 15-3-14; 329 IAC 15-3-15; 329 IAC 15-3-16; 329 IAC 15-3-18; 329 IAC 15-3-19; 329 IAC 15-3-21; 329 IAC 15-4-1; 329 IAC 15-4-2; 329 IAC 15-4-3; 329 IAC 15-4-4; 329 IAC 15-4-5; 329 IAC 15-4-6; 329 IAC 15-4-7; 329 IAC 15-4-8; 329 IAC 15-4-9; 329 IAC 15-4-10; 329 IAC 15-4-11; 329 IAC 15-4-12; 329 IAC 15-4-15; 329 IAC 15-5-2; 329 IAC 15-5-4; 329 IAC 15-5-5; 329 IAC 15-5-6; 329 IAC 15-5-7; 329 IAC 15-5-8; 329 IAC 15-5-9; 329 IAC 15-5-10; 329 IAC 15-5-11; 329 IAC 15-5-12.

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 July 18, 2006, 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 and amendments to rules and readoption of rules at 329 IAC 15.

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

Additional information regarding this action may be obtained from Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana) and ask for extension 3-1655.

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 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 329 SOLID WASTE MANAGEMENT BOARD

SECOND NOTICE OF COMMENT PERIOD LSA Document #05-297(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING SOLID WASTE PROCESSING FACILITIES AT 329 IAC 11

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 329 IAC 11 that implement certain provisions of Public Law 154-2005 (Senate Enrolled Act 279). 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 329 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: November 1, 2005, Indiana Register (29 IR 694).

CITATIONS AFFECTED: 329 IAC 11-2-21.4; 329 IAC 11-2-28.4; 329 IAC 11-2-38.6; 329 IAC 11-2-43; 329 IAC 11-3-1; 329 IAC 11-4-1; 329 IAC 11-5-1; 329 IAC 11-5-2; 329 IAC 11-5-3; 329 IAC 11-5-4; 329 IAC 11-5-6; 329 IAC 11-5-7; 329 IAC 11-9-5; 329 IAC 11-11-5; 329 IAC 11-13-3; 329 IAC 11-13-4; 329 IAC 11-15-1; 329 IAC 11-15-3; 329 IAC 11-15-5.

AUTHORITY: IC 4-22-2; IC 13-14-8; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3; P.L.154-2005.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rulemaking implements provisions of P.L.154-2005 with regard to solid waste processing facilities and proposes clarification and transition language for these provisions consistent with

the regulatory scheme of 329 IAC 11.

These changes include the following:

Adding additional categories of facilities to the definition of "solid waste processing facility" to be consistent with the amended statutory definition at IC 13-11-2-212.

Providing a transition period for permitting additional categories of solid waste processing facilities.

Revising the general exclusions at 329 IAC 11-3-1(5) to clarify language and implement the amended definition of solid waste processing facility.

Amending 329 IAC 11-9-5 regarding demonstrations of need to exclude transfer stations.

Amending 329 IAC 11-11-5 to provide comprehensive requirements for transferring permits and ownership.

Removing certain references to the requirements of IC 13-20-6.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

The following elements of the draft rule impose 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 with each NIFL element:

(1) The environmental circumstance or hazard that dictates the imposition of the NIFL element in order to protect human health and the environment.

(2) examples in which federal law is inadequate to provide this protection for Indiana; and

(3) (a) the estimated fiscal impact; and

(b) expected benefits;

based on the extent to which the proposed rule exceeds the requirements of federal law.

NIFL Element A

The draft rule requires that the definition of a solid waste processing facility be expanded to include medical and infectious waste treatment facilities at 329 IAC 11-2-43(8).

(1) Medical waste has the potential to be infectious and harmful to human health if not properly managed.

(2) Medical waste treatment facilities are currently not regulated by federal law.

(3)(a) There is no estimated fiscal impact of this element, as it is a requirement of P.L.154-2005. The permit fee for these facilities is determined by state statute (IC 13-20-21).

(b) The expected benefit of this rule is the protection of human health and the environment from potentially harmful waste products.

NIFL Element B

The draft rule requires that the definition of a solid waste processing facility at 329 IAC 11-2-43(9) be expanded to include solid waste solidification facilities not located on an operating permitted landfill.

(1) Current IDEM rules prohibit the disposal of liquids into landfills. These facilities are mixing absorbent material with the liquid industrial waste so the resultant solids will be accepted for disposal at a landfill.

(2) There is currently no federal law to regulate these facilities.

(3)(a) There is no estimated fiscal impact of this element as it is a requirement of P.L.154-2005. The permit fee for these facilities is determined by state statute (IC 13-20-21).

(b) The expected benefits will be to assure a structured and safe method in which these facilities treat wastes.

NIFL Element C

The draft rule requires that the definition of a solid waste processing facility be expanded at 329 IAC 11-2-43(10) to include facilities that use plasma arc or another source of heat to treat solid waste.

(1) Plasma arc and heat associated technology has the potential to be dangerous and harmful to human health if not properly managed.

A plasma torch is a device that converts electrical energy into thermal energy. Plasma is an ionized gas that is conditioned to respond to electromagnetic forces. The plasma arc is created when a voltage is established between two points. The plasma acts as a resistive heating element, which presents a distinct advantage over any solid heating element as it is a gas and cannot melt and fail. The plasma arc creates a "flame" that has temperatures ranging from 4,000 degrees Centigrade to over 7,000 degrees Centigrade.

(2) There is currently no federal law to regulate these facilities.

(3)(a) There is no estimated fiscal impact of this element, as it is a requirement of P.L.154-2005. The permit fee for these facilities is determined by state statute (IC 13-20-21).

(b) The expected benefits will be to assure a structured and safe method in which these facilities treat wastes.

For all elements:

Health criteria: Criteria is available at IDEM, the Indiana State Board of Health and U.S. EPA.*

Analytical methods: Not applicable.

Treatment technology: Criteria is available at IDEM and U.S. EPA.*

Economic impact data: Not applicable.

Environmental assessment data: Criteria is available at IDEM and U.S. EPA.*

Analysis of methods to effectively implement the proposed rule: Permitting structure in place; no analysis needed. Information on the permitting structure available at IDEM.*

*Referenced information regarding these NIFL elements may be obtained by contacting Lou McFadden at IDEM, Office of Land Quality, Rules, Planning and Outreach Section, 1-800-451-6027 (in Indiana).

Potential Fiscal Impact

These rule amendments do not have a potential fiscal impact in excess of five hundred thousand dollars (\$500,000).

Public Participation and Workgroup Information

No external workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Lou McFadden, Rules, Planning and

Outreach Section, Office of Land Quality at (317) 232-8922 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from November 1, 2005, through November 30, 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:

Gary Blaze, Indianapolis Plant, Metalworking Lubricants Company (MLC)

Tita LaGrimes, Pollution Control Industries (PCI)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: IDEM should exempt facilities that already possess permits from the Office of Land Quality from the new permit requirement; or, absent that, waive, recognize, or incorporate those requirements that are already covered or fulfilled through compliance with other environmental regulatory programs.

While it is recognized the recent statutory addition to the definition of a Solid Waste Processing Facility: "A solid waste solidification facility that is not located on an operating, permitted landfill", was legislative in origin, it at least recognizes that not all facilities require the same degree of regulatory oversight or permitting. This reality could easily be extended through the rulemaking process to other types of facilities that already afford similar, or greater environmental protection than do landfills and that have more expertise in the handling of industrial wastes. In fact, failure to do so would provide an economic benefit to landfills relative to other industrial or waste management facilities that are normally subject to even more intensive regulatory oversight and requirements than are landfills.

It is not clear to us why the statute would consider "landfills", that are permitted for the disposal of only "municipal solid waste", to offer capabilities that warrant an exclusion that is not provided for hazardous waste management permitted facilities, or other industrial facilities that are already subject to extensive training, operational, and physical plant requirements for the handling of industrial waste. This rulemaking would be an opportunity for the State to address this issue. Certainly, a permitted hazardous waste management facility should be considered compliant and competent for the solidification of solid (non-hazardous) waste without the necessity of a separate permit.

This legislative omission can easily be corrected through the upcoming rulemaking by amending the definition of "solid waste processing facility" to state: "A solid waste solidification facility that is not located on an operating permitted landfill or at a hazardous waste management facility." (MLC)

Response: IDEM does not have the legal authority in this rulemaking to amend or extend the statutory definition of "solid waste processing facility" as amended by the legislature. The facility that holds a valid Hazardous Waste permit under 329

IAC 3.1 can be excluded from solid waste processing permitting under 329 IAC 11-3-2(d): “Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where such solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility”.

It should be also pointed out that landfill solidification operations are required to be permitted under the landfill’s permit, and are not without their own costs. A minor modification permit costing two thousand and five hundred dollars (\$2,500) is required before a landfill solidification operation can begin. In addition, a landfill solidification operation must be located over the lined portion of the landfill, and built with its own liner and a container system. These requirements thus pose comparable costs for a MSWLF conducting liquid waste solidification.

Finally, a hazardous waste permit only covers the location and activities of hazardous waste management at the facility site. If a facility conducts solid waste processing activities along with hazardous waste management activities, then two permits are required because there are two discrete sets of activities being regulated at the facility.

Comment: If facilities that maintain hazardous waste management permits are not exempted from these permit requirements, IDEM should at least consolidate permits for facilities that already possess permits from the Office of Land Quality and/or waive or incorporate certain requirements that are already covered or fulfilled through compliance with other environmental regulatory programs. MLC currently maintains three (3) major Permits from IDEM authored environmental regulatory programs: Land Quality, Air Quality, and Water Quality. Each of these Permits require significant Permit application, renewal, and/or operating fees to the IDEM, necessitate significant permit application preparation and submittal costs, and include public notification and participation. Compliance with these Permits, and other regulatory programs mentioned, already ensure that no environmental or public health concerns will be created or maintained at the facility, and another IDEM permit concerning this particular activity would be redundant at best. The IDEM has the authority and capability to consolidate environmental requirements into a single permit that would otherwise be included in more than one permit at IC 13-15-2-2, and MLC further suggest that the requirements and standards already imposed upon our facility and its operations be recognized-in lieu of asserting that yet another permit is required. It is recommended that an exclusion, similar to the following, be included under 329 IAC 11-3-2: “(e) Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, processing, or disposal of non-hazardous solid waste where the solid waste processing operation and activities are included within the description and terms of the hazardous waste management permit”.

This could, in effect, replace the existing exemption at 329 IAC 11-3-2(d). Such a provision would allow treatment of solid

waste streams, including solidification, at permitted hazardous waste facilities, on the condition that the solid waste processing operation be encompassed by the facility waste characterization plan, contingency plan, closure plan, etc. This approach would allow any pertinent requirements of 329 IAC 11 to be incorporated into existing permits, through permit modification or upon their renewal, while excluding those requirements that would be redundant or inapplicable at such facilities. (MLC)

Response: The difficulty with consolidating permits is that, for instance, a hazardous waste permit only covers the location and activities of hazardous waste management at the facility site. If a facility conducts solid waste processing activities along with hazardous waste management activities, then two permits are required because there are two discrete sets of activities being regulated at the facility. There are also two sets of regulatory standards that must be complied with. Solid waste permit applications could include the same contingency plans as a facility’s hazardous waste plan, if applicable; however, the contingency plan must be adapted to accept solid waste.

Comment: Rule 3 of 329 IAC 11-3-1, Exclusions, at paragraph (5) states that “Processing, except for incineration, in which the waste, other than tires, has been segregated from the general solid waste stream prior to arrival at the processing site” is not subject to the provisions of this article (Solid Waste Processing Facilities). IDEM has historically relied on this exemption to exclude facilities processing such generator-separated and industrial waste streams from coverage under this Article. The recent legislative change to the statutory definition of “solid waste processing facilities” did not address the existing exclusions under 329 IAC 11.

The waste streams that MLC “solidifies” are either residual wastes from their used oil processing or wastewater treatment operations, or are “industrial” wastes that are segregated by the generator prior to their arrival at our plant. Accordingly, the subsequent treatment or recovery of such segregated wastes, that were never a part of a general solid waste stream, would appear to be exempt from Article 11 entirely as it is presently constructed.

However, IDEM, in its Notice, indicates that this exclusion is to be amended. Can IDEM clarify the extent of its anticipated amendment of this section of the Article? As will be pointed out in subsequent comments, the standards under 329 IAC 11 appear to have been originally intended to regulate traditional or “municipal solid waste” processing and may not be the best vehicle to regulate the processing of industrial waste streams -at least not without significant amendment. (MLC)

Response: The proposed amendment to this section is included in the draft accompanying this notice. Waste processing at the site of generation is a process that is excluded from the solid waste permit requirement under 329 IAC 11-3-1(6). To address your concerns about solid waste generated at the facility, IDEM acknowledges its previous position on the solidification activity; however, the legislature recently revised the statute to specifically include solid waste solidification facilities in the

definition of a solid waste processing facility at IC 13-11-2-212. It would be inconsistent with the legislature's mandate to include a solidification facility as a category of solid waste processing facility, then exempt that very facility from regulation under the solid waste processing rules.

It should also be taken into consideration that the original intent of the segregated waste exclusion was to allow household bottle and can recyclers to operate without the burden of obtaining a solid waste processing facility permit. Unfortunately our earlier interpretation of this exclusion expanded it far beyond this intent, resulting in unpermitted and minimally regulated processing of "segregated" industrial wastes.

Comment: Rule 3 of 329 IAC 11, Exclusions, at paragraph (6) states that "*Processing, except for incineration, of solid waste that takes place at the generating facility, is not subject to the provisions of this Article*". MLC generates residual waste streams from its used oil recycling and wastewater treatment of used oils and wastewater received from other facilities. These recycling and treatment operations are conducted in full compliance with the Used Oil Management Standards under 40 CFR 279, and the Centralized Waste Treatment Industry Effluent Guidelines and Standards under 40 CFR 437 (and equivalent IDEM regulations). Some residuals from the recycling or treatment of these materials are then "solidified" for off-site disposal. Solidification is performed on these "oil containing" treatment and reclamation residuals to ensure that they pass the paint filter test for proper disposal at a permitted landfill. Can MLC assume that the "solidification" of these residuals, that are generated through our operations, qualify for this exemption, even though they are derived from used oils or wastewater sent to our Indianapolis plant for recycling or treatment from off-site facilities? (MLC)

Response: Yes, IDEM agrees with that assumption. However, any wastes that are separately received on-site and processed directly to the solidification process would be subject to a solid waste processing permit.

Comment: As IDEM is now asserting that "solidification" or "solidification facilities" require a permit under the subject Article, 329 IAC 11, *Solid Waste Processing Facilities*, if MLC were to perform other means of treating the subject residual waste, such as liquefaction or homogenization of the wastes to make them suitable for burning in industrial boilers or furnaces, rather than performing solidification for subsequent disposal at a solid waste landfill, would IDEM still contend that a Permit is required under this Article?

It should be noted that the process envisioned would not include any of the specific activities included with either the statutory, or regulatory, definition of a "Solid Waste Processing Facility". That is, it would not involve solidification, incineration, a transfer station, solid waste baler, resource recovery system, composting facility, or a garbage grinding facility. It is entirely possible that the residuals could be shipped directly to an approved boiler, industrial furnace, or cement kiln to be burned for energy recovery with no additional treatment (the

oily residuals have a significant fuel value). (MLC)

Response: Based on the information provided, the described activities would not require a solid waste processing permit. However, it is the facility's responsibility to assure compliance with applicable rules.

Comment: Numerous provisions of Article 329 IAC 11 apply standards that would have to be considered inapplicable, contradictory, or redundant to the MLC facility, at which the "solidification" of residual treatment and recycling wastes are integral to our already regulated activities, and which is not open to the public. Many of the Article 11 requirements seem geared to "municipal solid waste" management, rather than "industrial process waste". Examples of some of the inapplicable requirements would include the lengthy and prescriptive application process, a "determination of need", the extensive public notice and zoning confirmations, provision of sanitary toilet facilities, all-weather roads, signs with operating hours and fees, quarterly tonnage reporting, etc.

As noted in several of our comments, MLC is already required, through several other permits or regulatory programs, to comply with the substantive provisions of this Article that seek to afford environmental protection. However, a number of the regulatory requirements in this Article appear to conflict with the terms of other Permits or regulatory compliance programs. An example would be posting of signs giving hours of operation to the public, when this is a permitted hazardous waste management facility, with restricted access. MLC "solidifies" only residual waste generated by its own oil recycling and wastewater treatment operations and other "oily" wastes from specific industrial customers based on our written waste analysis plan and acceptance procedures. The facility is not open to the general public and does not accept or handle other "solid wastes". (MLC)

Response: IDEM tries to account for all contingencies in its rules. Sometimes certain requirements are not pertinent to all regulated entities. IDEM takes this into account in issuing individual permits. For example, certain provisions of the sanitation rule are only applicable if salvaging activities are undertaken. IDEM has also, in the draft rule, proposed standards for signs at facilities not open to the public. However, some of the requirements mentioned must apply whether or not a facility accepts "outside wastes."

Please also note that as comprehensive as the listed permits and programs may be, they do not directly address the current solidification process. They are also not pertinent to the fact that another regulatory program can require additional permitting of specific activities, as is the case for MLC, even when other activities are properly permitted and managed. This is particularly true if a material is excluded from a specific regulatory program. The Used Oil Management rules, for instance, state at 329 IAC 13-3-1(e)(3) that "...materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(A) not used oil and are thus not subject to this article (329

IAC 13); and

(B) are solid wastes and thus are subject to the hazardous waste regulations under 329 IAC 3.1 if the materials are listed or identified as hazardous waste.”

Comment: While the application content, and the permit issuance procedures, are fairly specific and lengthy in Article 11, almost no technical standards are included for the construction and operation of “solidification” (or even the defined types of solid waste processing) facilities. The term “solidification” has yet to be defined, and the construction and operational requirements that do exist in the current rule are so vague as to be capricious. Those requirements that do have some specificity appear to be geared toward municipal solid waste handling facilities (such as transfer stations or incinerators) - rather than an existing industrial, used oil processing, or centralized wastewater treatment plant.

Based on earlier telephone conversations with IDEM Office of Land Quality staff, there is also some concern as to what portion of MLC’s facility IDEM considers to be the “solid waste processing facility” that would be subject to a Permit under this Article. The waste “solidification” that is conducted is performed on a relatively small concrete slab with berms that is immediately adjacent to our water treatment plant. However, MLC has approximately 2,000,000 gallons of tank capacity and other equipment for used oil processing, recycled oil blending, and wastewater treatment. This equipment is used for the processing of used oil and wastewater from off-site facilities. What does IDEM consider to be the “solid waste processing facility” that is subject to such a Permit? As explained in these comments, almost all of MLC’s operations are already permitted under other state (IDEM), City (Indianapolis Department of Public Works), and federal (U.S. EPA) programs. (MLC)

Response: The purpose of the rulemaking is to amend the solid waste processing facility definition to be consistent with the 2005 legislation. IDEM proposes to define “solidification” in the draft rule. Only the portions of a facility that process and solidify solid waste would be subject to being permitted under a solid waste processing facility permit. Hazardous waste facility processing would be covered under 329 IAC 3.1. Given the variety of ways that wastes may be legitimately solidified, IDEM did not want to dictate a specific approach. The primary concern is that the wastes are managed in a manner that does not adversely impact human health or the environment.

Comment: MLC would also like to point out a potential conflict in the definition of a “solid waste facility” or “facility” at 329 IAC 11-2-40, and the terms of 329 IAC 11-3-2 *Exclusions; hazardous waste*. These clauses, taken together, imply that hazardous wastes could not be processed at any *solid waste facility* regulated under Article 11. The definition of solid waste facility, which includes “all contiguous land and structures”, would include our permitted hazardous waste management operations. However, the exclusion forbids process of hazardous waste at any solid waste facility regulated under Article 11. (MLC)

Response: Only the portions of a facility that process and handle solid waste would be subject to being permitted under a solid waste processing facility permit. Hazardous waste facility processing areas would be covered under 329 IAC 3.1. The complete definitions allow IDEM to delineate what facility areas and structures are permitted for each regulatory program applicable to the facility. Facilities can share equipment or storage areas for processing of either solid or hazardous waste as long as each facility complies with respective permits for each waste type and treatment. If a facility has only a hazardous waste permit and treats solid waste in accordance with the hazardous waste permit, then processing of the solid waste under the hazardous waste permit is acceptable.

Comment: As noted throughout these comments, Metalworking Lubricants Company is already subject to numerous permit and regulatory programs, and no substantive or material increase in environmental or public health protection will result from the imposition of the proposed solid waste processing facility permit at our facility. Adequate preventative, administrative, and response mechanisms are already in place at the facility, through other regulatory programs, to prevent any release to the environment or adverse exposure to human health from this activity. The only results to Metalworking under the proposed amendments will be an increased administrative burden, additional permit and operating fees, additional consulting fees, and the imposition of redundant (if not conflicting) requirements. The new IDEM Permit and annual operating fees alone will be \$22,150 for the term of the five (5) year Permit. The costs for preparation of the application, including preparation of as-built plans and specifications for the solidification containment area, professional engineer certification, and other application components may be upwards of \$16,000. Management, legal, and personnel costs and expenses to MLC would approximate \$6,500 to obtain the Permit. Administrative, record-keeping and reporting, and any permit modification fees (\$2,200 each) may easily exceed another \$14,500 in costs during the term of the permit. The preceding costs also presume that the subject regulations are clear, realistic, and understandable- a matter yet to be determined.

Unless providing for exemptions from 329 IAC 11, IDEM should exercise flexibility granted the agency at IC 13-15-2-2(4) and (5) to consolidate environmental requirements into one (1) permit, thereby reducing the time and money spent by owners and operators of facilities, and the IDEM, on administrative tasks that do not benefit the environment. MLC, at this time, is undergoing the renewal process for its Hazardous Waste Management Permit, also to be issued by the Office of Land Quality. MLC is not trying here to evade any legitimate requirements to safeguard public health or the environment, rather, we contend that those are already in place through our compliance with numerous other regulatory programs. We are, however, opposed to the imposition of additional permit fees, redundant requirements, repetitive application and public notice procedures, and other burdens that provide no benefit to anyone.

(MLC)

Response: IDEM is open to combining or coordinating certain administrative procedures that would encompass multiple permits and avoid duplication of procedures. Solid waste permit applications could also, for instance, include the same contingency plans as a facility's hazardous waste plan, (if applicable), however, the permit plans must be adapted to accept solid waste. However, a hazardous waste permit only covers the location and activities of hazardous waste management at the facility site. If a facility conducts solid waste processing activities along with hazardous waste management activities, then two permits are required because there are two distinct sets of activities being regulated at the facility.

Comment: Finally, we would like to express our belief that, unless redressed by administrative rule revisions of the nature suggested herein, the recent legislative amendments to the enabling statute will reduce waste solidification capacity in the State, reduce competition, raise operating costs for industry, and unduly favor landfills. In light of these considerations, MLC restates its belief that IDEM should fully explore and implement other options and exemptions as suggested in these comments. (MLC)

Response: IDEM's goal is to assure that facilities receiving industrial waste streams and conducting solidification processes are doing so in a manner that is protective of human health and the environment.

Comment: As noted previously, PCI does not believe that a substantive public health or environmental protection benefit will be gained at our particular facility by the imposition of this new permit requirement. Rather, it will create additional regulatory liability and economic burden on our facility, and our waste management and recovery business. Unless addressed through this rulemaking, it will also allow unfair competitive advantage to permitted solid waste landfills, as opposed to other permitted waste management facilities, as the statute exempts solidification operations at landfills from the requirement to obtain a separate solid waste processing facility permit. (PCI)

Response: Permitted solid waste landfills are exempted because the activity is included in their landfill permit and the exemption language is included in the legislation that amended the definition of solid waste processing facility. It should also be pointed out that landfill solidification operations are required to be permitted under the landfill's permit, and are not without their costs. A minor modification permit costing two thousand and five hundred dollars (\$2,500) is required before a landfill solidification operation can begin. In addition, a landfill solidification operation must be located over the lined portion of the landfill, and built with its own liner and container system. These requirements thus pose comparable costs for a MSWLF conducting liquid waste solidification.

Comment: PCI sincerely believes, as a permitted hazardous waste management facility, that the imposition of yet another permit requirement and regulatory program on their operations creates an unwarranted expense and administrative burden -

without any corresponding benefit in the form of increased protection to the environment or public health. The minimum cost for such a permit, starting with IDEM's \$12,500 permit fee and \$2,000 annual operating fee, and including costs for a professional engineer to prepare and certify as-built plans and specifications for our existing facility at approximately \$6,500, a further \$10,000 in consulting fees for final permit application preparation, and perhaps \$6,500 in direct and indirect costs to PCI personnel, totals over \$36,000 for the initial permit. This does not include the additional costs that will accrue during the application process from anticipated confusion in demonstrating compliance with standards as capricious as those contained in the current rules. The limited permit term of only five (5) years and annual operating fees of \$2,000 to IDEM are a further burden. PCI's direct and indirect costs in administering such a redundant compliance program are at present unknown but, based on our experience, will be significant. Yet another consideration is IDEM's fee of \$2,200 for each minor permit modification.

As previously related, PCI first requests that 329 IAC 11, *Solid Waste Processing Facilities*, continue to exempt [at 329 IAC 11-3-1(5)] the processing of *source-segregated* solid wastes from the permit requirements under this Article, including those facilities engaged in solid waste "solidification" process. While this particular exclusion may require some clarification, there appears to be no need, or expressed legislative intent, to abandon it.

As an alternative to the above, we request that facilities maintaining a valid hazardous waste management permit under 329 IAC 3.1 be exempted from the necessity to obtain a solid waste processing permit under 329 IAC 11. The IDEM could accomplish this simply by amending the regulatory definition of a "solid waste processing facility" at 329 IAC 11-2-45 to include the following: "...A solid waste solidification facility that is not located on an operating, permitted landfill or at a permitted hazardous waste management facility."

We appreciate the opportunity to submit these comment, as well as IDEM's difficult role in promulgating fair and reasonable administrative rules to incorporate the recent legislative amendments to the enabling statute. (PCI)

Response: IDEM does not have the legal authority in this rulemaking to amend or extend the statutory definition of "solid waste processing facility" as amended by the legislature. The facility that holds a valid hazardous waste permit under 329 IAC 3.1 can only be excluded from solid waste processing permitting under 329 IAC 11-3-2(d): "*Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where such solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility*".

Finally, a hazardous waste permit only covers the location and activities of hazardous waste management at the facility site. If a facility conducts solid waste processing activities along with hazardous waste management activities, then two permits are

required because there are two discrete sets of activities, and usually, two different locations subject to permitting at the facility.

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:

#05-279(SWMB)[Amendments to 329 IAC 11]
 Marjorie Samuel
 c/o Administrative Assistant
 Rules, Planning and Outreach Section
 Office of Land 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 eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:00 a.m. and 4:30 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 31, 2006.

Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 329 IAC 11-2-21.4 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-2-21.4 "Medical waste" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
 Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 21.4. "Medical waste" means any solid waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, excluding either of the following:

- (1) Hazardous waste identified or listed under 329 IAC 3.1.
 - (2) Any household waste as defined in 329 IAC 10-2-90.
- (Solid Waste Management Board; 329 IAC 11-2-21.4)

SECTION 2. 329 IAC 11-2-28.4 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-2-28.4 "Plasma arc treatment" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
 Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 28.4. "Plasma arc treatment" means the process of:

- (1) putting waste into an enclosed chamber; and
- (2) introducing a high energy electrical arc that:
 - (A) produces intense heat; and
 - (B) breaks down the organic molecules of the waste into their elemental atoms.

(Solid Waste Management Board; 329 IAC 11-2-28.4)

SECTION 3. 329 IAC 11-2-38.6 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-2-38.6 "Solidification" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
 Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 38.6. "Solidification" means the process of combining a liquid waste with material or other wastes to produce a waste that is no longer a liquid. (Solid Waste Management Board; 329 IAC 11-2-38.6)

SECTION 4. 329 IAC 11-2-43 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-2-43 "Solid waste processing facility" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
 Affected: IC 13-11-2-212; IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 43. "Solid waste processing facility" has the meaning set forth in IC 13-11-2-212 and means a solid waste facility upon at which at least one (1) of the following is located:

- (1) A solid waste incinerator.
- (2) A transfer station.
- (3) A solid waste baler.
- (4) A solid waste shredder,
- (5) A resource recovery system.
- (6) A composting facility, or
- (7) A garbage grinding facility.
- (8) A medical or an infectious waste treatment facility.
- (9) A solid waste solidification facility that is not located on an operating permitted landfill.
- (10) A facility that uses plasma arc or another source of heat to treat solid waste.

(Solid Waste Management Board; 329 IAC 11-2-43; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1932; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 5. 329 IAC 11-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-3-1 Exclusions; general

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
 Affected: IC 13-18-10; IC 13-19-3-3; IC 13-30-2; IC 36-9-30

Sec. 1. The following solid waste management activities are

not subject to the provisions of this article:

- (1) Disposing of only uncontaminated:
 - (A) rocks;
 - (B) bricks;
 - (C) concrete;
 - (D) road demolition waste materials; or
 - (E) dirt.
- (2) Land application activities regulated by 327 IAC 6.1 and 327 IAC 7.
- (3) Confined feeding control activities regulated by IC 13-18-10.
- (4) Wastewater discharge activities regulated by 327 IAC 5.
- (5) Processing ~~except for incineration, in which of waste~~ **when the waste, other than waste tires, has been segregated from the general municipal solid waste stream prior to before arrival at the a processing site: facility. The facility must do the following:**
 - (A) **In the regular course of business, receive distinct and recognizable solid waste items that do not require substantial further processing.**
 - (B) **Return those items for reuse in manufacturing.**
 - (C) **Not have more than ten percent (10%) of the solid waste that passes through the facility ultimately taken for final disposal. This is determined by the weight of material passing through the facility in a calendar quarter.**

This exclusion does not apply to processing of waste by incineration, solidification, or plasma arc or other heat treatment methods.
- (6) Processing, except for incineration of solid waste that takes place at the generating facility.
- (7) Processing and disposal of uncontaminated and untreated natural growth solid waste, including **the following:**
 - (A) Tree limbs.
 - (B) Stumps.
 - (C) Leaves. ~~and~~
 - (D) Grass clippings.
- (8) Disposal of sawdust that is derived from processing untreated natural wood.
- (9) The disposal of coal ash, transported by water, into an ash pond that has received a water pollution control facility construction permit under 327 IAC 3.
- (10) The operation of surface impoundments; however, the final disposal of solid waste in such facilities at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (9) and (11).
- (11) The disposal of coal ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards per year.
- (12) Uses and disposal of coal waste as exempted from regulation in IC 13-19-3-3.
- (13) The legitimate use of iron and steelmaking slags, including the use as a base for road building, but not including

use for land reclamation except as allowed under subdivision (15).

(14) The legitimate use of foundry sand ~~which that~~ has been demonstrated as suitable for restricted waste site Type III under the provisions of 329 IAC 10-9, including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (15).

(15) Other uses of solid waste may be approved by the commissioner if the commissioner determines them to be legitimate uses that do not pose a threat to public health and the environment.

(Solid Waste Management Board; 329 IAC 11-3-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1933; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741)

SECTION 6. 329 IAC 11-4-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-4-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. This rule applies to solid waste processing facilities permitted under 329 IAC 1.5, which was repealed in 1989, ~~which that have closed prior to the effective date of this article.~~ **before April 13, 1996.** *(Solid Waste Management Board; 329 IAC 11-4-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1934; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 7. 329 IAC 11-5-1 IS AMENDED TO READ AS FOLLOWS:

Rule 5. Application of this Article to Existing Permittees and Facilities; Transition Provisions

329 IAC 11-5-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) **Unless otherwise addressed in this rule, all new and existing solid waste processing facilities must comply with applicable requirements of this article.**

(b) This rule applies to ~~all~~ **the following** solid waste processing facilities:

(1) **Facilities** that have construction or operating permits in effect on ~~the effective date of~~ **April 13, 1996.**

(2) **Facilities required to be permitted under the 2006 amendments to this article.**

(Solid Waste Management Board; 329 IAC 11-5-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1935; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 8. 329 IAC 11-5-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-5-2 Existing construction permits

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 2. Construction permits in effect on the effective date of this article **April 13, 1996**, must serve as solid waste permits under 329 IAC 11-9 ~~329 IAC 11-10~~, and through 329 IAC 11-11. To begin operation, facilities for which only construction permits, but not operating permits, have been issued prior to the effective date of this article **before April 13, 1996**, must submit an application for a solid waste facility permit renewal at least ninety (90) days before expiration of the construction permit. Operation of the facility must not begin until a solid waste facility permit has been issued under this article. (*Solid Waste Management Board; 329 IAC 11-5-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1935; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 9. 329 IAC 11-5-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-5-3 Existing operating permits

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 3. Operating permits in effect on the effective date of this article **April 13, 1996**, must serve as solid waste permits under 329 IAC 11-9 ~~329 IAC 11-10~~, and through 329 IAC 11-11 until such time as a permit renewal is either issued or denied by the commissioner under 329 IAC 11-9 ~~329 IAC 11-10~~, and through 329 IAC 11-11, provided there is compliance with section 5(a) of this rule. (*Solid Waste Management Board; 329 IAC 11-5-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1935; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 10. 329 IAC 11-5-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-5-4 Operating requirements for facilities with operating permits in effect on April 13, 1996

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. (a) Plans and permit conditions approved prior to the effective date of this article **before April 13, 1996**, must continue in effect until permit renewal unless the permit is reopened for cause under 329 IAC 11-9 ~~329 IAC 11-10~~, and through 329 IAC 11-11.

(b) Except as provided in subsection (a), the operational standards of 329 IAC 11-13 ~~329 IAC 11-14~~, and through 329 IAC 11-15 for solid waste processing facilities must apply to solid waste processing facilities with operating permits in effect on the effective date of this article: **April 13, 1996**. (*Solid Waste Management Board; 329 IAC 11-5-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1935; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 11. 329 IAC 11-5-6 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-5-6 Pending permit applications

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 6. A permit application that is received:

- (1) before the effective date of the 2006 amendments to this article will not be required to be revised to meet the requirements of this article; however, the application must comply with this article, as effective on August 13, 2004; and
- (2) on or after the effective date of the 2006 amendments to this article will be required to comply with all applicable requirements of this article.

(*Solid Waste Management Board; 329 IAC 11-5-6*)

SECTION 12. 329 IAC 11-5-7 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-5-7 Existing facilities requiring a permit

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 7. (a) A facility described in section 1(b)(2) of this rule that is operating on the effective date of the 2006 amendments to this article must do the following:

- (1) Notify the department within thirty (30) days after the effective date of the 2006 amendments to this article of one (1) of the following:

(A) A permit application will be submitted.

(B) The facility will cease operation within sixty (60) days.

- (2) If the facility will continue to operate, submit a complete application as required by 329 IAC 11-9-1 and 329 IAC 11-9-2 within sixty (60) days after the effective date of the 2006 amendments to this article.

(b) The facility must be operated under the applicable requirements of this article until the:

- (1) permit for the facility is effective; or
- (2) facility ceases operation.

(*Solid Waste Management Board; 329 IAC 11-5-7*)

SECTION 13. 329 IAC 11-9-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-9-5 Demonstration and determination of need

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-20-1-1; IC 13-21-5; IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 5. (a) This section applies to the following:

- (1) All permits for new solid waste processing facilities ~~or excluding transfer stations~~.
- (2) Major modifications of solid waste processing facility permits, ~~excluding transfer stations~~, issued after March 20, 1990. ~~except those facilities exempt under IC 13-20-1-1.~~

(b) In accordance with subsection (a), and in addition to other permit application requirements outlined in this rule, the following are ~~also~~ required:

(1) A description of **the following**:

(A) The anticipated area that would be served by the facility as indicated by the following:

(~~A~~) (i) Solid waste management district or districts if established.

(~~B~~) (ii) County, counties, or portions thereof.

(~~C~~) (iii) County, counties, and state if the area includes portions outside of Indiana.

(~~2~~) ~~A description of~~ (B) The existing solid waste management facilities that serve the same described area.

(~~3~~) ~~A description of~~ (C) The need that would be fulfilled by constructing the proposed facility as follows:

(~~A~~) (i) For facilities proposed in areas with approved district solid waste management plans, ~~a any~~ description of the need **that has been** identified in the **approved** district solid waste management plan required under IC 13-21-5.

(~~B~~) (ii) For facilities proposed in areas without approved district solid waste management plans **or when an approved district solid waste management plan does not address the need for the type of facility proposed**, a description of **the** need for the proposed area to be served.

(~~4~~) ~~A description of~~ (D) Recycling, composting, or other activities that the facility would operate within the proposed area of service.

(~~5~~) (2) Additional information as requested by the commissioner.

(c) The commissioner shall review the submitted application and accompanying materials in accordance with this rule. ~~If it is determined the commissioner determines~~ that there is not a local or regional need in Indiana for the solid waste ~~management~~ **processing** facility, the commissioner shall deny the permit application. (*Solid Waste Management Board; 329 IAC 11-9-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1939; readopted filed Nov 16, 2001, 4:43 p.m.: 25 IR 1129, eff Jan 1, 2002*) **NOTE: Under P.L.154-2005, SECTION 18, 329 IAC 11-9-5 is void to the extent that the rule applies to transfer stations.**

SECTION 14. 329 IAC 11-11-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-11-5 Transferability of permits; change of ownership interest

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-15-1-3; IC 13-15-7; IC 13-19-4; IC 13-30-2; IC 13-30-6; IC 36-9-30-35

Sec. 5. (a) A permit may be transferred to another person by the permittee, without the need for a:

(1) new permit; or

(2) modification or revocation of the existing permit;

being required, if (~~1~~) the permittee notifies the commissioner of the proposed transfer at least sixty (60) days before the proposed date of transfer on forms provided by the commissioner.

(b) **Along with the notification form, the permittee must provide the following:**

(1) **A disclosure statement meeting the requirements of IC 13-19-4-2(1) or IC 13-19-4-2(2) executed by:**

(A) **the transferee; and**

(B) **each person who is a responsible party with respect to the transferee;**

unless IC 13-19-4-2 does not apply under the provisions of IC 13-19-4-1(a)(2).

(2) **A written agreement containing a specific date of transfer of permit responsibility. ~~is submitted to the commissioner;~~**

(3) **Proof of financial responsibility of the transferee as provided in 329 IAC 10-39, if required by the commissioner.**

(4) **Proof that the transferee is, or will be, the owner of the facility.**

(~~3~~) (c) **A permit may not be transferred if** the transferee has: ~~not~~

(1) been convicted under IC 13-30-6 or IC 36-9-30-35; ~~and has not or~~

(2) had a permit to operate under this article or previous articles:

(A) 329 IAC 1.5, which was repealed in 1989; or

(B) 329 IAC 2, which was repealed in 1996;

revoked by the commissioner under IC 13-15-7.

(~~4~~) ~~the transferee provides proof of financial responsibility as provided in 329 IAC 10-39 if required by the commissioner; and~~

(~~5~~) ~~the transferee provides proof that it is, or will be, the owner of the facility.~~

(~~b~~) (d) The transfer will be effective on the specific date of transfer provided by the permittee unless the commissioner notifies the permittee and the transferee that the transfer will be denied **under IC 13-19-4-5 through IC 13-19-4-7.**

(~~e~~) (e) Notwithstanding the transfer of a permit, a variance must not be transferred to another person.

(f) **Subject to IC 13-19-4-8(a), if there is a change of at least fifty percent (50%) ownership control of an entity, but less than a change of the entire ownership control of an entity, that holds a permit described in IC 13-15-1-3, then the entity must, not later than thirty (30) days after the change of ownership control is completed, submit to the department the disclosure statement required by IC 13-19-4-3(a) and IC 13-19-4-3(b).**

(g) **The requirement of subsection (f) applies to the transfer of a permit described in IC 13-19-4-1(a)(2).**

(h) Upon receipt of the disclosure statement required under subsection (f), the commissioner shall follow the procedures and requirements of IC 13-19-4-8(f) and, if applicable, IC 13-19-4-8(g). (Solid Waste Management Board; 329 IAC 11-11-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1940; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2047; readopted filed Nov 16, 2001, 4:43 p.m.: 25 IR 1130, eff Jan 1, 2002)

SECTION 15. 329 IAC 11-13-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-13-3 Signs

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 3. For (a) All solid waste processing facilities except incinerators processing waste generated on-site; each point of access from a public road must have a sign of at least sixteen (16) square feet in area identifying the following:

- (1) The name of the facility.
- (2) The type of operation.
- (3) The facility's IDEM permit number.
- (4) The phone number for the person to be contacted in the event of an emergency.

(b) For facilities that grant access to the public, the following are also required:

- (1) The sign must:
 - (A) be posted at each point of access from a public road; and
 - (B) identify:
 - (i) times that a facility employee is present; and indicating
 - (ii) the time the facility is open to accept waste.
- (2) The schedule of fees. hours of operation; and solid waste facility permit number.

(c) For facilities that do not grant access to the public, the sign must be posted at the door of the facility building. (Solid Waste Management Board; 329 IAC 11-13-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1942; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 16. 329 IAC 11-15-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-15-1 Definitions

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-11-2; IC 13-19-3-3; IC 13-22; IC 13-30-2; IC 16-41-16-4; IC 36-9-30

Sec. 1. (a) In addition to the definitions found in 329 IAC 11-2 and IC 13-11-2, the definitions in this section apply throughout this rule.

(b) "Broker", as defined in IC 13-11-2-19, means a person who is in the business of making arrangements for the transport-

tation of municipal waste that was generated by another person.

(c) (b) "Manifest" means the form used for identifying the:

- (1) quantity;
- (2) origin;
- (3) operators involved in a shipment; and
- (4) destination;

of municipal solid waste during its transportation.

(d) "Municipal waste", as defined in IC 13-11-2-133, means any garbage, refuse, industrial lunchroom or office waste, and other similar material resulting from the operation of residential, municipal, commercial, or institutional establishments, and from community activities. The term does not include the following:

(1) Hazardous waste regulated under:

(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) the federal Solid Waste Disposal Act, 42 U.S.C. 6901 et seq. in effect on January 1, 1990.

(2) Infectious waste as defined in IC 16-41-16-4.

(3) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.

(4) Materials that are being transported to a facility for reprocessing or reuse. As used in this subdivision, "reprocessing or reuse" does not include either of the following:

(A) Incineration.

(B) Placement in a landfill.

(e) (c) "Operator", as defined in IC 13-11-2-148(c), means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

(1) A broker.

(2) A person who manages the activities of a transfer station that receives municipal waste.

(3) A transporter.

(f) "Solid waste processing facility", as defined in IC 13-11-2-212, means a facility at which at least one (1) of the following is located:

(1) A solid waste incinerator.

(2) A transfer station.

(3) A solid waste baler.

(4) A solid waste shredder.

(5) A resource recovery system.

(6) A composting facility.

(7) A garbage grinding system.

The term does not include a facility or an operation that generates solid waste.

(g) (d) "Transporter", as defined in IC 13-11-2-238, means a person who is in the business of transporting municipal waste.

(h) (e) "Waste transfer activities", as defined in IC 13-11-2-254, means the participation by a:

- (1) broker or a transporter who is:

- (A) a resident of Indiana; or
- (B) not a resident of Indiana; or
- (2) transfer station that receives municipal waste located:
 - (A) inside Indiana; or
 - (B) outside Indiana;

in the collection or transportation of municipal waste for disposal or incineration in Indiana. (*Solid Waste Management Board; 329 IAC 11-15-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1944; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741; filed Jul 14, 2004, 9:15 a.m.: 27 IR 3973*)

SECTION 17. 329 IAC 11-15-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-15-3 Manifests required information

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-30-2; IC 36-9-30

Sec. 3. The manifest required under section 2 of this rule must include the following information:

- (1) The amount in tons or pounds of municipal waste transported in the vehicle.
- (2) The name and address of the solid waste processing facility from which the municipal waste is transported in the vehicle.
- (3) The destination of the municipal waste.
- (4) The name and business address of the transporter of the municipal waste.
- ~~(5) The acknowledgment numbers issued by the department under IC 13-20-6-5(2) to the transfer station, transporter, and broker listed on the manifest.~~
- ~~(6)~~ (5) The name and address of the broker involved in the shipment, if applicable.
- ~~(7)~~ (6) The date of:
 - (A) the shipment; and ~~the date of~~
 - (B) receipt at the final disposal facility.

(*Solid Waste Management Board; 329 IAC 11-15-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1945; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741*)

SECTION 18. 329 IAC 11-15-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-15-5 Prohibition on accepting municipal waste

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-20-6-4; IC 13-30-2; IC 36-9-30

Sec. 5. (a) ~~Prior to~~ **Before** accepting a shipment of municipal waste from a transfer station located inside or outside of Indiana, a solid waste processing facility must **do the following**:

- (1) Receive a copy of the manifest. ~~and must~~
- (2) Review the manifest to determine whether the items listed under section 3 of this rule are included on the manifest.

- (b) A solid waste processing facility must not knowingly

accept a shipment of municipal waste from a transfer station located inside or outside of Indiana if ~~the~~:

- (1) ~~the~~ municipal waste is not accompanied by a manifest that contains the information required under section 3 of this rule; or
- (2) ~~the~~ solid waste processing facility has received notice from the department that the commissioner has issued an order under ~~IC 13-20-6-3 or~~ IC 13-20-6-4 that suspends the waste transfer activities within Indiana of the transfer station or operator that is listed on the manifest accompanying the shipment of municipal waste.

(c) Subsection (b)(2) does not apply unless the department has sent notice by certified mail, return receipt requested, to the solid waste processing facility that the commissioner has suspended the waste transfer activities of the transfer station or operator listed on the manifest. The notice must contain the following:

- (1) The name of the operator or transfer station subject to the commissioner's order to suspend waste transfer activities.
- (2) The date on which the waste transfer activities are suspended under the commissioner's order.
- ~~(3) The acknowledgment number issued to the operator under IC 13-20-6-5(2) if applicable.~~
- ~~(4)~~ (3) The location of the transfer station if the order applies to a transfer station.

(d) Subsection (b)(2) does not apply after the department has notified a suspended transfer station or operator that they may resume waste transfer activities in Indiana. The notice to the formerly suspended transfer station or operator must contain the date in which waste transfer activities may resume. A copy of this notice must be sent by the department via certified mail, return receipt requested, to each solid waste processing facility that was sent the applicable notice under subsection (c). (*Solid Waste Management Board; 329 IAC 11-15-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1945; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741*)

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 July 18, 2006 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 amendments to rules at 329 IAC 11.

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 Lou McFadden, Rules Development Section, Office of Land Quality, (317) 232-8922 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) 233-6565 (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 Land Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana, and are open for public inspection.

Other Notices

**State of Indiana
Notice of Public Comment on the
Drinking Water State Revolving Fund (DWSRF) Loan Program
Draft Project Scoring System**

Notice is given that the Indiana Drinking Water State Revolving Fund (DWSRF) Loan Program has drafted a new priority system for scoring drinking water projects on the DWSRF Project Priority List (PPL). A project must be ranked on the drinking water PPL in order to receive DWSRF assistance. The priority system is the procedure used to assign a score to a project; the project score is used to rank a project on the PPL. After a 30-day public comment period and major comments have been addressed, the DWSRF expects to adopt and rescore all projects on the State Fiscal Year 2007 PPL (July 1, 2006).

Notice is given that interested persons are invited to review the Draft Project Scoring System and provide the DWSRF comments.

The Draft Project Scoring System is available at www.srf.in.gov and upon request.

Requests for and comments about the Draft Project Scoring System may be directed to:

Ms. Sarah Reymann
Drinking Water Program Administrator
100 N. Senate Ave., IGCN, Rm. 1275
Indianapolis, IN 46204
(317) 232-8663
sreymann@ifa.in.gov

The DWSRF will accept comments on the Draft Project Scoring System until June 1, 2006.

**INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION
DIVISION OF MENTAL HEALTH AND ADDICTION
Public Notice**

The Indiana Family and Social Services Administration Division of Mental Health and Addiction (DMHA) has scheduled a public meeting to inform all interested parties of the application procedure and guidelines to achieve certification as an addiction treatment services provider and to achieve approval as an Opioid Treatment Program.

The meeting will be held on Thursday, May 31, 2006, from 10:00 a.m. to 12:00 p.m. (Noon) EDT, in the Indiana Government Center-South (IGCS) at 402 West Washington Street, Conference Center Room 14, Indianapolis, Indiana. Interested persons are invited to come to the meeting hear an overview of the criteria upon which applications will be evaluated, including guidelines for needs assessments, to ask questions, and to obtain an application packet. To help facilitate provision of application materials, please make your planned attendance known by contacting Ms. Jamie Lane by phone at (317) 232-7916 or by e-mail to Jamie.Lane@fssa.in.gov no later than May 24. Persons planning to attend the public meeting who need accommodations due to disabilities should inform Jamie Lane of their needs by the same date.

If unable to attend, application packets can also be requested by submitting a written request to Alex-Michael Hoehne, Program Director, Division of Mental Health and Addiction, Indiana Government Center-South, 402 West Washington Street, Room W-353, Indianapolis, IN 46204 or by e-mail to Alex-Michael.Hoehne@fssa.in.gov. Packets will be mailed out directly after the meeting.

**STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS**

EXECUTIVE ORDER: 06-04

FOR: ESTABLISHING THE INDIANA INTELLIGENCE FUSION CENTER

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, one of the most serious challenges affecting homeland security is the timely exchange of intelligence and critical law enforcement information among local, state and federal agencies;

WHEREAS, intelligence analysts confront a vast amount of information, the majority of which may appear meaningless in isolation. However, any single fact may prove essential once it is combined with other information. An intelligence fusion center will enhance the analysis process by creating a structure that agencies can use to share information and combine their efforts more effectively. An intelligence fusion center would not duplicate or replace the activities of existing agencies, but will enhance their efforts by providing a capability that does not presently exist;

WHEREAS, the purpose of an intelligence fusion center is to collect, integrate, evaluate, analyze and disseminate information and intelligence to support local, state and federal agencies in detecting, preventing, and responding to criminal and terrorist activity. An intelligence fusion center locates representatives of these agencies in the same facility to share information and to facilitate joint efforts to prevent and solve crimes and to better protect the public;

WHEREAS, the creation of an intelligence fusion center in Indiana will enable the United States Department of Homeland Security to distribute critical information and intelligence to one place in Indiana with the certain knowledge that it will be promptly disseminated to those agencies located in Indiana who need the information to better protect the public; and

WHEREAS, the establishment of intelligence fusion centers in all fifty states is a critical goal of Secretary Michael Chertoff's agenda for the U.S. Department of Homeland Security.

NOW THEREFORE, I, Mitchell E. Daniels, Jr., Governor of the State of Indiana, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Indiana Intelligence Fusion Center is hereby established and shall be operated by the Indiana Department of Homeland Security.
2. An Executive Committee is hereby created and made responsible for the development and governance of the Indiana Intelligence Fusion Center.
3. The Executive Committee shall be chaired by the Executive Director of the Indiana Department of Homeland Security or his designee.
4. The Executive Committee shall initially be comprised of the following twelve (12) members or their designees, each of whom shall be appointed by, and serve without compensation at the pleasure of the Governor:
 - the U.S. Attorney for the Southern District of Indiana
 - the U.S. Attorney for the Northern District of Indiana
 - the Special Agent in Charge of the Indianapolis Field Office of the Federal Bureau of Investigation
 - the Director of the Indiana Department of Homeland Security
 - the Adjutant General of Indiana
 - the Superintendent of the Indiana State Police
 - the Superintendent of the Indiana Excise Police
 - the Director of Law Enforcement for the Indiana Department of Natural Resources
 - the Sheriff of the Marion County Sheriff's Department
 - the Chief of the Indianapolis Police Department or any successor Indianapolis metropolitan law enforcement agency
 - the Executive Director of the Indiana Sheriffs' Association
 - the Executive Director of the Indiana Association of Chiefs of Police
5. The Executive Committee shall approve the selection of an Executive Director of the Indiana Intelligence Fusion Center, who shall be an officer of a state law enforcement agency with experience in information gathering and analysis, and who shall serve at the pleasure of the Executive Committee.

Executive Orders

6. The Executive Committee shall develop a Charter that establishes the principles, management, policies, and operations of the Indiana Intelligence Fusion Center.
7. The Executive Committee may establish one or more advisory committees with member agencies and representatives from criminal justice agencies, fire and building safety services, public health, licensing authorities and such other entities as are deemed necessary and appropriate to the operation and function of the Indiana Intelligence Fusion Center.
8. The information provided to the Indiana Intelligence Fusion Center shall be gathered, collected, maintained, and disseminated as criminal intelligence information under applicable federal and state laws and regulations under the authority of the Indiana State Police Department.
9. The Executive Committee shall convene within sixty (60) days of the signing of this order to begin the draft of a Charter detailing the principles, management, policies, and operations of the Indiana Intelligence Fusion Center. Subsequent meetings of the Executive Committee will be called by the Chairperson until such time as the Charter is established.
10. The Executive Committee may direct, as it deems appropriate, the inclusion of additional Executive Committee members representative of other critical government or private sector entities. The inclusion of additional Executive Committee members will be determined by majority vote of the Executive Committee. An agency or member may terminate its responsibilities to the Indiana Intelligence Fusion Center by providing thirty (30) days written notice to the Chair of the Executive Committee.
11. The Executive Committee shall develop and publish an Indiana Intelligence Fusion Center Privacy Policy in consultation with appropriate legal experts. This policy must be in place before the Indiana Intelligence Fusion Center commences its operations. The policy must require the Indiana Intelligence Fusion Center to operate within the limits of federal and state public access and privacy laws. An effective policy will enable the Indiana Intelligence Fusion Center and its members to preserve the integrity and effectiveness of their public safety responsibilities and law enforcement functions while also protecting our citizens from the inappropriate use or release of personal information.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 20th day of March, 2006.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Todd Rokita
Secretary of State

**INDIANA ELECTION COMMISSION
ORDER 2006-90**

**BEFORE THE
INDIANA ELECTION COMMISSION**

IN THE MATTER OF THE) ADMINISTRATIVE CAUSE
ADMINISTRATIVE DISSOLUTION OF:) NUMBER: 05-4527-98
CITIZENS FOR CRABTREE)
)

**ORDER ADMINISTRATIVELY
DISSOLVING COMMITTEE**

This administrative dissolution proceeding came before the Indiana Election Commission (hereinafter "the Commission") at its September 22, 2005 meeting. The Commission, after due consideration of the evidence and record, hereby determines as follows:

- 1) Notice of hearing has been served pursuant to IC 3-9-1-12 and posted pursuant to IC 5-14-1.5;
- 2) The above-named committee has not filed any report of expenditures within the previous three (3) calendar years;
- 3) The above named committee owes no debt to any person other than a civil penalty assessed by the Commission or owes no debt to any person other than a debt to a candidate who is the chairman or treasurer of the candidate's committee and the committee filed a report under IC 3-9; and
- 4) The last reported cash on hand does not exceed one thousand dollars (\$1000) and the committee filed a report under IC 3-9.

Further, the Commission finds:

- 1) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise functions as a committee;
- 2) According to the best evidence available to the Commission, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

IT IS THEREFORE ORDERED that Citizens for Crabtree committee is hereby administratively dissolved.

**SO ORDERED THIS 28th DAY OF FEBRUARY, 2006:
THE INDIANA ELECTION COMMISSION:**

Thomas E. Wheeler, II, Chairman

Butch Morgan, Member

S. Anthony Long, Vice-Chairman

Thomas John, Member

**INDIANA ELECTION COMMISSION
ORDER 2006-91**

**BEFORE THE
INDIANA ELECTION COMMISSION**

IN THE MATTER OF THE) ADMINISTRATIVE CAUSE
ADMINISTRATIVE DISSOLUTION OF:) NUMBER: 05-4472-99
HOOSIERS FOR CRAZY TAXES)
)

**ORDER ADMINISTRATIVELY
DISSOLVING COMMITTEE**

This administrative dissolution proceeding came before the Indiana Election Commission (hereinafter "the Commission") at its September 22, 2005 meeting. The Commission, after due consideration of the evidence and record, hereby determines as follows:

Nonrule Policy Documents

- 1) Notice of hearing has been served pursuant to IC 3-9-1-12 and posted pursuant to IC 5-14-1.5;
- 2) The above-named committee has not filed any report of expenditures within the previous three (3) calendar years;
- 3) The above named committee owes no debt to any person other than a civil penalty assessed by the Commission or owes no debt to any person other than a debt to a candidate who is the chairman or treasurer of the candidate's committee and the committee filed a report under IC 3-9; and
- 4) The last reported cash on hand does not exceed one thousand dollars (\$1000) and the committee filed a report under IC 3-9.

Further, the Commission finds:

- 1) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise functions as a committee;
- 2) According to the best evidence available to the Commission, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

IT IS THEREFORE ORDERED that Hoosiers for Crazy Taxes committee is hereby administratively dissolved.

**SO ORDERED THIS 28TH DAY OF FEBRUARY, 2006:
THE INDIANA ELECTION COMMISSION:**

Thomas E. Wheeler, II, Chairman

Butch Morgan, Member

S. Anthony Long, Vice-Chairman

Thomas John, Member

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title: Risk Integrated System of Closure (RISC), User's Guide, Chapter 3 – UST, LUST and ELTF Programs

Identification Number: W0046

Date Originally Effective: February 15, 2001

Dates Revised: 10/15/2001, 4/20/2006

Other Policies Repealed or Amended:

Brief Description of Subject Matter: RISC User's Guide, Chapter 3 provides program-specific requirements to the regulated community regarding the use of RISC at Leaking Underground Storage Tank (LUST) sites. The chapter includes the narrative description nine (9) standardized report formats.

Citations Affected: IC 13-12-3-2 – Environmental policy: remediation objectives; IC 13-23 – Underground Storage Tanks; 329 IAC 9 – Underground Storage Tanks; and 328 IAC 1 – Underground Storage Tank Financial Assurance Board (ELTF)

This nonrule policy document is intended solely as guidance and does not have the effect of law or represent formal Indiana Department of Environmental Management (IDEM) decisions or final actions. This nonrule policy document shall be used in conjunction with applicable laws. It does not replace applicable laws, and if it conflicts with these laws, the laws shall control. This nonrule policy document may be put into effect by IDEM 30 days after presentation to the appropriate board. Pursuant to IC 13-14-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate board. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM will submit the policy to the Indiana Register for publication. Revisions to the policy will follow the same procedure of presentation to the board and publication.

Chapter 3 may be viewed at http://www.in.gov/idem/land/risc/user_guide/index.html

DEPARTMENT OF INSURANCE

March 30, 2006

Bulletin 136

Insurance Coverage for Pervasive Developmental Disorders

This Bulletin is directed to all insurance companies that issue accident and sickness insurance policies as defined in IC 27-8-

14.2-1 and to health maintenance organizations (HMOs) as defined in IC 27-13-1-19. Coverage for Pervasive Developmental Disorders (PDD) is a very complex issue. In 2001, the Indiana General Assembly passed P.L.148-2001 adding IC 27-8-14.2 and IC 27-13-7-14.7. These provisions increased insurance coverage for persons suffering with PDD from what was available in the insurance market at that time. As is often the case, the bill that was passed contained compromises from the bills that were introduced, debated and amended. After a bill is passed and the statute is implemented it is not uncommon for interested persons to continue to dispute the meaning of the final language. The Department of Insurance is charged with implementing the provisions of Title 27. The Department must implement the statutes as they are written, giving meaning to each word of the statute. This Bulletin is intended to provide guidance to insurers and to consumers on contract language and administration of claims for the treatment of PDD as required by IC 27-8-14.2 and IC 27-13-7-14.7.

IC 27-8-14.2-4 requires that a group accident and sickness insurance policy must provide coverage for the treatment of PDD of an insured. IC 27-8-14.2-5 requires insurers that issue individual policies of accident and sickness insurance to offer to provide coverage for the treatment of PDD. And, IC 27-13-7-14.7 requires an HMO that provides basic health care services to provide services for the treatment of PDD of an enrollee. Neither insurers nor HMOs can deny or refuse to issue coverage on, refuse to contract with, or refuse to renew, or reissue or otherwise terminate coverage on an individual solely because the individual is diagnosed with PDD.

A written treatment plan for each individual with PDD must be developed and signed by the treating physician. The treatment plan should be submitted to the insurer or HMO as soon as possible after its development to facilitate the payment of claims. If a non-physician recommends the treatment plan, it must be approved and signed by the treating physician. The Department of Insurance recognizes the insurer's or HMO's right to review the services prescribed under the treatment plan as to medical necessity. The insurer or HMO shall consult with the treating physician in its consideration of the treatment plan. Any challenge to medical necessity will be viewed as reasonable only if the review is by a specialist in the treatment of PDD. A specialist includes a clinical employee such as a medical director or PhD clinical administrator, provider or consultant of the insurer or HMO, and has specialized and current knowledge of PDD. Any challenge to medical necessity will be treated the same as any other grievance, following the grievance and appeals process as defined in IC 27-8-28, IC 27-8-29, IC 27-13-10, and IC 27-13-10.1.

The treatment plan must include all elements necessary for the insurer or HMO to appropriately pay claims. These elements include but are not limited to: a diagnosis, proposed treatment by type(s), frequency and duration of treatment(s), the anticipated outcomes stated as goals, the frequency by which the treatment plan will be updated, and the treating physician's signature. The insurer must provide, in writing, its determination regarding coverage for the services and supplies prescribed by the treatment plan within thirty (30) days of the insurer or HMO receiving the treatment plan. The insurer or HMO shall provide specific contact information for provider or member questions and shall facilitate filing of claims. An insurer or HMO that fails to provide its determination on the treatment plan within 30 days may be subject to enforcement action under IC 27-4-1-4.5.

Recognizing that PDD is a neurological condition, services will be provided without interruption, as long as those services are consistent with the treatment plan and with medical necessity decisions. Service exclusions contained in the insurance policy or HMO contract that are inconsistent with the treatment plan will be considered invalid as to PDD. However, coverage of services may be subject to other general exclusions and limitations of the contract or benefit plan, such as coordination of benefits, participating provider requirements, services provided by family or household members, eligibility, appeals processes, and carved out services (e.g. if the employer elects not to provide pharmacy coverage for any employees). IC 27-8-14.2-4(b), IC 27-8-14.2-5(b) and IC 27-13-7-14.7(c) and (e) state that the coverage or services that must be offered "may not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles, or coinsurance provisions that apply to physical illness generally" under the accident and sickness policy or contract with the health maintenance organization. This provision allows the insurer or HMO to apply dollar limits, deductibles, co-payments and coinsurance as long as the application is consistent with coverage for physical illness generally. The Department considers dollar limits and visit limits to be synonymous for the purposes of this bulletin.

It is the Department's position that behavioral therapies such as Applied Behavioral Analysis Services may not be subject to limitations that apply to therapies such as physical, occupational or speech therapy. Further, Indiana does not currently have a licensing requirement for persons who perform Applied Behavioral Analysis Services. It is, therefore, inappropriate at this time for an insurer or HMO to deny a claim based upon the fact that the provider of Applied Behavioral Analysis Services does not hold a license.

The insurer shall have the right to request an updated treatment plan not more than once every six (6) months from the treating physician to review medical necessity, unless the insurer or HMO and the provider agree that a more frequent review is necessary due to emerging clinical circumstances. The cost of obtaining an updated treatment plan at the request of the insurer or HMO shall be borne by the insurer or HMO. This review does not alter the requirements and rights described in IC 27-8-29, IC 27-13-10 and IC 27-13-10.1.

It is important for consumers to review their insurance coverage. For persons covered by individual policies, insurers are required to provide the insured with a copy of their insurance contract. For persons covered by group insurance policies or HMO

Nonrule Policy Documents

contracts, the insurer or HMO is required to provide a copy of the certificate or evidence of coverage. While the insurer is not required to provide each covered person with a copy of the group insurance contract it should be made available if requested.

The insurance policies and HMO contracts affected by this Bulletin are required to be filed and approved by the Department. As guidance to the companies the Department approves the following language in its entirety:

1. Pervasive Development Disorder means a neurological condition, including but not limited to Asperger's syndrome and autism, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.
2. Coverage for services will be provided as prescribed by the insured's treating physician in accordance with a treatment plan.
3. Any exclusion within the policy, certificate or contract that is inconsistent with the treatment plan does not apply.
4. The benefits for Pervasive Developmental Disorder will not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable than the dollar limits, deductibles, or coinsurance provisions that apply to physical illness generally under the accident and sickness insurance policy, certificate or HMO contract.

Any form in conflict with this Bulletin should be revised and filed with the Department. Policies, certificates, contracts, endorsements, or riders already approved for use may be used until the employer contract is amended, renewed, or terminated. However, the Department requires effective with the date of this Bulletin any insurer or HMO that is interpreting its policies more restrictively than the standards of this Bulletin shall adjudicate claims consistent with the provisions of the Bulletin. The Consumer Protection Unit of the Department encourages individuals to contact the Department with any concerns over the payment of claims. Each complaint will be reviewed individually for compliance with all applicable statutes.

James Atterholt, Commissioner

DEPARTMENT OF INSURANCE

April 10, 2006

Bulletin 137

Universal Life Insurance: Minimum Reserves

This Bulletin applies to all universal life insurance policies issued on or after January 1, 2006. The minimum reserves required for universal life insurance policies issued on or after January 1, 2006, shall comply with the provisions of:

1. The National Association of Insurance Commissioners (NAIC) Universal Life Insurance Model Regulation as reflected in Appendix A-585 of the Accounting Practices and Procedures Manual published by the NAIC;
2. The requirements of 760 IAC 1-64 regarding Valuation of Life Insurance Policies; and
3. Any applicable actuarial guidelines adopted by the NAIC in regards to universal life insurance policy minimum reserves.

For policies issued before January 1, 2006, the insurer may request, subject to the approval of the Department of Insurance, to hold reserves under this Bulletin rather than those required under Bulletin 54. Written requests shall be filed with the Department's Financial Division. No changes may be implemented until the insurer receives written approval from the Department.

INDIANA DEPARTMENT OF INSURANCE

James Atterholt, Commissioner

DEPARTMENT OF STATE REVENUE

AUDIT-GRAM NUMBER IR-014

February 28, 2006

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: Consolidated Return - Membership

Authority: IC 6-3-4-14; 45 IAC 3.1-1-111; IRC § 1502 and IRC § 1504; Treas. Reg. § 1.1502-75

IC 6-3-4-14. Consolidated returns.

(a) An affiliated group of corporations shall have the privilege of making a consolidated return... The making of a consolidated return shall be upon the condition that all corporations... consent to all of the provisions of this section including all provisions of the consolidated return regulations prescribed pursuant to Section 1502 of the Internal Revenue Code... prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent and

(b) [T]he term “affiliated group” shall mean an “affiliated group” as defined in Section 1504 of the Internal Revenue Code with the exception that the affiliated group shall not include any corporation which does not have adjusted gross income derived from sources within the state of Indiana.

[1980]

I. GENERAL STATEMENT

A group of Indiana taxpayers may file an Indiana consolidated Adjusted Gross Income Tax return under the following conditions:

- A. all members must be corporations;
- B. all members must be affiliated as defined in IRC § 1504;
- C. all members must have Indiana Adjusted Gross Income at some time during the tax year;
- D. all affiliated members must consent [FN 1] to abide by the provisions of,
 - 1. IRC §1502 [FN 2],
 - 2. IC 6-3-4-14, and
 - 3. all regulations promulgated for either law; and
- E. the consolidated return must be filed by the due date [FN 3].

II. INCLUSION OF AFFILIATED MEMBERS IN INDIANA CONSOLIDATED RETURN

- A. Initial Consolidated Return – The initial consolidated return must include all Indiana affiliated members.
 - 1. If an Indiana affiliated member failed to file a return in Indiana, the member will be included in an amended Indiana consolidated return.
 - 2. If an Indiana affiliated member filed a separate return in Indiana, the member will be included in an amended Indiana consolidated return.
- B. Years Subsequent to the Initial Consolidated Return Filing.
 - 1. All affiliated members of the initial consolidated return must continue to file as members of the consolidated return, provided each continues to have Indiana income.
 - 2. An Indiana taxpayer becoming a member of the affiliated group at any time after the group has filed its initial consolidated return will be deemed to be a member of all consolidated returns filed after such affiliation regardless of the new member’s failure to have filed in Indiana or, if filed, the method of such filing.

III. PERMISSION TO FILE OR TERMINATE FILING CONSOLIDATED RETURN

- A. Permission to begin filing a consolidated Indiana Adjusted Gross Income Tax return is not required, provided the initial consolidated return is filed by the due date.
- B. Permission to discontinue filing a consolidated Indiana Adjusted Gross Income Tax return must be requested from the Department.

[FN 1] The filing of the Indiana consolidated return is deemed to be consent by all affiliated Indiana members.

[FN 2] Filing a consolidated Indiana return is not conditioned upon the filing a consolidated Federal return.

[FN 3] IC 6-8.1-1-4. “Due date” defined.

DEPARTMENT OF STATE REVENUE

04-970373.LOF

LETTER OF FINDINGS NUMBER: 97-0373
STATE GROSS RETAIL TAX
For Years 1993, 1994, AND 1995

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax — Dealer Rebates

Authority: 45 IAC 2.2-4-1(b); 45 IAC 15-5-4; IC 6-2.5-2-1; IC 6-2.5-2-2; IC § 6-8.1-5-1; Sales/Use Tax Information Bulletin #28

Taxpayer protests the proposed assessments of sales tax on rebates paid by the manufacturer to the dealer.

II. State Gross Retail Tax — Capitalized cost reductions

Authority: *Linville Olds-Cadillac, Inc. v. Indiana Department of State Revenue, Cause No. 49T10-9910-TA-202, 2004 Ind. Tax LEXIS 22*

Taxpayer protests the assessments of sales tax on capital projects.

III. State Gross Retail Tax —Projection

Authority: IC § 6-8.1-5-4

Taxpayer protests the proposed assessments based on a projected error rate.

IV. State Gross Retail Tax — Use tax

Authority: 45 IAC 2.2-3-4; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of use tax on materials used in construction.

V. State Gross Retail Tax —Loaner Fleet

Authority: 45 IAC 2.2-3-5

Taxpayer protests the proposed assessments of use tax on rental vehicles.

STATEMENT OF FACTS

Taxpayer sells new and used cars and trucks. Taxpayer also has a parts department, service department, and body shop. In addition, the dealership maintained a loaner car fleet during most of the audit periods and rented vehicles using a third-party vendor. Assessments of sales and/or use tax were made on manufacturer's payments received by the dealer, capital purchases, including materials used in construction, loaner vehicles, lease arrangements, and on a projected error rate for general purchases.

Taxpayer filed a protest and a hearing was held. After the hearing, the taxpayer and Department determined that the facts related to the protest on lease arrangements were closely related to the *Linville Olds* court case and deferred this Letter of Findings until the resolution of that case.

I. State Gross Retail Tax -- Dealer Rebates

DISCUSSION

The various manufacturers of the vehicles sold by taxpayer offer payments to either the dealer or customer on the vehicles sold. Based on the forms of these payments, gross retail tax may or may not be due on these amounts as outlined below.

Indiana imposes a sales tax on the transfer of tangible personal property in a retail transaction. The sellers of the property are required to collect the sales tax from the purchasers and remit that tax to the state. IC 6-2.5-2-1. The amount of sales tax is determined by applying the tax rate to the gross retail income received by the merchant. IC 6-2.5-2-2. "Gross retail income" is defined at IC 6-2.5-1-5(a) as follows:

"Gross retail income" means the total gross receipts, of any kind or character, received in a retail transaction, except that part of the gross receipts attributable to:

- (1) the value of any tangible personal property received in a like kind exchange in the retail transaction: or
- (2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract.

The value of the gross retail income transferred for tangible personal property in a retail sale is defined at 45 IAC 2.2-4-1(b) as follows:

All elements of consideration are included in gross retail income subject to tax. Elements of consideration include, but are not limited to:

- (1) The price arrived at between purchaser and seller...

Sales/Use Tax Information Bulletin #28 issued December 1992(Suspended June 2005) includes the following explanation of the actual taxable selling price in a retail transaction.

A manufacturer's rebate is not considered deductible for sales tax purposes. This is because the purchaser is not entitled to the rebate until the vehicle is sold. In those instances, where the purchaser retains control of determining how to utilize the rebate, the rebate remains taxable. For example, if the purchaser has the option of receiving the rebate in cash, or assigning the rebate to the dealer to be applied as a down-payment on the purchase of the car, the character of the rebate remains taxable. Therefore, the purchaser is simply agreeing in advance to use the cash rebate as part of the purchaser's consideration in buying the vehicle. However, where the purchaser has no control over the use of a manufacturer's rebate, the rebate will be considered a manufacturer's price reduction, and will be deductible for sales tax purposes and not included in the taxable selling price. For example, where a documented manufacture's rebate stipulates that the rebate must be assigned to the dealer by the purchaser, the purchaser never has control over the use of the rebate and as such, the rebate would be considered deductible for sales tax purposes.

A manufacturer's price reduction is considered deductible for sales tax purposes. This is because the manufacturer is actually reducing the selling price of the vehicle. The dealer (seller) does not receive the amount of the price reduction as consideration. A dealer's price discount is also considered deductible in determining the amount on which sales tax is charged. The selling price is reduced by the dealer's price discount. The dealer (seller) does not receive the amount of the price discount as consideration for the vehicle sale.

The auditor and the general manager reviewed the list of manufacturer's payments to verify the dealership's classification of these payments. The auditor determined that a number of the entries were not correctly characterized and some of the manufacturer's

payments were reclassified from “dealer’s price discount” or “manufacturer’s price reduction” -non-taxable- to “manufacturer’s rebate” –taxable.

Taxpayer disagrees with the reclassification of these transactions to “manufacturer’s rebates”, but does not provide sufficient documentation to demonstrate the reclassification was incorrect. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has not established a basis for reversal of the sales tax assessment.

FINDING

Taxpayer’s protest is denied.

II. State Gross Retail Tax — Capitalized cost reductions

DISCUSSION

This issue was held pending the resolution of a court case, which has now been resolved. The decision by the tax court, *Linville Olds-Cadillac, Inc. v. Indiana Department of State Revenue, Cause No. 49T10-9910-TA-202, 2004 Ind. Tax LEXIS 22*, was unpublished, but based on the Department’s prior arrangement, taxpayer’s protest of this issue is sustained pursuant to the court’s holding in this case.

FINDING

Taxpayer’s protest is sustained.

III. State Gross Retail Tax — Projection

DISCUSSION

This issue revolves around the burden of proof in an audit situation, which IC § 6-8.1-5-4 defines as:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person’s liability for that tax by reviewing those books and records. The records in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Subject to the guidelines above, the Department will grant credit for the applicable transactions for which valid documentation has been provided. In this instance, the taxpayer and the Department agreed to use a sample month and project an error rate based on this period. Taxpayer now argues that some of the transactions from the sample month may have been misclassified, or that further documentation related to the transactions can now be provided, thus the error rate should be accordingly reduced. Department declines to rework the error rate determination based on taxpayer’s selective review of isolated transactions.

FINDING

Taxpayer’s protest is denied.

IV. State Gross Retail Tax —Use tax

DISCUSSION

The audit made an adjustment for general dealership purchases that were not for resale, including purchases by a contractor for building repairs and improvements. Audit deducted the amounts where tax was paid and assessed tax on the unverified portion of the purchases. Taxpayer argues that the contractor making improvements to the property was responsible for remitting sales tax on these purchases. 45 IAC 2.2-3-4 states:

Tangible personal property, purchased in Indiana, or elsewhere in a retail transaction, and stored, used, or otherwise consumed in Indiana is subject to Indiana use tax for such property, unless the Indiana state gross retail tax has been collected at the point of purchase.

Taxpayer is the ultimate user of these supplies, as such, pursuant to 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.

Subject to the guidelines above, the Department granted credit where transactions for which valid documentation was provided and-as required by the above guidelines- no credit was granted for transactions for which no documentation was provided. Taxpayer cites no authority in support of its request to shift responsibility for the tax on the property it is using to a third party.

FINDING

Taxpayer’s protest is denied.

V. State Gross Retail Tax — Loaner Fleet

DISCUSSION

Audit made an adjustment for their rental fleet. The rental fleet actually consisted of vehicles that were loaner vehicles which were offered to customers free of charge. Taxpayer used a third party for actual rental of cars. Audit assessed used tax based on the mileage driven. The authority for this adjustment is found in 45 IAC 2.2-3-5(b)

The sale of any vehicle required to be licensed by the state for highway use in Indiana shall constitute selling at retail and shall be subject to the sales or use tax unless such purchaser is entitled to one or more of the exemptions as provided on form ST-108....

Taxpayer argues that since these vehicles were eventually sold and sales tax remitted, the use tax should only be assessed on

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the difference between a new car sales price and the price the vehicle was actually sold for. The taxpayer does not address the nearly \$450,000 taxpayer claimed as depreciation for these vehicles during the audit period, nor does taxpayer provide an exemption that would apply to this taxable use of the vehicles.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02-20000378.LOF

LETTER OF FINDINGS NUMBER: 00-0378

Adjusted Gross Income Tax

For the Year 1997

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Adjusted Gross Income Tax—Addback of state and local income taxes

Authority: Ind. Code § 6-3-1-3.5(b); *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

Taxpayer protests the addback of Riverboat Wagering Tax for adjusted gross income tax.

II. Adjusted Gross Income Tax—Credits

Authority: Ind. Code § 6-3.1-17-1

Taxpayer protests the failure to apply tax credits that it claims eliminated its tax liability.

STATEMENT OF FACTS

Taxpayer was corporation that operated a casino in Indiana. Taxpayer was assessed additional corporate income tax based on the adding back of Riverboat Wagering Tax. Taxpayer protested the assessment on two grounds. First, Taxpayer maintained that the Riverboat Wagering Tax was not a tax "based on or measured by income." Second, Taxpayer maintained that it had an Indiana Riverboat Building Credit in excess of the proposed liabilities.

I. Adjusted Gross Income Tax—Addback of state and local income taxes

DISCUSSION

Taxpayer argues that the Riverboat Wagering Tax is not a "tax based on or measured by income" under Ind. Code § 6-3-1-3.5(b). In a published decision, the Indiana Tax Court has considered the issue of adding back the Riverboat Wagering Tax and concluded that the tax is subject to add back for corporate income tax purposes. *Aztar Indiana Gaming Corp. v. Indiana Dept. of State Revenue*, 806 N.E.2d 381 (Ind. Tax 2004).

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax—Credits

Taxpayer also protests the imposition of the tax based on an Indiana Riverboat Building Tax Credit under Ind. Code § 6-3.1-17-1 *et seq.*, that effectively eliminated its proposed liability. Taxpayer has provided sufficient information to substantiate this contention.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420010083.SLOF

SUPPLEMENTARY LETTER OF FINDINGS: 01-0083

Use Tax

For 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 the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**I. Gross Retail and Use Taxes.**

Authority: IC 6-2.5-3-2(a); IC 6-2.5-3-4(a); IC 6-2.5-3-7(a).

On the ground that taxpayer paid sales tax at the time he originally bought the materials, taxpayer argues that he is not subject to use tax on materials used in his mailbox business.

STATEMENT OF FACTS

Taxpayer constructs, sells, and installs mailboxes. The Department of Revenue (Department) conducted an audit review of taxpayer's business records. The audit asked taxpayer to provide records to show that he had properly determined his use tax liability. According to the audit, the taxpayer was provided 60 days during which to provide the records. According to the audit, taxpayer was given written notice that "if the requested information [is] not made available... the audit will be completed based on the best information available to the auditor." When taxpayer failed to provide the records, the audit assessed use tax based on the best available records.

Taxpayer protested. The protest was assigned to the original hearing officer. The original hearing officer contacted taxpayer's representative asking for the records to substantiate the protest. Neither taxpayer nor taxpayer's representative ever supplied the necessary records. Thereafter, the original hearing officer prepared and issued a Letter of Findings in which taxpayer's protest was denied.

On the ground that he had been denied the opportunity to substantiate his original protest, taxpayer asked for a rehearing on the matter. That rehearing was granted. Taxpayer and the taxpayer's representative met with the Hearing Officer, and this Supplementary Letter of Findings results.

DISCUSSION

Taxpayer maintains that he is not subject to use tax on materials used in carrying out his mailbox business.

Pursuant to IC 6-2.5-3-2(a), "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..." However, a use tax exemption is provided at IC 6-2.5-3-4(a) which states that, "The storage, use, and consumption of tangible personal property in Indiana is exempt from the use tax if: (1) the property was acquired in a retail transaction in Indian and the state gross retail tax has been paid on the acquisition of that property."

In determining whether a person is liable for use tax or is entitled to an exemption, Indiana law states 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 unless the person or the retail merchant can produce evidence to rebut that presumption." IC 6-2.5-3-7(a) (*Emphasis added*).

The audit quite correctly determined that taxpayer's materials were subject to use tax because taxpayer failed to rebut the statutory presumption. The original Letter of Findings also correctly found that taxpayer's materials were subject to use tax because taxpayer did nothing to rebut the statutory presumption.

Nonetheless – and after substantial delay – taxpayer has provided a representative set of invoices for 1997. Taxpayer asserts that he is also able to produce 1998 invoices. Based on the representative set of invoices, it appears that taxpayer paid sales tax on certain of the materials for which the audit assessed use tax. Based on the invoices provided, the Department is willing to defer to taxpayer's assertion that the original use tax assessment – based upon the best information then available – should be adjusted to comport with the records taxpayer now makes available. The Department will ask that a supplemental audit be conducted in order to review the available records.

The Department has allowed taxpayer extraordinary latitude in granting taxpayer's request for a rehearing on this matter. It should be noted that significant delay has resulted from taxpayer's own failure to produce the records when requested by both the original audit and by the original hearing officer. Any further delay whatsoever in providing these records at the time of the supplemental audit will fully justify a finding that taxpayer has defaulted on the opportunity herein provided. Consequently, taxpayer will have exhausted his administrative remedies without finding the remedy he seeks.

FINDING

Subject to the results of the Supplemental Audit, taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

43-20030103.LOF

**LETTER OF FINDINGS NUMBER 03-0103
UNDERGROUND STORAGE TANK FEES FOR THE
REPORTING PERIOD ENDING DECEMBER 17, 2001**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the *Indiana Register* and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the *Indiana Register*. The publication

of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Underground Storage Tank Fees—Liability Tax Administration—Protests—Timeliness

Authority: IC 6-8.1-1-1, -1-6, -5-1(c), -6-3(a)(1) and (b) and -9-1 (2004); IC 13-23-12 (1998); *United States v. Brockamp*, 519 U.S. 347 (1997); 45 IAC 15-5-2(a) (2004)

The taxpayer protests the assessment of underground storage tank (UST) fees for the reporting period in issue. The Department on its own initiative raises the question of whether the taxpayer submitted his protest of that assessment in a timely manner.

STATEMENT OF FACTS

The taxpayer is an individual whom the Department assessed unpaid UST fees for the reporting period ending December 17, 2001, among other periods. The Department's records indicate that it mailed the taxpayer a Notice of Proposed Assessment (hereinafter Form AR-80) for the protested liability on October 23, 2002. The taxpayer mailed his protest letter by certified mail, return receipt requested, on February 5, 2003 (105 days after the mailing of the AR-80) as shown by the certification date on the envelope. The taxpayer states in that letter that he was not aware, nor had this Department ever told him, that fees were due on empty USTs. The letter further states in relevant part: "I am sorry that I didn't reply sooner because I just has [sic] a Pacemaker/Diffibulator [sic] installed and am recooperating [sic]." The Department has since issued a tax warrant against the taxpayer for this liability.

DISCUSSION

UST fees assessed pursuant to IC article 13-23 are included in the definition of "listed taxes" or "taxes" under IC 6-8.1-1-1. IC chapter 13-23-12 imposes the UST fee. The owner of a UST that is not closed before July 1 of any year must pay an annual registration fee to the Department for each such UST for that year. The Department collects the UST fee as agent for the Indiana Department of Environmental Management (IDEM). IC 13-23-12-4 requires the Department to collect the UST fee and deposit specified amounts of each such fee into the underground petroleum storage tank (UPST) trust fund and into the UPST excess liability trust fund respectively created by IC chapters 13-23-6 and -7. IDEM may use the money in those funds for the purposes set out in IC 13-23-6-1 and -13-6 (as to the UPST trust fund), in IC 13-23-7-1 and -4 (as to the UPST excess liability trust fund), and the statutes to which each of those sections respectively refer.

The first sentence of IC 6-8.1-5-1(c) (2004) states: "The notice [of proposed assessment] shall state that the person has sixty (60) days from the date the notice is mailed to pay the assessment or to file a written protest." Title 45 IAC 15-5-2(a) (2004) states: "A taxpayer has sixty (60) days from the date the notice of additional tax assessment is mailed to protest the additional tax liability." The deadline to file a protest is absolute; when the General Assembly enacted IC 6-8.1-5-1(c), it did not give the Department discretion to grant any extension of time of that deadline on grounds of illness, hardship or for any other reason. "Tax law, after all, is not normally characterized by case-specific exceptions reflecting individualized equities." *United States v. Brockamp*, 519 U.S. 347, 352 (1997).

However, a taxpayer that fails to protest, but still wants to contest the merits of any part of the assessment to the Department, may still do so. Such a taxpayer must first pay the assessment in full, including all accrued interest and any penalty, and file a claim for refund of that payment pursuant to IC 6-8.1-9-1 or any refund claim statute included in a particular listed tax law that conflicts with IC 6-8.1-9-1. *See* IC 6-8.1-1-6 (provision of a listed tax law relating to the imposing, collecting or administering of that tax controls over any conflicting provision of IC article 6-8.1). A taxpayer seeking to file a claim for refund of any listed taxes that are fees imposed by IC article 13 (Environment) must file the claim with this Department, not with IDEM.

IC 6-8.1-6-3(a)(1) and (b), read together, treat documents and writings sent to the Department by certified mail as being filed on the certification date, as authenticated by the United States Post Office. The taxpayer mailed his certified protest letter 105 days after the Department mailed the Form AR-80. The taxpayer's protest is thus untimely. Even if that protest had been timely, however, the taxpayer's ignorance or misunderstanding of the law would not have been a valid defense to the assessment. IC 13-23-12-1 does not condition liability for the UST fee on whether the UST in question is full or empty, but on whether the tank is open or closed.

The taxpayer therefore must pay the assessment and file a claim for refund if he wants to revive his right to administrative review of that assessment. The Department has not found any specific statute in IC 13-23 governing the procedure for filing a claim for refund of UST fees. IC 6-8.1-9-1 thus would govern the procedure for any claim for refund of those fees. The taxpayer must submit a copy of this Letter of Findings with any such claim he may file.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02-20030130.SLOF

SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 03-0130

Corporate Income Tax

For the Years 1999, 2000, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of

publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Tax Administration - Penalty

Authority: Ind. Code § 6-8.1-10-2.1; 45 IAC 15-11-2.

Taxpayer protests the imposition of the ten percent (10 percent) negligence penalty.

STATEMENT OF FACTS

Taxpayer is a business engaged in the leasing of computer hardware and other technological equipment. Taxpayer's offices are located in another state, and Taxpayer does not maintain an office or personnel in Indiana. The property that Taxpayer leases is subject to a security interest in the state in which it is located and notification in the event it is moved to another state; however, Taxpayer does not control the location of the property with very minor exceptions. As a result of Department audit, Taxpayer was assessed gross income tax with respect to its income from leases located in Indiana.

The due date of the Taxpayer's Indiana Corporate Income Tax return for the period ending March 31, 2001 was July 16, 2001. However, final payment was not received by the Department until January 15, 2002. Therefore, the 10 percent penalty plus interest was applied to the late payment. In regards to late payments, payment is applied first to the penalty portion and then to the interest and any remainder is then applied to the base tax. This caused the tax due to be underpaid for the period resulting in additional tax due. The notice received also included a IT-2220 penalty for underpayment of estimated corporate income tax. This penalty was abated by the Department's audit review section on November 17, 2005. The taxpayer protests the remaining 10 percent penalty.

I. Tax Administration - Penalty

DISCUSSION

Taxpayer protests the imposition of the ten percent (10 percent) negligence penalty that the Department has imposed. The amount Taxpayer owed before the audit adjustments and before the imposition of the IT-2220 underpayment of estimated tax penalty was \$818.47. The September 13, 2005 billing in the amount of \$1,834.22 was based upon the supplemental audit adjustments but before the waiver of the IT-2220 penalty. The November 21, 2005 bill of \$1,182.92 was based on the supplemental audit changes that took into account the abatement of the IT-2220 penalty.

Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC 6-8.1-10-2.1. The Indiana Administrative Code 45 IAC 15-11-2 further provides:

(b) "Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- (1) the nature of the tax involved;
- (2) judicial precedents set by Indiana courts;
- (3) judicial precedents established in jurisdictions outside Indiana;
- (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
- (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Taxpayer argues that penalty should be waived in this case. The taxpayer argues that they did not foresee the dramatic increase in either the Gross Income Tax or Supplemental Net Income Tax. The taxpayer contends that the prepayments totaling \$1,673 for the tax year ending March 31, 2001 would exceed the eventual liability. The taxpayer's March 31, 2000 (prior year) tax liability amounted to \$1,673 so the taxpayer states that it had paid in more than 100 percent of the prior year's tax liability as of the original due date. The taxpayer argues that the estimated payments in the amount of \$1,675 represented a best faith estimate of the expected liability. The taxpayer states, "It is our opinion that the four fold increase in tax liability experienced by the taxpayer was not foreseeable at the original due date of the return for the tax year ended March 31, 2001. Therefore, the taxpayer's inability to foresee and accurately estimate its liability was not willful."

While its changes in procedures are certainly commendable, taxpayer's failure to utilize the other appropriate procedures in

the first place did not meet the duty of reasonable care expected of a taxpayer. Further, even accepting taxpayer's statement of an excellent compliance history, in this instance taxpayer's operations did not meet the duty of ordinary business care expected of taxpayers.

Under IC 6-8.1-10-2.1, if the taxpayer fails to pay the full amount of tax due on the tax return on or before the due date of the return, the tax due is subject to penalty and interest. The due date of the Taxpayer's Indiana Corporate Income Tax return for the period ending March 31, 2001 was July 16, 2001. However, final payment was not received by the Department until January 15, 2002. Therefore, the 10 percent penalty plus interest was applied to the late payment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030170.LOF

LETTER OF FINDINGS: 03-0170

Gross Income Tax For 1999 through 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Notice of 1999 Proposed Assessment.

Authority: IC 6-8.1-5-2; IC 6-8.1-5-2(a).

Taxpayer argues that the 1999 notice of "Proposed Assessment" was untimely on the ground that taxpayer received the 1999 notice more than three years after the later of the due date for taxpayer's 1999 return and the date on which that return was filed.

II. Rental Company – Gross Income Tax.

Authority: IC 6-2.1-2-2; U-Haul International, Inc. v. Ind. Dept. of State Revenue, 826 N.E.2d 713 (Ind. Tax Ct. 2005); U-Haul Co. of Indiana Inc., et al. v. Ind. Dept. of State Revenue, 784 N.E.2d 1078 (Ind. Tax. Ct. 2002).

Taxpayer maintains that the audit erred in assessing it with gross income tax on the Indiana rental company's share of amounts collected from the public by its Indiana rental dealers.

III. Fleet Owner – Gross Income Tax.

Authority: IC 6-2.1-2-2; IC 6-2.1-2-2(a); IC 6-8.1-3-3; IC 6-8.1-3-3(b); U-Haul International, Inc. v. Ind. Dept. of State Revenue, 826 N.E.2d 713 (Ind. Tax Ct. 2005); U-Haul Co. of Indiana Inc., et al. v. Ind. Dept. of State Revenue, 784 N.E.2d 1078 (Ind. Tax. Ct. 2002); Enterprise Leasing v. Indiana Dept. of Revenue, 779 N.E.2d 1284 (Ind. Tax Ct. 2002); 45 IAC 1.1-1-3(a); 45 IAC 1.1-2-10(a); 45 IAC 15-3-2; 45 IAC 15-3-2(d)(2)(C); Tax Policy Directive 9 (Ind. Dept. of Rev. December 1995).

Taxpayer states that the audit erred in treating the fleet owner as subject to gross income tax and assessing the fleet owner for gross income tax.

IV. Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer argues that the assessment of the ten percent negligence penalty was illegal and erroneous.

STATEMENT OF FACT

Taxpayer is a company in the business of renting to the public moving equipment such as trucks, trailers, and related materiel [*sic.*].

For the sake of clarity, "taxpayer" in this Letter of Findings refers to the umbrella organization under which the company operates its rental business. Taxpayer is composed of four groups: (1) fleet owners; (2) rental companies; (3) rental dealers; and (4) the international company. The groups are bound together by various contractual relationships.

The fleet owners are corporations, partnerships, or individuals which own and supply the rental equipment to taxpayer. Under the contracts between the fleet owners and the taxpayer, the fleet owners entrust their equipment to taxpayer in exchange for a percentage of the rental received by the rental dealers from the public. The fleet owners earn approximately 35 to 55 percent of gross receipts received from the public.

The rental companies are separate companies that merchandise and supervise the maintenance and repair of the rental equipment. The rental companies contract with the international company; the international company assigns a territory in which the rental company is responsible for establishing rental dealers. The rental companies receive a percentage of the gross income collected by the rental dealers in the rental companies' own territory. The rental companies earn approximately 10 to 30 percent of the gross

receipts received from the public.

The rental dealers are the local businesses that rent the moving equipment to the public. Under the rental dealers' contract with the rental companies, the rental dealers make weekly deposits of all the rental income collected from the public. The deposits are made into an account which belongs to the international company. The rental dealers earn approximately 25 to 35 percent of gross receipts received from the public.

The international company provides clearinghouse, accounting, computer, management and various services to taxpayer. After the international company receives the rental amounts from the rental dealers, the international company distributes the contractual shares of that income to the fleet owners, the rental companies, and the rental dealers. As compensation for providing the services, the international company earns service fees from the other members. Unlike the other participants, the international company does not retain a contractually defined percentage of the rental amounts the rental dealers deposit into the account. U-Haul International, Inc. v. Indiana Dept. of State Revenue, 826 N.E.2d 714-15 (Ind. Tax Ct. 2005).

The Department of Revenue (Department) conducted an audit review of taxpayer's 1999, 2000, and 2001 tax returns and business records.

The audit found that one of the rental companies did not report as gross income the rental company's percentage share of the rental income the rental company received from Indiana customers. An adjustment was made to assess gross income tax on that amount.

The audit found that one of the fleet owners did not report as gross income the fleet owner's percentage share of the rental income attributable to the rental of vehicles in Indiana. Therefore, the audit made an adjustment to assess the fleet owner gross income tax on receipts earned from the rental of vehicles in Indiana.

Taxpayer did not agree with the adjustments and submitted a protest to that effect. An administrative hearing was conducted during which taxpayer's representatives explained the basis for the protest. This Letter of Findings results.

DISCUSSION

I. Notice of 1999 Proposed Assessment.

The Department's audit resulted in the issuance of notices of "Proposed Assessment." The notices indicated that taxpayer owed additional corporate income tax for 1999, 2000, and 2001.

As a threshold issue, taxpayer argues that the "1999 proposed assessment [is] untimely and invalid." Taxpayer states that it received "the 2000 and 2001 Notices, along with an audit report covering the years 1999, 2000, and 2001... in late February, 2003." However, taxpayer states that it "never received a "notice of Proposed Assessment for 1999 until 2005...."

IC 6-8.1-5-2 states in part that, "[T]he department may not issue a proposed assessment... more than three (3) years after the latest of the date the return is filed, or... the due date of the return...." IC 6-8.1-5-2(a). Taxpayer claims that the 1999 proposed assessment is untimely stating that "the time for issuing a proposed assessment to [taxpayer] for 1999 expired on January 15, 2003."

The notices of "Proposed Assessment" for 2000 and 2001 were issued on "1/28/2003" and "1/13/2003 respectively. Taxpayer indicates that these two notices were received together with a copy of the August 1, 2002, audit report in February 2003. Because the 1999 "Proposed Assessment" was not received at the same time, taxpayer – stating that it did not receive the 1999 notice until 2005 – maintains that the 1999 assessment is time-barred pursuant to IC 6-8.1-5-2. However, the 1999 notice plainly indicates that it was issued on "12/23/2002." Accepting taxpayer's assertion that the time for issuing the proposed 1999 expired January 15, 2003, the 1999 notice was timely issued. Although there is nothing in the written record which definitely explains why the 1999 notice was not mailed to taxpayer together with the 2000 and 2001 notices, it is not unreasonable to assume that the 1999 notice was issued earlier in order to assure that the notice was timely.

FINDING

Taxpayer's protest is respectfully denied.

II. Rental Company – Gross Income Tax.

Taxpayer states that the Indiana rental company was not subject to gross income tax on money attributable to the rental income received from Indiana customers. Taxpayer states that the rental company had no beneficial interest in this money as determined in U-Haul Co. of Indiana Inc., et al. v. Ind. Dept. of State Revenue (*U-Haul I*), 784 N.E.2d 1078 (Ind. Tax. Ct. 2002).

During the three years at issue, the state's gross income tax was imposed under IC 6-2.1-2-2. The gross income tax is levied upon the receipt of "(1) the entire taxable gross income of a taxpayer who is a resident or domiciliary of Indiana; and (2) the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." *Id.*

The Department is unable to agree with taxpayer's assertion that the Tax Court determined in *U-Haul I* that the rental company did not have a beneficial interest in the rental income. As explained in U-Haul International, Inc. v. Ind. Dept. of State Revenue (*U-Haul II*), 826 N.E.2d 713 (Ind. Tax Ct. 2005), In *U-Haul II*, the court held that the "rental companies *do* have a beneficial interest in their contractually specified percentage of the rental receipts." *Id.* at 717 (*Emphasis in original*). "What logically and naturally follows from [*U-Haul I*] is that each member of the U-Haul System has a beneficial interest in its own contractually specified percentage of the rental receipts." *Id.* The court concluded that the rental companies "[were] subject to gross income tax on that

portion of the rental income in which they [had] a beneficial interest.” *Id.* at 718.

The audit correctly assessed the Indiana rental company gross income tax on its contractually specified percentage of the receipts earned from individual rental transactions which occurred in Indiana.

FINDING

Taxpayer’s protest is respectfully denied.

III. Fleet Owner – Gross Income Tax.

Taxpayer argues that the fleet owner was not subject to gross income tax because the fleet owner did not have any gross income which was “derived from activities or businesses or any other sources” within the meaning of IC 6-2.1-2-2.

In support, taxpayer cites to Enterprise Leasing v. Indiana Dept. of Revenue, 779 N.E.2d 1284 (Ind. Tax Ct. 2002). In that case, the Tax Court found that an out-of-state company did not receive Indiana source income when it rented Indiana-titled cars to its customers; therefore, the rental income was “not subject to Indiana’s gross income tax.” *Id.* at 1292.

IC 6-2.1-2-2(a) imposes the gross income tax on the receipt of “the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or domiciliary or Indiana.” However in Enterprise, the Tax Court found that certain rental income received from Indiana customers was not Indiana source income for gross income tax purposes.

A. Critical Transaction:

In Enterprise, the court found that money received from renting Indiana titled cars was not Indiana source income because it was not the petitioners who decided to register and operate the cars within the state. Enterprise 779 N.E.2d at 1291. Rather, it was the decision of the individual customers to register and operate the cars in Indiana. *Id.* The petitioners’ activities in sending the cars to its customers “did not rise to the level of ‘active participation’ in the ‘ownership, leasing’ or rental’ of property in Indiana.” *Id.* The court determined that the “critical transaction” that related to the leasing of the cars occurred at the petitioners’ out-of-state location. *Id.* at 1230.

The Department does not find that the decision in Enterprise is dispositive of the question of whether the fleet owner’s contractually specified percentage of the receipts earned from individual rental transactions, which occurred in Indiana, is subject to the gross income tax. In Enterprise, the fact that the tangible personal property happened to be located within Indiana was unrelated to the “critical transaction” which formed the basis for the petitioners’ income. In taxpayer’s situation, the rental income is derived from property located within this state and the “critical transaction[s]” – on which the fleet owner’s income is entirely predicated – occurred entirely within the state.

Taxpayer’s argument to the contrary, the analysis seems reasonably straightforward. 45 IAC 1.1-1-3(a) states that, “[A] taxpayer may establish a ‘business situs’ in ways including, but not limited to, the following: (6) Ownership, leasing, rental or other operation of income producing property (real or personal).” Taxpayer receives a contractually specified share of rental receipts attributable to the rental of property to Indiana customers. 45 IAC 1.1-2-10(a) provides that “rental income derived from leasing real or personal property is taxable as a service under section 5 of this rule.”

As between the four constituent parties which compromise taxpayer’s business system, the “critical transaction” does not arise from the contractual relationship established among those parties. The fleet owner does not earn money because it entered into an agreement with the international company; the fleet owner obtained the income here at issue because the fleet owner’s vehicles were rented to Indiana customers by a local Indiana dealer pursuant to transactions which occurred entirely within Indiana. The fleet owner’s proportionate share of the Indiana rental income is not an abstraction remote or distinguishable from the fleet owner’s vehicles. The fleet owner’s share of the Indiana receipts consists of earnings to which the fleet owner is contractually entitled and in which the fleet owner possesses a fixed and determinable beneficial interest. *See U-Haul II*, 826 N.E.2d at 717.

B. Change in Interpretation:

In addition, taxpayer states that the imposition of the gross income tax assessment on the fleet owner’s percentage of the rental received from the public represents a change in the Department’s interpretation of the gross income tax law prohibited under IC 6-8.1-3-3. According to taxpayer, because the Department has changed its interpretation from that set out in a 1986 Letter of Findings, the assessment of tax on the gross income received by the fleet owner is barred.

IC 6-8.1-3-3(b) states that “No change in the department’s interpretation of a listed tax may take place before the date the change is: (1) adopted in a rule under this section; or (2) published in the Indiana Register under IC 4-22-7-7(a)(5), if IC 4-22-2 does not require the interpretation to be adopted as a rule; if the change would increase a taxpayer’s liability for a listed tax.”

The 1986 Letter of Findings to which taxpayer refers stated that, “For gross income tax purposes, [fleet owner] cannot be characterized as having taxable instate activity or business contemplated by [IC 6-2.1-2-2(a)(2)]. [Fleet owner] is one step removed from the typical nonresident lessor in that it leases to [taxpayer] which subsequently rents or leases to end customers.”

Tax Policy Directive 9 (Ind. Dept. of Rev. December 1995) states that “a departmental ruling will automatically become null and void and no longer of any effect for tax years beginning after December 31 of the sixth (6th) year after the year in which the ruling is issued.” In addition, the Directive states that “all rulings issued by the Department prior to January 1, 1990 are hereby declared null and void and of no effect for tax years beginning after December 31, 1995.” Under either provision of the 1995 Directive, the 1986 Letter of Findings on which taxpayer relies was “null and void and of no effect” at the time the 2003 audit was conducted.

Nonetheless, the Department is willing to agree that the stance taken in the 1986 Letter of Findings is at variance with the position taken by the Department's 2003 audit and in this most recent Letter of Findings. However, it is self-evident that this Letter of Findings – reflecting the position set out in the 2003 audit – will in due time be published in the Indiana Register under the requirements stipulated under IC 6-8.1-3-3(b).

The more pertinent question is whether the Department's position on the taxability of the fleet owner may be applied retroactively; can the Department's change of position, set out in a 2003 audit and in a Letter of Findings published during 2006, effect the taxability of income received during 1999, 2000, and 2001?

45 IAC 15-3-2 provides in relevant part provides as follows:

As a general rule, the revocation or modification of a ruling will *not be applied retroactively* with respect to the taxpayer to whom the ruling was originally issued or to a taxpayer whose tax liability was directly involved in such a ruling. Under circumstances where a ruling to a taxpayer is revoked with retroactive effect, the notice to such taxpayer will set forth the grounds upon which the revocation is being made and the extreme circumstance under which revocation is being applied retroactively. This retroactive revocation is decided upon a case-by-case basis taking into account all relevant facts and circumstances. The department may exercise its discretion to retroactively rescind or modify rulings in the following extreme circumstances, which are not all inclusive:

- (A) There was a misstatement or omission of material facts.
- (B) The facts, as developed after the ruling, were materially different from the facts on which the department based its ruling.
- (C) There was a change in the applicable statute, *case law* or regulation.
- (D) The taxpayer directly involved in the ruling did not act in good faith. (*Emphasis Added*)

In U-Haul Co. of Indiana Inc., et al. v. Ind. Dept. of State Revenue (U-Haul I), 784 N.E.2d 1078 (Ind. Tax. Ct. 2002) and U-Haul International, Inc. v. Ind. Dept. of State Revenue (U-Haul II), 826 N.E.2d 713 (Ind. Tax Ct. 2005), the court disagreed with the Department's position that 100 percent of the petitioner's gross income was subject to gross income tax. *U-Haul I*, 784 N.E.2d at 1084. The court stated that each member of the company had a beneficial interest in its "own contractually specified percentage of the rental receipts" and that the international company was "not contractually entitled to any of the rental receipts." *U-Haul II*, 826 N.E.2d at 717-18.

In the two U-Haul decisions, the court found that the Department had erred in its interpretation of the gross income statutes in regards to taxpayer's corporate income tax liability. Specifically, the court found that the individual component fleets owners, rental companies, and rental dealers were each liable for gross income tax on their contractually defined percentage of the rental receipts and that the international company was not liable for gross income tax on any portion of the rental receipts. Based on the two U-Haul decisions, the Department must conclude that the 2003 audit comports fully with the tax court's earlier decisions and that the 2002 and 2005 decisions constitute "a change in the applicable statute, *case law* or regulation" which justifies a retroactive application of the Department's position as set out in the 2003 audit report and in this superseding Letter of Findings. See 45 IAC 15-3-2(d)(2)(C).

FINDING

Taxpayer's protest is respectfully denied.

IV. Negligence Penalty.

Taxpayer argues that there is "no indication in the Audit report of any wrongdoing on the part of [the rental company] or [the fleet owner] which would justify the imposition of the proposed penalty, nor is there any factual support of any kind for the assessment of a penalty."

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." *Id.*

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Given the fact that the Tax Court did not hand down the decision in *U-Haul II*, until May 2005 and the fact that the Department has changed its stance to reflect the court's decisions in both *U-Haul I* and *U-Haul II*, the Department agrees that taxpayer has made a threshold showing that taxpayer exercised reasonable care and prudence in reporting its income as it did during 1999, 2000, and 2001.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0220040007.LOF

LETTER OF FINDINGS NUMBER: 04-0007**Income Tax****For Tax Years 1996-2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Adjusted Gross Income Tax—Reclassification of Income**

Authority: The May Department Store Company v. Indiana Department of State Revenue, 749 N.E.2d 651 (Ind. Tax 2001); 26 CFR 1.707-3; IC 6-3-2-2; 45 IAC 3.1-1-29; 45 IAC 3.1-1-30

Taxpayer protests the reclassification of income from allocated to apportioned.

II. Tax Administration—Negligence Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the imposition of a ten percent (10%) negligence penalty.

STATEMENT OF FACTS

Taxpayer is a member of a multinational group of petroleum industry companies. In 2000, taxpayer combined its assets in five states, none of which was Indiana, with another corporation to form a new partnership. The Department conducted an audit of the partnership and determined that the income from the sale of its business to the partnership was business income and issued proposed assessments on the income. Taxpayer protests the proposed assessments. Further facts will be supplied as required.

I. Adjusted Gross Income Tax—Reclassification of Income

In 2000, taxpayer contributed one hundred percent (100%) of its assets to a partnership which has Indiana nexus. The contributed property had no Indiana nexus. In return for the contribution, taxpayer received a percentage interest in the partnership plus cash of which a percentage was deemed to be gain on sale of assets under I.R.C. § 707-3. As a result of joining the partnership, which had Indiana nexus, taxpayer began filing Indiana returns in 2000. The Department conducted an audit and, noting that taxpayer reported the gain on sale amount as taxable income on its Federal return and that taxpayer included the gain on sale amount in the denominator of the sales factor of the Indiana apportionment formula on its Indiana return, issued proposed assessments on the Indiana-apportioned percentage of the gain on sale amount as business income.

In determining that the gain on sale amount was business income, The Department relied upon 45 IAC 3.1-1-29 in determining that the income in question was business income. 45 IAC 3.1-1-29 states:

“Business Income” is defined as income from transactions and activity in the regular course of the taxpayer’s trade or business, including income from tangible and intangible property if the acquisition, management, or disposition of the property are integral parts of the taxpayer’s regular trade or business.

Nonbusiness income means all income other than business income. The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, non-operating income, etc., is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises in from transactions and activity occurring in the regular course of a trade or business. Accordingly, the critical element in determining whether income is “business income” or “nonbusiness income” is the identification of the transactions and activity which are the elements of a particular trade or business.

Further guidance in determining business income under Indiana law is found in The May Department Store Company v. Indiana Department of State Revenue, 749 N.E.2d 651 (Ind. Tax 2001), in which the Indiana Tax Court determined that IC 6-3-1-20 provides for both a transactional test and a functional test in determining whether income is business or non-business in nature. Id. at 662-3.

In May, the court looked to 45 IAC 3.1-1-29 and 30 for guidance in determining whether income is business or business income under the transactional test. These regulations state, “the critical element in determining whether income is ‘business income’ or ‘nonbusiness income’ is the identification of the transactions and activity which are the elements of a particular trade or business.” Id. at 664. 45 IAC 3.1-1-30 lists several factors in making this determination. These include the nature of the taxpayer’s trade or business; substantiality of the income derived from activities and relationship of income derived from activities to overall activities; frequency, number or continuity of the activities and transactions; length of time income producing property was owned; and taxpayer’s purpose in acquiring and holding the property producing income. In May, the court found that the transactional test was not met when a retailer sold a retailing division to a competitor because the taxpayer was not in the business of selling entire divisions. Id. at 664.

In this case the transaction was the sale of taxpayer’s entire operation to the partnership. Taxpayer had been in the business of

producing and selling petroleum products, but the final act of taxpayer's business was to sell everything it had to the partnership. Unlike the company in May, taxpayer here was not forced to sell its business. Taxpayer chose to change its business from producing and selling petroleum products to becoming a partner in a partnership. This is the exact opposite of the case in May. Here, taxpayer opted to get into the business of selling entire divisions and all other aspects of its business. The gain on the sale amount was income from this business action. As provided in May, this passes the transactional test.

The functional test focuses on the property being disposed of by the taxpayer. Id. at 664. Specifically the functional test requires examining the relationship of the property at issue with the business operations of the taxpayer. Id. at 664. In order to satisfy the functional test the property generating income must have been acquired, managed and disposed of by the taxpayer in a process integral to taxpayer's regular trade or business operations. Id. 664. The court in May defined "integral" as necessary or essential to complete the whole. Id. at 664-5. The court held that May's sale of one of its retailing division was not "necessary or essential" to May's regular trade or business because the sale was executed pursuant to a court order that benefited a competitor and not May. In essence, the court determined that because May was forced to sell the division in order to reduce its competitive advantage, the sale could not be integral to May's business operations. Therefore, the proceeds from the sale were not business income under the functional test.

In this case, taxpayer's sale of its entire operation to the partnership was necessary and essential to its regular trade or business since it abandoned its previous business of producing petroleum products and entered into the business of being a partner in a partnership. Under the definition supplied by the court in May, in this case it was integral to taxpayer's business to sell its property to the partnership and it was therefore necessary and essential to complete the whole of becoming a partner in that partnership. Consequently, under May, the gain on sale amount is business income.

The Department then determined taxpayer's adjusted gross income under IC 6-3-2-2(a), which states in relevant part:

With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;
- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state; and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana.

...

Taxpayer protests the assessments on the grounds that it had no nexus with Indiana prior to the contribution of assets and reception of the partnership interest. The relevant statute is IC 6-3-2-2(b), which states in relevant part:

Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, then the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

...

Taxpayer believes that IC 6-3-2-2(l) provides the appropriate method of calculating its adjusted gross income. IC 6-3-2-2(l) states:

If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) separate accounting;
- (2) the exclusion of any one (1) or more of the factors;
- (3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or
- (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The Department noted that taxpayer listed the gain on sale amount as nonbusiness income on its return, but also included the gain on sale amount in the denominator of the sales factor calculation. Taxpayer states that the gain on sale amount was listed on the return as nonbusiness income simply due to a lack of an appropriate column to list the income on the return. Taxpayer also states that

the inclusion of the gain on sale amount in the denominator of the sales factor was inadvertent and is easily correctable.

There is no need to use an alternate calculation method for taxpayer's adjusted gross income. The Department is not allocating the gain on sale amount wholly to Indiana, since it is business income as defined in May. Business income is fairly apportioned to Indiana based on the three factor formula provided in IC 6-3-2-2(b). It is not relevant that the property sold to the partnership had no Indiana nexus, since its sale produced business income subject to apportionment. The apportionment of the gain on sale amount was proper and the Department properly imposed adjusted gross income tax on the Indiana apportioned amount of taxpayer's business income.

FINDING

Taxpayer's protest is denied.

II. Tax Administration—Negligence Penalty

The Department issued proposed assessments and the ten percent (10%) negligence penalty for the tax years in question. Taxpayer protests the imposition of penalty. The Department refers to IC 6-8.1-10-2.1(a), which states in relevant part:

If a person:

...

(3) incurs, upon examination by the department, a deficiency that is due to negligence;

...

the person is subject to a penalty.

The Department refers to 45 IAC 15-11-2(b), which states:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to reach and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

45 IAC 15-11-2(c) provides in pertinent part:

The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section.

In this case, taxpayer incurred a deficiency which the Department determined was due to negligence under 45 IAC 15-11-2(b), and so was subject to a penalty under IC 6-8.1-10-2.1(a). Taxpayer has not established that its failure to pay the deficiency was due to reasonable cause and not due to negligence, as required by 45 IAC 15-11-2(c).

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20040094.LOF

LETTER OF FINDINGS NUMBER: 04-0094

Sales/Use Tax

Periods of 2001 Through 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales/Use Tax: Equipment

Authority: 45 IAC 2.2-3-20; IC 6-8.1-5-1(b); 45 IAC 15-5-3(b)(8); 45 IAC 15-11-2.

The taxpayer protests the proposed assessment of tax on equipment.

STATEMENT OF FACTS

The taxpayer runs a weekly newspaper. An administrative hearing was scheduled for January 12, 2006. Neither the taxpayer nor its representative attended, nor did they telephone to re-schedule. Taxpayer's representative later faxed a letter to the Department withdrawing from representation. A telephone hearing was then conducted with the taxpayer on January 23, 2006. More facts will

be provided below as needed.

I. Sales/Use Tax: Equipment

DISCUSSION

As noted, the taxpayer runs a weekly newspaper. The items at issue the Auditor describes thusly:

The taxpayer purchased operating supplies and equipment during the audit period and failed to pay sales tax at the point of purchase or remit use tax on these taxable transactions. These purchases included computers, printers, and other equipment that was used *both* in the production of the newspaper and in the accounting for the business.

(Emphasis added).

The methodology the Auditor used for assessing the equipment was that “the office equipment was multiplied by the taxable percentage of 10 percent.”

Taxpayer takes issue with the percentage. In a letter to the Department, the taxpayer states there “are three computer terminals used in direct production of [the] newspaper, as well as two ... printers.” Additionally the taxpayer states: “One of these machines, a Macintosh G4, as well as one of the printers it is connected to are used no more than 6 hours per month to generate monthly billing statements. None of the other computers is loaded with the software necessary to produce out billing.”

In the correspondence the taxpayer also notes “Only one machine is involved, and less than the 10 [percent]....” The final percentage of non-production work that the taxpayer calculates for that one machine is “.0375[percent].” Taxpayer also lists in correspondence various specific items that it believes are tax exempt. During the hearing the taxpayer mentioned that a fax machine was wrongly assessed use tax, since, per the taxpayer, sales tax was paid at the time of purchase of the fax machine. No documentation was provided to that effect, and it does not seem clear from the Audit Report that use tax on the fax machine was even assessed in the audit process.

Since “accounting” would fall outside the scope of the production exemptions, regulation 45 IAC 2.2-3-20 becomes applicable, which states in part:

All purchases of tangible personal property which are delivered to the purchaser for storage, use, or consumption in the state of Indiana are subject to the use tax.

Taxpayer asserts that various items are not taxable (port hub modular, toner cartridge, etc.) but does not develop its argument to show that the items are in fact used in the production process. Likewise for the asserted taxable percentage—the taxpayer fails to develop its argument. And it is the taxpayer that bears the burden of proof under IC 6-8.1-5-1(b) and 45 IAC 15-5-3(b)(8). (It should also be noted a negligence penalty was imposed, but the taxpayer did not make any arguments regarding the penalty and is thus denied on the penalty too—again, *See* IC 6-8.1-5-1(b) regarding the taxpayer’s burden of proof, and 45 IAC 15-11-2 regarding the penalty).

FINDING

The taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

04-20040414.LOF

LETTER OF FINDINGS NUMBER: 04-0414

Sales/Use Tax

Periods of 2001 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 this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUES

I. Sales/Use Tax: Donations

Authority: IC 6-2.5-2-1; IC 6-2.5-3-1; IC 6-2.5-3-2; 45 IAC 2.2-3-15

The taxpayer protests the assessment of tax on donated carpet.

STATEMENT OF FACTS

The taxpayer sells carpet, remnants, and flooring. A letter was mailed to the taxpayer’s representative on December 20, 2005, scheduling an administrative hearing for January 17, 2006. The taxpayer did not arrive, nor did the taxpayer telephone, at the scheduled hearing time. (The taxpayer’s representative also did not arrive, nor did the representative telephone, at the scheduled hearing time). This Letter of Finding is written pursuant to the information in the file. More facts will be provided as needed below.

I. Sales/Use Tax: Donations

DISCUSSION

As noted, the taxpayer is in the carpet business. At issue are donations made by the taxpayer. The Auditor states:

Taxpayer is self-assessing use tax. The taxpayer however had donations during the audit period where use tax was not self-assessed. Taxpayer was the final consumer of the donations, which include carpet and remnants.

Information Bulletin #40 states that “Tangible personal property ... that is given away as a gift ... is subject to either sales or use tax. The person or organization liable for the tax is the person who gives the property away and not the person who receives the prize or gift.” Information Bulletin #40 further states, “Anyone purchasing tangible personal property to be given as a gift or prize should pay sales tax for the property at the time of purchase.”

In a letter to the Department, the taxpayer states that “Although [the taxpayer is] paying the assessment” that the taxpayer is “still protesting the audit findings.” The taxpayer in that correspondence then argues: (1) that the Information Bulletin cannot be used as a legal basis by the Department; and (2) that 45 IAC 2.2-5-55 makes a not-for-profit organization exempt. Regarding the taxpayer’s first contention, Information Bulletins are indeed for “non-technical assistance to the general public.” They provide assistance on frequently encountered issues. Information Bulletins do have a basis in the law—as Information Bulletin #40 makes clear it is derived from IC 6-2.5-2-1, IC 6-2.5-3-1, and IC 6-2.5-3-2.

IC 6-2.5-2-1 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.

And IC 6-2.5-3-1 states in part:

For purposes of this chapter:

- (a) “Use” means the exercise of any right or power of ownership over tangible personal property.
- (b) “Storage” means the keeping or retention of tangible personal property in Indiana for any purpose except the subsequent use of that property solely outside Indiana.
- (c) “A retail merchant engaged in business in Indiana” includes any retail merchant who makes retail transactions in which a person acquires personal property or services for use, storage, or consumption in Indiana and who:
 - (1) maintains 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 the retail merchant or through a representative, agent, or subsidiary....

And finally IC 6-2.5-3-2 states in part:

- (a) 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, regardless of the location of that transaction or of the retail merchant making that transaction.

Regarding 45 IAC 2.2-5-55 (as an earlier piece of correspondence to the taxpayer noted) applies to “Sales to a qualified not-for-profit,” not donations. Additionally, 45 IAC 2.2-5-55 applies to the not-for-profit itself. What is at issue is whether the *taxpayer* owes the tax. 45 IAC 2.2-3-15 is the applicable regulation:

If any person who issues an exemption certificate in respect to the state gross retail tax or use tax and thereafter makes any use of the tangible personal property covered by such certificate, or in any way consumes, stores, or sells such tangible personal property, where such use, consumption, storage or sale is in a manner which is not permitted by such exemption, such use, consumption, or storage shall become subject to the use tax (or such sale shall become subject to the gross retail tax), and such person shall become liable for the tax or gross retail tax due thereon.

The taxpayer is a retail merchant that acquired property without paying sales tax. The taxpayer did not self-assess use tax on the property. The taxpayer then donated the property. Thus the taxpayer is liable for the tax. The taxpayer was also assessed a negligence penalty. The taxpayer did not develop any arguments regarding the penalty, and is thus denied on that issue as well.

FINDING

The taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

04-20050017.LOF

LETTER OF FINDINGS NUMBER: 05-0017

SALES/USE TAX

Periods of 2001 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 this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales/Use Tax: Overpayment of Tax

Authority: Sales Tax Information Bulletin #60 (April 2004); IC 6-2.5-6-14.1

The taxpayer protests and requests a refund on tax related to lump sum contracts.

STATEMENT OF FACTS

The taxpayer sells, installs, monitors and services electronic equipment that includes alarm systems. During the course of an audit by the Department, taxpayer concluded it had overpaid sales tax on contracts. The Audit Report did not offset the eventual assessment by the amount that the taxpayer calculated it had overpaid. Thus the taxpayer protested. More facts will be provided as needed below.

I. Sales/Use Tax: Overpayment of Tax

DISCUSSION

The taxpayer states that it is "an installer of alarm systems including fire, access control, and burglar..." The taxpayer states: During the course of the audit it was discovered that alarm installation is considered improvement to realty in accordance with Information Bulletin #60 dated April 2004.

And further:

[Taxpayer] has been paying Sales Tax on the entire amount of all its Lump-sum contracts pertaining to alarm installations (which included material markup and labor) per instructions given from a previous auditor. However due to the recent discovery that alarm installation is considered improvement to real property and not tangible personal property, [Taxpayer] has requested a refund equal to the difference between the tax paid during the audit period ... calculated on the entire lump-sum amount of its contracts, and the correct amount of tax that should have been paid based on the material cost of those contracts.

The taxpayer cites Sales Tax Information Bulletin #60 (April 2004). Information Bulletin #60 states a lump sum contract means (in pertinent part):

[A] contract to incorporate construction materials into real estate with the charge for labor and materials being quoted as one price. The contractor may subsequently furnish a breakdown of the charges for labor and materials without changing the nature of the lump sum contract. For example, a typical lump sum contract provides that the contractor will build a structure for a total stated price such as \$40,000. A lump sum contractor generally must pay sales tax to the vendor who sells the contractor construction materials.

In somewhat contrast to a lump sum contract, Information Bulletin #60 also describes a "time and materials contract." A time and materials contract is one where "the charge for the labor and materials" is "separately stated and the final contract price being dependent on the cost of the materials and the amount of labor it actually takes to the complete the contract." Information Bulletin #60 also defines "improvement to real estate," which in the Examples Section of part "E" includes the installation of "water heaters, water softeners, *alarms*, furnaces," (*Emphasis added*).

Even if, *arguendo*, the Department accepts the taxpayer's argument that sales tax was overpaid, it was not the taxpayer that overpaid it. With regards to sales tax, the taxpayer is a collection agent for the state, remitting the sales tax that its customers paid. Any overpayment was by the taxpayer's *customers*. The applicable statute for a refund involving a retail merchant is IC 6-2.5-6-14.1, which states in part that a "retail merchant is not entitled to a refund of state gross retail or use taxes unless the retail merchant refunds those taxes to the person from whom they were collected." The taxpayer has not shown that it refunded the purported overpayment of tax to its customers.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050035.LOF

LETTER OF FINDINGS NUMBER: 05-0035

Sales and Use Tax

For the Tax Period 2001-2003

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 Tax –Projection**

Authority: IC 6-8.1-5-1(b), IC 6-8.1-4-2.

The taxpayer protests the sales projection for the 2003 tax year.

II. Sales Tax-Workshops and Seminars

Authority: IC 6-2.5-2-1(a), IC 6-2.5-4-1(b), IC 6-2.5-4.

The taxpayer protests the assessment of sales tax on receipts for the provision of workshops and seminars.

III. Sales Tax-Sales to Exempt Organizations

Authority: IC 6-2.5-2-1(a), IC 6-2.5-8-8, 45 IAC 2.2-8-12

The taxpayer protests the assessment of sales tax on equipment sold to exempt organizations.

IV. Sales Tax-Calculation of Sales Tax

Authority: IC 6-2.5-2-2, IC 6-2.5-2-5(a).

The taxpayer protests the method of calculating sales tax in some situations.

V. Use Tax-Imposition

Authority: IC 6-2.5-3-2 (a).

The taxpayer protests a portion of the imposition of the use tax.

STATEMENT OF FACTS

The taxpayer was a corporation that conducted various workshops and seminars. It also sold and serviced computer systems. There were two principals in the corporation. One principal handled the financial affairs of the corporation and handled the sales and servicing of computers. The other principal conducted the workshops and seminars. After a routine audit, the Indiana Department of Revenue (department) assessed additional sales and use tax, interest, and penalty against the taxpayer for the years 2001-2003. When the taxpayer corporation was dissolved in 2004, the audit assessments were still unsatisfied. The former vice president protested the sales tax assessments. He agreed that he was responsible for the remittance of the sales taxes but protested the amount of the sales taxes due. A hearing was held with the vice president and this Letter of Findings results.

I. Sales Tax –Projection**DISCUSSION**

At the time of the audit, the taxpayer did not produce adequate documentation for the auditor to review and determine the appropriate sales tax liability for the tax year 2003. Therefore, the department's auditor projected taxable sales by taking the sales from 2001 and 2002 and divided them by the year's gross receipts to determine the taxable amount. These percentages were averaged to arrive at 18.04 per cent. This percentage was then applied to the gross receipts for 2003 to determine the sales tax due for 2003. The taxpayer never signed the projection agreement.

The taxpayer protested the use of this projection to determine the 2003 sales tax liability. The taxpayer contended that the corporation's business practices changed dramatically at the end of 2002 when the principal, who specialized in computer sales and service, left the corporation. After that time very few sales of computer equipment were made. Rather the taxpayer corporation's receipts came almost entirely from the training seminars it conducted. The taxpayer also provided financial documentation to substantiate its contentions concerning the source of the corporation's 2003 income.

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). The department has the authority to use methods considered necessary to determine a taxpayer's proper tax liability. IC 6-8.1-4-2. One of the methods often and appropriately used when taxpayers do not provide adequate records of their transactions to allow the audit division to review them and determine the proper liability based upon those records is the projection method as was done in this case. However, the taxpayer has produced substantial evidence indicating that the projection agreement, which the taxpayer never agreed to, did not properly reflect the corporation's actual sales tax liability. The documentation presented by the taxpayer at the hearing allows the department to determine the proper tax liability based upon the actual sales.

FINDING

The taxpayer's protest to the use of the projection method to determine the 2003 sales tax liability is sustained. The proper liability is to be determined in a supplemental audit using the financial documentation provided at the hearing.

II. Sales Tax-Workshops and Seminars**DISCUSSION**

The taxpayer conducted workshops and seminars. These conferences were on subjects such as human services and not-for-profit corporate operations. Some of these seminars were designed to qualify participants for continuing education credits. The seminars typically consisted of speakers, small group workshops, training, networking, and distribution of printed materials.

IC 6-2.5-2-1(a) imposes sales tax on retail transactions made in Indiana. Transactions where a merchant in the ordinary course of his business sells tangible personal property to a customer are subject to the sales tax. IC 6-2.5-4-1(b). There is no sales tax imposed on services unless the provision of the service is specifically defined by statute as taxable in IC 6-2.5-4.

The taxpayer's workshops and seminars constitute the provision of services not subject to the sales tax.

FINDING

The taxpayer's protest to the imposition of sales tax on receipts from the provision of workshops and seminars is sustained.

III. Sales Tax-Sales to Exempt Organizations**DISCUSSION**

During the first two years of the audit, the sales of computers and computer equipment constituted a major portion of the corporation's business. Generally the sale of computers and computer equipment in the regular course of a taxpayer's business is subject to sales tax. IC 6-2.5-2-1(a). There are, however, certain statutory exemptions from the sales tax. The taxpayer contends that many of its sales fell into one of the statutory exemptions from sales tax because the purchasers were not-for-profit organizations.

IC 6-2.5-8-8 provides for exemption certificates from sales tax in pertinent part as follows:

(a) A person, authorized under subsection (b), who makes a purchase in a transaction which is exempt from the state gross retail and use taxes, may issue an exemption certificate to the seller instead of paying the tax. The person shall issue the certificate on forms and in the manner prescribed by the department. A seller accepting a proper exemption certificate under this section has no duty to collect or remit the state gross retail or use tax on that purchase.

45 IAC 2.2-8-12(d) clarifies the law concerning exemption certificates in pertinent part as follows:

Unless the seller receives a properly completed exemption certificate the merchant must prove that sales tax was collected and remitted to the state or that the purchaser actually used the item for an exempt purpose. It is, therefore, very important to the seller to obtain an exemption certificate in order to avoid the necessity for such proof.

Pursuant to the statute and explanatory regulation, the production of a valid exemption certificate exempts the merchant from the duty of collecting and remitting sales tax. Without a valid exemption certificate, the burden shifts back to the merchant to prove that the sales were not actually subject to sales tax. The taxpayer provided valid exemption certificates for many of the sales upon which the department assessed sales tax. The taxpayer had no duty to collect and remit sales tax on these leases.

The taxpayer had several customers who did not provide valid exemption certificates. Therefore, the taxpayer has the burden of proving that the sales to these customers were exempt from the sales tax. The taxpayer did not provide adequate documentation to sustain this burden.

FINDING

The taxpayer's protest to the imposition of sales tax on sales made to the organizations that provided exemption certificates is sustained. The remainder of the taxpayer's protest is denied.

IV. Sales Tax-Calculation of Sales Tax**DISCUSSION**

The department assessed sales tax on the book entries of the amount of income collected on sales of computers and computer parts. The taxpayer alleged that in many instances, sales tax was actually collected from the purchasers and not remitted to the state. In those cases, assessing tax on the total receipts from the sale would actually be assessing sales tax on the sales tax collected rather than just on the sale price of the product.

The sales tax is to be imposed on the gross retail income received by the merchant in the sale of tangible personal property. IC 6-2.5-2-2.

"Gross retail income" is defined at IC 6-2.5-2-5(a) as follows:

"[G]ross retail income" means the total gross receipts, of any kind or character, received in a retail transaction, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise,

Sales taxes collected from customers are not part of the gross receipts for the computers and computer equipment. The amount collected for sales tax cannot be included in the total price of the product.

The taxpayer produced invoices indicating that sales tax was collected on many of the sales, thus sustaining its burden of proving that the department in some instances incorrectly assessed sales tax on sales taxes collected from customers.

FINDING

The taxpayer's protest to the sales tax charged on sales taxes collected from customers is sustained subject to audit verification.

V. Use Tax-Imposition**DISCUSSION**

Indiana imposes an excise tax on tangible personal property stored, used, or consumed in Indiana. IC 6-2.5-3-2 (a). The taxpayer protested a portion of the use tax imposed. The taxpayer contended that one invoice on which use tax was imposed was actually for a loan rather than the purchase of tangible personal property to be used by the business. The taxpayer did not provide any documentation to substantiate this claim. The taxpayer did not sustain its burden of proving that the use tax was improperly imposed.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20050076P

**LETTER OF FINDINGS NUMBER 05-0076P
TAX ADMINISTRATION—NEGLIGENCE PENALTIES FOR THE USE TAX
REPORTING PERIODS COVERING CALENDAR YEARS 2001-02**

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—Audit Deficiency (Use Tax)**

Authority: IC §§ 6-2.5-3-4(a)(1) and -5 (1998), 6-8.1-1-1, -5-1(b), -10-2.1 and 10-7 (2004); *Nelson v. Sears, Roebuck & Co.*, 312 U.S. 359 (1941); *Laptops Etc. Corp. v. Dist. of Columbia (In re Laptops Etc. Corp.)*, 164 B.R. 506 (Bankr. D. Md. 1993); *Ind. Dep't of State Revenue v. Trump Ind. Inc.*, 814 N.E.2d 1017 (Ind. 2004); *State Bd. of Tax Comm'rs v. New Castle Lodge # 147, L.O.O.M.*, 765 N.E.2d 1257 (Ind. 2002); *Morton Bldgs., Inc. v. Ind. Dep't of State Revenue (Morton Bldgs. VII)*, 819 N.E.2d 913 (Ind. Tax Ct. 2004), *review denied* 831 N.E.2d 744 (Ind. 2005) (table); *Hoogenboom-Nofziger v. State Bd. of Tax Comm'rs*, 715 N.E.2d 1018 (Ind. Tax Ct. 1999); *USAir, Inc. v. Ind. Dep't of State Revenue (USAir II)*, 623 N.E.2d 466 (Ind. Tax Ct. 1993); *Morton Bldgs., Inc. v. Comm'r of Revenue (Morton Bldgs. V)*, 683 N.E.2d 720 (Mass. App. Ct. 1997); *Olin Corp. v. Dir. of Revenue*, 945 S.W.2d 442 (Mo. 1997) (*en banc*); *House of Lloyd, Inc. v. Dir. of Revenue*, 884 S.W.2d 271 (Mo. 1994) (*en banc*); *Great Am. Airways v. Nev. State Tax Comm'n*, 705 P.2d 654 (Nev. 1985); *Datascope Corp. v. Tax Appeals Trib.*, 608 N.Y.S.2d 562 (App. Div. 1994); 45 IAC §§ 2.2-3-4 (2001) and 15-11-2(b) and (c) (2004); 68 Am. Jur. 2d *Sales and Use Taxes* § 168 (2004)

The taxpayer protests the proposed assessment of negligence penalties for its incurring an audit deficiency of use tax.

STATEMENT OF FACTS

The taxpayer is a publicly traded corporation that operates a chain of restaurants. At present it has locations in the District of Columbia and 29 states, including one restaurant in Indiana, according to the Locations webpage of the taxpayer's website. It is headquartered, and was organized in 1982, in another state, but the Indiana Secretary of State granted the taxpayer authority to conduct business here in late October of 1999. The taxpayer opened its Indiana restaurant in 2000 and began filing gross retail (sales)/use tax returns (Form ST-103) with this Department beginning with the June 2000 reporting period.

The Audit Division of this Department conducted a field audit of the taxpayer's liability for state gross retail (sales), state use and county food and beverage taxes for calendar years 2001-03 (hereinafter "the audit period"). The auditor increased the taxpayer's use tax liability for calendar years 2001-02. He arrived at the adjustments giving rise to that increase by conducting a census audit of the taxpayer's capital asset transactions and a sample audit of its other taxable purchases. The latter category, which is in issue in this protest, consisted of purchases of kitchen, dining room and bar utensils, china and glassware, and various supplies (hereinafter collectively "smallware"). All of the assessed smallware was bought from one vendor that did not collect sales tax from the taxpayer. The audit Summary does not indicate that the taxpayer's Indiana restaurant had any other suppliers of these kinds of items during the audit period.

The use tax audit resulted in proposed assessments totaling in the high four-figure range for the two adjusted years. The auditor cited in the Summary to 45 IAC § 2.2-3-4 (2001) (current version at *id.* (2004)) as authority for the assessments. The auditor also proposed, and the Audit Division approved, including a negligence penalty in the Notices of Proposed Assessment for both years. The taxpayer paid the parts of the assessments equal to the base tax and accrued interest and timely filed a written protest, but only of the negligence penalties. The Department will provide additional facts as needed.

DISCUSSION**A. APPLICABLE PENALTY LAW**

IC § 6-8.1-10-2.1 (2004) is the statute that authorizes the Department to impose a penalty for any negligence of a taxpayer in failing to comply with the tax laws that the Department administers. IC § 6-8.1-10-2.1(a)(3) states that "(a) [i]f a person: . . . (3) [i]ncurs, upon examination by the department, a deficiency that is due to negligence; . . . the person is subject to a penalty." *Id.* Title 45 IAC § 15-11-2(b) (2004) defines "negligence" in relevant part as follows:

(b) "Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. *Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence.*

Id. (Emphasis added.) "[L]isted tax laws" refers to the definition of the term "listed taxes" found in IC § 6-8.1-1-1 (2004). The listed taxes are all of the tax laws for which the General Assembly has explicitly made the Department responsible. They include the Gross Retail and Use Tax Act of 1963, IC article 6-2.5 (1998) (current version at *id.* (2004)) ("GRUTA").

"If a person subject to the penalty imposed under this section [IC § 6-8.1-10-2.1] can show that the failure to...pay the

deficiency determined by the department was *due to reasonable cause* and not due to willful neglect, the department shall waive the penalty.” IC § 6-8.1-10-2.1(d) (emphasis added.). The implementing regulation restates this requirement as requiring the taxpayer to show that the failure to discharge its tax duties “was due to reasonable cause and not due to negligence.” 45 IAC § 15-11-2(c). This subsection of the regulation goes on to state:

In order to establish reasonable cause, the taxpayer must demonstrate that it exercised *ordinary business care and prudence* in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- ...
- (2) judicial precedents set by Indiana courts; [and]
- (3) judicial precedents established in jurisdictions outside Indiana[.]
- ...

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Id. (Emphasis added.) The taxpayer “must make an affirmative showing of all facts alleged as a reasonable cause for [its] failure to ... pay the deficiency[.]” IC § 6-8.1-10-2.1(e). The evidentiary showing the taxpayer must make under IC § 6-8.1-10-2.1(d) and (e) and 45 IAC § 15-11-2(c) is consistent with IC § 6-8.1-5-1(b), which places the burden of proof in all protests on the person against whom a proposed assessment is made to prove that it is wrong.

IC § 6-8.1-10-7 imposes the only other limits, monetary ones, on the Department’s authority to assess and enforce a penalty under IC § 6-8.1-10-2.1. That statute provides:

Notwithstanding the various penalty provisions of [IC] chapter [6-8.1-10], the maximum total penalty that may be assessed against a person under sections 2.1 through 5 of this chapter [i.e., IC §§ 6-8.1-10-2.1 to -5, which all use percentage formulas to calculate the respective penalties they impose] is one hundred percent (100%) of the unpaid tax and *the minimum penalty, if any, that may be assessed under those sections is five dollars (\$ 5).*

Id. (Emphasis added).

B. TAXPAYER’S ARGUMENT

The taxpayer argues that the purchases giving rise to the deficiency were from only one vendor that did not collect sales tax from the taxpayer and that those purchases represented only a small percentage of its total purchases for the audit period. The taxpayer is essentially contending that the Department should waive the negligence penalties because the percentage of purchases on which it failed to pay use tax is, in the taxpayer’s view, *de minimis*.

C. ANALYSIS

As noted at the end of Subpart A, IC § 6-8.1-10-7 sets the maximum and minimum amounts of percentage-based penalties, including the negligence penalty, the Department may assess; the minimum is five dollars (\$5). However, once the Department has assessed a negligence penalty over that minimum, as it did here, IC § 6-8.1-10-2.1(d) and (e) govern the Department’s ability to waive that penalty. There is nothing in either of those subsections that even authorizes the Department to waive a negligence penalty on the ground that the amount of unpaid tax is *de minimis*, much less anything setting out an amount, or a formula to determine an amount, of unpaid tax that the Department could treat as being *de minimis*. Nor does IC § 6-8.1-5-1(a), the subsection requiring the Department to make a proposed assessment of tax it reasonably believes was not properly reported, set any minimum figure of unpaid tax below which the Department is excused from doing so. Had the General Assembly wanted to set a floor amount of unpaid tax below which it would deem the taxpayer not liable for any such tax as a matter of law (as distinguished from granting the Department administrative discretion to make such a determination), it easily could have said so.

The only ground on which IC § 6-8.1-10-2.1(d) requires the Department to waive a negligence penalty, once assessed, is “reasonable cause[.]” *Id.* The legislature’s use of this term necessarily implies that the determinative factor for the Department in deciding whether to waive a negligence penalty is the cause of, not the amount of unpaid tax resulting from, the compliance failure in question. The only material reference to a number concerning the negligence penalties IC § 6-8.1-10-2.1(a) imposes is to the amount of unpaid, underpaid, unreported or underreported taxes. The only use for that figure that IC § 6-8.1-10-2.1 mentions is to compute the negligence penalty; subsection (b) uses that amount as the multiplicand to which the Department applies the ten percent multiplier to determine the amount of the subsection (a) penalty. *See* IC § 6-8.1-10-2.1(b) (setting out the computation formulae). The size of this multiplicand, standing alone, is irrelevant to answering the questions of why and how it came into being, and more precisely to answering the question of whether or not the failure out of which it arose was due to the taxpayer’s negligence.

The taxpayer has not made any alternative argument, much less submitted any evidence in support of such an argument, as to why its “failure to ... pay the [part of the] deficiency [on taxable purchases] determined by the department was due to reasonable cause and not due to willful neglect[.]” IC § 6-8.1-10-2.1(d). Nor has the taxpayer made any argument as to why it had reasonable cause to incur the part of the deficiency attributable to its capital asset purchases. Indiana law is settled that this state’s taxation hearing officers, and by extension the state-level taxing authorities of which they are agents, “do not have the duty to make a taxpayer’s case.” *Hoogenboom-Nofziger v. State Bd. of Tax Comm’rs*, 715 N.E.2d 1018, 1024 (Ind. Tax Ct. 1999), *cited with approval in State Bd.*

of *Tax Comm'rs v. New Castle Lodge # 147*, L.O.O.M., 765 N.E.2d 1257, 1264 (Ind. 2002). The Tax Court stated its rationale for this rule later in *Hoogenboom-Nofziger* as follows:

[T]o allow [a taxpayer] to prevail after it made such a cursory showing at the administrative level would result in a tremendous workload increase for [the Department and] the State Board [now the Indiana Board of Tax Review], ... administrative agenc[ies] that already bear[] ... difficult burden[s] in administering this State's [listed and] property tax system[s]. If taxpayers could make a *de minimis* showing and then force [the Department or] the State Board to support its decisions with detailed factual findings, the [Indiana taxing authorities] would be overwhelmed with cases such as this one. This would be patently unfair to other taxpayers who do make detailed presentations to the [taxing authorities] because resolution of their appeals would necessarily be delayed.

715 N.E.2d at 1024-25. The Department therefore summarily denies the taxpayer's protest to the extent that the negligence penalties derive from the parts of its use tax deficiency for each year assessed on taxable capital asset transactions. The only issue left is thus whether, without regard to the alleged *de minimis* character of the taxpayer's deficiency, the taxpayer had reasonable cause for incurring the parts of that deficiency assessed on its other taxable purchases. The Department will base its finding on this question solely on relevant information in the audit file, its other records on the taxpayer, the public domain (including other official records), any reasonable inferences from that information, and any applicable authorities that cursory research revealed.

The Department notes that at this writing the taxpayer has been in business for over 23 years and, as previously noted, has restaurants in 29 other state-level taxing jurisdictions nationwide. It is reasonable to infer that the taxpayer would not have survived, let alone have built up its business to its present size, had the taxpayer crippled itself by repeatedly incurring substantial tax deficiencies. It is thus also reasonable to infer that by the time the taxpayer started doing business in Indiana in 1999-2000, it had learned the nationwide general legal view as to the place and role of the use tax in state and local tax systems and the circumstance under which liability for that tax accrues to the jurisdiction in which the property becomes located. As pointedly expressed in 1997 by the Appeals Court of Massachusetts, where the taxpayer has done business since 1995, "[t]he use tax is complementary to the sales tax and *bites when the sales tax does not*." *Morton Bldgs., Inc. v. Comm'r of Revenue (Morton Bldgs. V)*, 683 N.E.2d 720, 722 (Mass. App. Ct. 1997) (emphases added), *paraphrased and followed in Morton Bldgs., Inc. v. Ind. Dep't of State Revenue (Morton Bldgs. VII)*, 819 N.E.2d 913, 915 (Ind. Tax Ct. 2004), *review denied* 831 N.E.2d 744 (Ind. 2005) (table). In other words, the taxpayer should have learned by the time it started doing business in Indiana that if it did not pay sales tax on a non-exempt purchase of tangible personal property later placed in a jurisdiction that had sales and use taxes, the taxpayer would owe that jurisdiction use tax.

This rule follows from the well-settled general law in this country on the purpose and function of a use tax. "It [has long been] one of the well-known functions of the integrated use and sales tax to remove the buyers' temptation to place their orders in other states in the effort to *escape payment of the tax on local sales*." *Nelson v. Sears, Roebuck & Co.*, 312 U.S. 359, 363 (1941) (internal quotation marks omitted) (emphasis added). In addition to the United States Supreme Court, at least ten courts sitting in jurisdictions other than Indiana have reported opinions discussing this subject and taking the same view. Their consensus, summarized in a secondary source, is that "[t]he use tax is correlative of, and is complementary and supplemental to, the sales tax, *one of its principal purposes being to prevent the evasion of the sales tax*." 68 Am. Jur. 2d *Sales and Use Taxes* § 168 (2004) (footnote omitted) (emphasis added). Four of the opinions this last source cites, *id.* n.96, like *Morton Buildings V*, interpreted the use tax laws of other jurisdictions where the taxpayer did business, and were issued, before the taxpayer began doing business in Indiana in 1999-2000. *Laptops Etc. Corp. v. Dist. of Columbia (In re Laptops Etc. Corp.)*, 164 B.R. 506, 517 (Bankr. D. Md. 1993) (sustaining debtor-in-possession's objection to District of Columbia's use tax proof of claim and discussing the general distinction and relationship between sales and use taxes); *Great Am. Airways v. Nev. State Tax Comm'n*, 705 P.2d 654, 657 (Nev. 1985), and *Datascope Corp. v. Tax Appeals Trib.*, 608 N.Y.S.2d 562, 564 (App. Div. 1994). *See also Olin Corp. v. Dir. of Revenue*, 945 S.W.2d 442, 443 (Mo. 1997) (*en banc*) ("Missouri sales and use taxes are complementary tax schemes that 'are designed to assure that purchases of tangible personal property for valuable consideration by a Missouri purchaser receive identical tax treatment no matter what the geographic location of the seller[.]' (quoting *House of Lloyd, Inc. v. Dir. of Revenue*, 884 S.W.2d 271, 273 (Mo. 1994) (*en banc*))). There was thus ample non-Indiana authority giving the taxpayer constructive notice it must pay use tax to any jurisdiction with sales and use taxes on any non-exempt tangible personal property placed there if no sales tax was paid when purchased.

Morton Buildings VII, cited above, makes it clear that Indiana is in the judicial mainstream regarding the function and role of the use tax. The Indiana Supreme Court settled the law and removed any doubt that might have lingered on this point less than three months before the Indiana Tax Court issued *Morton Buildings VII*. *See Ind. Dep't of State Revenue v. Trump Ind. Inc.*, 814 N.E.2d 1017, 1019 (Ind. 2004). Admittedly, neither opinion was issued until after the close of the taxpayer's audit period. However, it did have the benefit of the first reported Indiana opinion, issued well before that period began, that made the same point:

Like most states, Indiana has complementary sales and use taxes. *See* IND. CODE 6-2.5-3-4(a)(1) [(1988) (audit period and current versions at *id.* (1998) and (2004), respectively) (exempting the storage, use and consumption of tangible personal property in Indiana from use tax if Indiana sales tax was paid when that property was acquired)]. ... *The complementary formulation exists to ensure non-exempt retail transactions that escape sales tax liability are nonetheless taxed.*

USAir, Inc. v. Ind. Dep't of State Revenue (USAir II), 623 N.E.2d 466, 468-69 (Ind. Tax Ct. 1993) (citation omitted) (emphasis

added), citing, among other authorities, *Great American Airways*, above, 705 P.2d at 657-58 n.5. Title 45 IAC § 2.2-3-4, which was in effect when the Tax Court issued *USAir II* and on which the present taxpayer's auditor relied, is to the same effect. "Tangible personal property, purchased in Indiana, or elsewhere in a retail transaction, and stored, used, or otherwise consumed in Indiana is subject to Indiana use tax for such property, unless the Indiana state gross retail tax has been collected at the point of purchase." *Id.* But cf. IC § 6-2.5-3-5 (1998) (current version at *id.* (2004)) (granting a credit against use tax for any sales, purchase or use tax paid to another state-level taxing jurisdiction when the tangible personal property was acquired).

The rule that a taxpayer must pay use tax if it did not pay sales tax on a non-exempt transaction thus was and is no different in Indiana than in any other jurisdiction with sales and use taxes in which the taxpayer had done business. It was incumbent upon the taxpayer, before starting business in this state, to become familiar with the Indiana use tax authorities then in effect, of which it was and is held to have constructive knowledge in any case. See 45 IAC § 15-11-2(b) ("Ignorance of the listed tax laws, rules and/or regulations is treated as negligence."). Since, as the foregoing discussion shows, there were only a few such authorities, it should not have been very burdensome for the taxpayer to research them.

However, even if it did not do so, given the taxpayer's past experience complying with the use tax laws of other jurisdictions where it had operated, it should have known it would probably be liable for use tax if it did not pay sales tax to its Indiana restaurant's vendors. It is all but impossible for the Department to believe the taxpayer did not actually know of, or had not paid use tax elsewhere pursuant to, this general rule of purchaser liability before the audit period. As mentioned earlier, the taxpayer's business would not have lasted as long or become as big and geographically wide-ranging as it has if the taxpayer repeatedly had been assessed substantial tax deficiencies. In particular, it is unlikely that the untaxed transactions in issue here were the first of their kind in the taxpayer's history, given the duration and size of its nationwide business.

The taxpayer purchased smallware for its only Indiana restaurant from a vendor that, for all that appears in the Summary (the only evidence the Department has, since the taxpayer submitted none), was the only such vendor that restaurant had during calendar years 2000-01. That vendor failed to collect and remit sales taxes on those transactions. It is no defense to the proposed negligence penalty assessments to say, as the taxpayer implies in its protest letter, that the vendor should have done so. The vendor's failure to collect those taxes should have been a red flag alerting the taxpayer to self-assess, report and remit use tax on those purchases. The taxpayer's legal liabilities for those taxes should have been clear. The taxpayer nevertheless failed to recognize, report and pay those liabilities, thereby incurring the present audit deficiencies. It is highly improbable (although not impossible), that the taxpayer's failures were due to ignorance of Indiana use tax law. More probably, they were due to carelessness. Either way, however, those failures constituted "negligence" as defined in 45 IAC § 15-11-2(b). They are not evidence of an "exercise[] [of] ordinary business care and prudence[.]" 45 IAC § 15-11-2(b), and therefore are not "reasonable cause" under IC 6-8.1-10-2.1(d) and (e) to waive the negligence penalties for the taxpayer's incurring those deficiencies.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20050101P.LOF

LETTER OF FINDINGS NUMBER: 05-0101P CORPORATE INCOME TAX For Years 1999 AND 2000

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax —Penalty Assessment

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the proposed assessments of penalty on an assessment.

STATEMENT OF FACTS

Taxpayer is a group of subsidiaries of a foreign corporation doing business in Indiana. After an initial audit of the Company's unitary filings, the Department assessed additional income tax. Taxpayer protested the imposition of penalty.

I. State Income Tax —Penalty Assessment

DISCUSSION

Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC § 6-8.1-10-2.1. The Indiana Administrative Code further provides in 45 IAC 15-11-2:

(b) "Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- (1) the nature of the tax involved;
- (2) judicial precedents set by Indiana courts;
- (3) judicial precedents established in jurisdictions outside Indiana;
- (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
- (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Taxpayer argues that the penalty was inappropriate based on taxpayer's overall compliance and the taxpayer's reliance on applicable regulations as to the classification of gross income for high rate gross income tax assessments. Standing alone neither of the taxpayer's arguments are dispositive but they are factors which are indicative of the taxpayer's reasonable care, caution, or diligence.

FINDING

Taxpayer protest sustained.

DEPARTMENT OF STATE REVENUE

04-20050163P.LOF

LETTER OF FINDINGS NUMBER 05-0163P

TAX ADMINISTRATION—NEGLIGENCE PENALTIES FOR THE USE TAX REPORTING PERIODS COVERING CALENDAR YEARS 2001-03

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—Audit Deficiency (Use Tax)

Authority: IC §§ 6-2.5-5-3(b) (1998), 6-8.1-1-1, -5-1(b), -10-2.1 and 10-7 (2004); *State Bd. of Tax Comm'rs v. New Castle Lodge # 147, L.O.O.M.*, 765 N.E.2d 1257 (Ind. 2002); *Ind. Dep't of State Revenue v. Cave Stone, Inc.*, 457 N.E.2d 520 (Ind. 1983); *General Motors Corp. v. Ind. Dep't of State Revenue*, 578 N.E.2d 399 (Ind. Tax Ct. 1991), *aff'd* 599 N.E.2d 588 (Ind. 1992); *Hoogenboom-Nofziger v. State Bd. of Tax Comm'rs*, 715 N.E.2d 1018 (Ind. Tax Ct. 1999); 45 IAC § 2.2-5-8 (2001) and 15-11-2(b) and (c) (2004)

The taxpayer protests the proposed assessment of negligence penalties for its incurring an audit deficiency of use tax.

STATEMENT OF FACTS

The taxpayer manufactures silicone pellets it supplies to the automotive and appliance industries. It is a foreign corporation, chartered in Delaware and headquartered in a state other than Delaware or Indiana. The Secretary of State authorized the taxpayer to do business in Indiana in December 1986, and it began filing gross retail (sales)/use tax returns (Form ST-103) with this Department in February 1987. During calendar years 2001-03 (hereinafter "the audit period") the taxpayer had one Indiana plant.

The Department conducted a field audit of the taxpayer's sales and use tax liability incurred in operating its Indiana plant during the audit period. The auditors did not adjust the taxpayer's sales tax liability. However, they did make several adjustments increasing its use tax liability after discovering transactions on which the taxpayer had not paid sales tax. The auditors conducted a sample audit of several categories of expensed purchases they discussed in the Audit Summary under the broad overall heading of "Non-manufacturing Equipment and Supplies." Under this heading the auditors increased the taxpayer's use tax liability on expensed purchases of office equipment and supplies and maintenance tools used on production equipment. The auditors also assessed use tax on fifty (50) percent of the purchase prices of the forklifts and the items used to repair them the taxpayer bought during the audit

period. They made this adjustment based on a time study the taxpayer had conducted that showed that it used the forklifts fifty (50) percent of the time in, and fifty (50) percent of the time outside, the production process.

The use tax audit resulted in proposed assessments totaling in the low five-figure range for the audit period. The auditors also proposed, and the Audit Division approved, including a negligence penalty in the Notices of Proposed Assessment for each year of the audit period. The taxpayer paid the parts of the assessments equal to the base tax and accrued interest and timely filed a written protest, but only of the negligence penalties. The Department will provide additional facts as needed.

DISCUSSION

A. APPLICABLE PENALTY LAW

IC § 6-8.1-10-2.1 (2004) is the statute that authorizes the Department to impose a penalty for any negligence of a taxpayer in failing to comply with the tax laws that the Department administers. IC § 6-8.1-10-2.1(a)(3) states that “(a) [i]f a person: . . . (3) [i]ncurs, upon examination by the department, a deficiency that is due to negligence; . . . the person is subject to a penalty.” *Id.* Title 45 IAC § 15-11-2(b) (2004) defines “negligence” in relevant part as follows:

(b) “Negligence” on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. *Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence.*

Id. (Emphasis added.) “[L]isted tax laws” refers to the definition of the term “listed taxes” found in IC § 6-8.1-1-1 (2004). The listed taxes are all of the tax laws for which the General Assembly has explicitly made the Department responsible. They include the Gross Retail and Use Tax Act of 1963, IC article 6-2.5 (1998) (current version at *id.* (2004)) (“GRUTA”).

“If a person subject to the penalty imposed under this section [IC § 6-8.1-10-2.1] can show that the failure to . . . pay the deficiency determined by the department was *due to reasonable cause* and not due to willful neglect, the department shall waive the penalty.” IC § 6-8.1-10-2.1(d) (emphasis added.). The implementing regulation restates this requirement as requiring the taxpayer to show that the failure to discharge its tax duties “was due to reasonable cause and not due to negligence.” 45 IAC § 15-11-2(c). This subsection of the regulation goes on to state:

In order to establish reasonable cause, the taxpayer must demonstrate that it exercised *ordinary business care and prudence* in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

...
(2) judicial precedents set by Indiana courts[.]

Id. (Emphasis added.) The taxpayer “must make an affirmative showing of all facts alleged as a reasonable cause for [its] failure to . . . pay the deficiency[.]” IC § 6-8.1-10-2.1(e). The evidentiary showing the taxpayer must make under IC § 6-8.1-10-2.1(d) and (e) and 45 IAC § 15-11-2(c) is consistent with IC § 6-8.1-5-1(b), which places the burden of proof in all protests on the person against whom a proposed assessment is made to prove that it is wrong.

IC § 6-8.1-10-7 imposes the only other limits, monetary ones, on the Department’s authority to assess and enforce a penalty under IC § 6-8.1-10-2.1. That statute provides:

Notwithstanding the various penalty provisions of [IC] chapter [6-8.1-10], the maximum total penalty that may be assessed against a person under sections 2.1 through 5 of this chapter [i.e., IC §§ 6-8.1-10-2.1 to -5, which all use percentage formulas to calculate the respective penalties they impose] is one hundred percent (100%) of the unpaid tax and *the minimum penalty, if any, that may be assessed under those sections is five dollars (\$ 5).*

Id. (Emphasis added).

B. TAXPAYER’S ARGUMENT

The taxpayer argues that the purchases giving rise to the deficiency represented only a small percentage of its total purchases for the audit period. The taxpayer is essentially contending that the Department should waive the negligence penalties because the percentage of purchases on which it failed to pay use tax is, in the taxpayer’s view, *de minimis*.

C. ANALYSIS

As noted at the end of Subpart A, IC § 6-8.1-10-7 sets the maximum and minimum amounts of percentage-based penalties, including the negligence penalty, the Department may assess; the minimum is five dollars (\$5). However, once the Department has assessed a negligence penalty over that minimum, as it did here, IC § 6-8.1-10-2.1(d) or (e) govern the Department’s ability to waive that penalty. There is nothing in either of those subsections that even authorizes the Department to waive a negligence penalty on the ground that the amount of unpaid tax is *de minimis*, much less anything setting out an amount, or a formula to determine an amount, of unpaid tax that the Department could treat as being *de minimis*. Nor does IC § 6-8.1-5-1(a), the subsection requiring the Department to make a proposed assessment of tax it reasonably believes was not properly reported, set any minimum figure of unpaid tax below which the Department is excused from doing so. Had the General Assembly wanted to set a floor amount of unpaid tax below which it would deem the taxpayer not liable for any such tax as a matter of law, it easily could have said so.

The only ground on which IC § 6-8.1-10-2.1(d) requires the Department to waive a negligence penalty, once assessed, is

“reasonable cause[.]” *Id.* The legislature’s use of this term necessarily implies that the determinative factor for the Department in deciding whether to waive a negligence penalty is the cause of, not the amount of unpaid tax resulting from, the compliance failure in question. The only material reference to a number concerning the negligence penalties IC § 6-8.1-10-2.1(a) imposes is to the amount of unpaid, underpaid, unreported or underreported taxes. The only use for that figure that IC § 6-8.1-10-2.1 mentions is to compute the negligence penalty; subsection (b) uses that amount as the multiplicand to which the Department applies the ten percent multiplier to determine the amount of the subsection (a) penalty. *See* IC § 6-8.1-10-2.1(b) (setting out the computation formulae). The size of this multiplicand, standing alone, is irrelevant to answering the questions of why and how it came into being, and more precisely to answering the question of whether or not the failure out of which it arose was due to the taxpayer’s negligence.

The taxpayer has not made any alternative argument, much less submitted any evidence in support of such an argument, as to why its “failure to . . . pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect[.]” IC § 6-8.1-10-2.1(d). Indiana law is settled that this state’s taxation hearing officers, and by extension the state-level taxing authorities of which they are agents, “do not have the duty to make a taxpayer’s case.” *Hoogenboom-Nofziger v. State Bd. of Tax Comm’rs*, 715 N.E.2d 1018, 1024 (Ind. Tax Ct. 1999), *cited with approval in State Bd. of Tax Comm’rs v. New Castle Lodge # 147, L.O.O.M.*, 765 N.E.2d 1257, 1264 (Ind. 2002). The Tax Court stated its rationale for this rule later in *Hoogenboom-Nofziger* as follows:

[T]o allow [a taxpayer] to prevail after it made such a cursory showing at the administrative level would result in a tremendous workload increase for [the Department and] the State Board [now the Indiana Board of Tax Review], . . . administrative agenc[ies] that already bear[] . . . difficult burden[s] in administering this State’s [listed and] property tax system[s]. If taxpayers could make a de minimis showing and then force [the Department or] the State Board to support its decisions with detailed factual findings, the [Indiana taxing authorities] would be overwhelmed with cases such as this one. This would be patently unfair to other taxpayers who do make detailed presentations to the [taxing authorities] because resolution of their appeals would necessarily be delayed.

715 N.E.2d at 1024-25. The Department will therefore base its determination of the presence or absence of reasonable cause for the taxpayer’s incurring its use tax deficiency solely on the evidence and information in the audit file.

In its protest letter the taxpayer alleged it had consumed or otherwise used items (e.g., labels for intermediates, thermal ribbons and strapping tools) in certain categories of expensed purchases in its manufacturing process. The taxpayer further stated that for this reason, it had been under the impression that purchases in those categories had been tax-exempt. However, the taxpayer has not protested the substantive assessments of base use tax on those purchase categories.

As it turned out, the taxpayer made one or more mistakes of fact regarding the scope of its production process, and by extension one or more mistakes of law as to the extent it was entitled to treat its expensed purchases as being for exempt uses in that process. The auditors made all of the adjustments under the heading “Non-manufacturing Equipment and Supplies” under the authority of 45 IAC § 2.2-5-8, the regulation that interprets and implements IC § 6-2.5-5-3(b). This latter subsection of GRUTA exempts from sales and use tax “manufacturing machinery, tools, and equipment . . . if . . . acquire[d] . . . for direct use in the direct production . . . of other tangible personal property.” *Id.*

The taxpayer has been doing business in Indiana continuously for over 19 years and has been subject to GRUTA for all of those years. The General Assembly enacted IC § 6-2.5-5-3 as part of its recodifications of GRUTA in 1980. The Department promulgated 45 IAC article 2.2, including 45 IAC § 2.2-5-8, on December 1, 1982. LSA Doc. #82-86(F), 6 I.R. 8 (Jan. 1, 1983) (codified as amended at *id.* (2001)) (current version at *id.* (2004)). Both the statute and the regulation thus have been in effect for the entire time since the taxpayer began doing business in this state in late 1986 and began filing sales and use tax returns in early 1987. The taxpayer is charged with constructive knowledge of both of these authorities and of the judicial opinions of the Indiana courts interpreting this exemption. *E.g., Ind. Dep’t of State Revenue v. Cave Stone, Inc.*, 457 N.E.2d 520 (Ind. 1983) and *General Motors Corp. v. Ind. Dep’t of State Revenue*, 578 N.E.2d 399, 401-05 (Ind. Tax Ct. 1991), *aff’d* 599 N.E.2d 588, 588-89 (Ind. 1992). It should have been well aware by the years of the audit period of both the scope of its production process and whether and to what extent these authorities would permit it to exempt manufacturing machinery, tools and equipment as being used in that process. However, if it was in any doubt and needed guidance, it could have referred to, or obtained competent professional advice on, these authorities.

The taxpayer did not know about, knew about but misunderstood and misapplied, or ignored the law governing this exemption. The Department infers this lack of “ordinary business care and prudence,” 45 IAC § 15-11-2(c), from three facts. First, the taxpayer was in fact aware of the scope of its production process, as evidenced by the study it conducted of its exempt and taxable percentages of use of its forklifts and the items it bought to repair them. Second, notwithstanding this awareness, the taxpayer incurred a use tax audit deficiency, part of which was on its expensed purchases. Third and last, the taxpayer failed to protest this part of the total deficiency on substantive grounds. The taxpayer thereby has tacitly admitted that it did not apply, or incorrectly applied, these authorities in failing to self-assess and remit use tax on the non-exempt part of its expensed purchases during the audit period.

The Department therefore finds that the audit adjustments to those purchases summarized in the Statement of Facts did not occur despite the exercise of “ordinary business care and prudence[.]” *id.*, and thus were not “due to reasonable cause[.]” IC § 6-8.1-10-2.1(d). Rather, they are evidence of either “carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code [and] department regulations[.]” “[i]gnorance of the listed tax laws, rules and/or regulations[.]” or both. 45 IAC

§ 15-11-2(b). As such, the foregoing failures constituted “negligence” as 45 IAC § 15-11-2(b) defines that word. Accordingly, the Department further finds that the taxpayer was negligent and the Audit Division properly proposed assessing the negligence penalties.

FINDING

The taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

02-20050175.LOF

LETTER OF FINDINGS NUMBER: 05-0175

Adjusted Gross Income Tax

For the Year 1998-2001

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. Adjusted Gross Income Tax—Unitary Filing

Authority: Ind. Code § 6-3-2-2; Ind. Code § 6-3-2-2.4; I.R.C. § 243

Taxpayer protests the forced combination of it and seven subsidiaries.

II. Adjusted Gross Income Tax—Apportionment Factors

Authority: 45 IAC 3.1-1-51, 45 IAC 3.1-1-52, 45 IAC 3.1-1-153

Taxpayer protests the elimination of sales between a partnership and a corporation that were included on a unitary tax return, when the corporation to whom the partnership’s sales were made did not directly own any interest in the partnership.

III. Tax Administration—Application of payments

Authority: Ind. Code § 6-8.1-3-17; Ind. Code § 6-8.1-8-1.5

Taxpayer made a payment under amnesty but did not withdraw its protest of tax due.

IV. Tax Administration—Negligence Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the assessment of a negligence penalty.

STATEMENT OF FACTS

Taxpayer is the parent corporation of a group of companies that manufacture and sell various electronic transaction systems. On a separate company basis, Taxpayer is the only company that has any Indiana payroll, property or sales.

During 1999, Taxpayer divided its manufacturing operations into two subsidiaries, Sub M and Sub S, which handled the manufacturing of Taxpayer’s systems. After the division, Sub S manufactured the systems in question and transferred the systems to Sub M. Finished goods were transferred from Sub M to Sub P, a partnership. Sub P, which was owned partly by Sub H and Sub SH, owned all intangible relating to the manufacturing and marketing process. Sub P in turn transfers the property to Taxpayer.

In addition, three other subsidiaries, Sub F, Sub IC, and Sub IM manage Taxpayer’s financial assets. During the years in question, Taxpayer filed a separate Indiana return. However, a Department audit concluded that Taxpayer and various subsidiaries should have filed a unitary return. As a result, the Department assessed additional tax, interest and a negligence penalty. Taxpayer filed a protest, and a hearing was held.

Taxpayer was assessed roughly \$550,000 of additional tax as a result of the assessment, including the assessment of taxes that had been previously refunded. During Indiana Tax Amnesty, Taxpayer paid approximately \$82,000 of tax that it conceded was properly assessed. However, Taxpayer maintained its right to protest notwithstanding the payment and did not otherwise reach a settlement agreement during the amnesty period.

I. Adjusted Gross Income Tax—Unitary Filing

DISCUSSION

First, Taxpayer protests the assessment with respect to several manufacturing subsidiaries. Taxpayer concedes that it and the manufacturing subsidiaries were unitary; however, Taxpayer maintains that the Department must show a failure to fairly reflect income from Indiana sources under the methods provided under Ind. Code § 6-3-2-2(l) prior to an attempt to force unitary filing; in effect, forced unitary filing is a last resort. Taxpayer argues that its deductions for payments between entities were determined on an arms-length basis. Taxpayer has conceded that certain payments were not made in accordance with the agreement and conceded at least that portion of the liability.

Taxpayer, as a separate entity and as the company associated with its machines, lost roughly \$25,000,000 during the four years in question, without any decrease in its sales to third parties; however, the group of companies had income \$500,000,000. The group

as a whole had over \$1,000,000,000 of payroll and \$2,000,000,000 over the period. Taxpayer had roughly 80 percent of the overall property and 90 percent of the payroll of the entire group for the years in question; Sub M and Sub S had virtually the entire balance of property, while the other entities had a combined \$1,000 of property and \$6,100 of payroll for the entire period. The only sales by entities other than Taxpayer consisted of sales within Taxpayer's chain of companies, or passive or "other" income. Here, based on the individual return versus the return for the entire entity, Taxpayer sought to shield virtually all of the income of the entire entity from the scope of Indiana's taxation. This represents a failure to fairly reflect all income of Taxpayer's unitary business. Taxpayer's Indiana income is not that of an isolated entity, with various other entities; it is the income of the entire entity, each an interrelated part of Taxpayer.

Other remedial measures are available to the Department, such as the disallowance of deductions between entities or other methods. The use of these methods depends on the facts and circumstances of each individual case. In this case, Taxpayer seeks to add back deductions claimed pursuant to a transfer-pricing study for expenses between Taxpayer and its miscellaneous subsidiaries. Sub S incurred \$6,000 in costs to manufacture a machine. Sub M bought the machine for \$7,000, and added a few improvements. Sub P paid \$8,000 for the finished machine. Taxpayer paid \$9,000 for the machine, and sold the machine for \$10,000. Here, the net effect of manufacturing a machine and receiving a \$4,000 profit became one of Taxpayer, Sub S, Sub M and Sub P all getting \$1,000 profit. Sub P's profit was further divided between two entities, each of which had zero property, payroll, or sales (other than passive or "other" income) as independent entities. Effectively, this left \$1,000 subject to taxation, rather than the \$4,000 that Taxpayer actually realized from the transaction.

The relationship between Sub F, Sub IC, Sub IM and Taxpayer works like this:

Taxpayer enters into a sale on credit, resulting in a receivable.

Sub F purchases the receivable at face value, plus a factoring commission equal to prime rate plus three percent.

Sub F then seeks to collect on the receivable. If a portion of the receivable is not collected by the expected maturity date, Taxpayer repurchases the receivables at face value less payments and expenses incurred by Sub F.

Sub IC owns Sub F. Sub IC manages Taxpayer's intangible assets and distributes income from those investments. Any administrative functions are performed by Taxpayer's employees, with expenses paid by Sub IM.

Sub IM performs management functions for Sub IC and Sub F. These functions are actually performed by Taxpayer's employees, with expenses paid by Sub IM.

For instance, a customer incurred a \$10,000 receivable with Taxpayer, payable at 10.5 percent annual interest over three years. Prime rate was 7.5 percent. As a result, Taxpayer sold the receivable to Sub F for \$11,050. In order to retire the debt, payments of \$323 were made for the duration of the receivable. This resulted in a profit of \$1,628 on the transaction. Of this, only \$1,050 was realized by Taxpayer. The other \$578 was realized by Sub F.

However, if the customer failed to make the first payment on the agreement, Sub F would then sell the receivable back to Taxpayer at the end of three years for \$424 (the face value of the loan), plus expenses of Sub F. Sub F realized a gain of at least \$679 (\$255 collected above its \$11,050 purchase price of the receivable, and \$424 of face value). Taxpayer then collects the \$424. Taxpayer's gain was only \$1,050. In effect, Taxpayer was able to realize a fixed gain from every sale, and any excess income on receivables was siphoned to Sub F. If the debt becomes uncollectible, Sub F's losses were limited to its "factoring commission" (i.e., \$1,050 in the example given), while Taxpayer still retained much of the benefit of any losses. In sum, Taxpayer and Sub F engaged in a transaction that resulted in little more than a shifting of income from Taxpayer to Sub F. Further, the only way to take into account the value of the receivable to Taxpayer is to combine the entities; any other approach serves to permit arbitrary shifting of income illustrated by the example provided.

With respect to Sub IC and Sub IM, these companies were little more than paper entities. The only difference is that the income was insulated into entities without any real substance or tax liability (per the Department's audit report) and permitting Taxpayer to reduce its income artificially. The recipient company (Sub IC or Sub IM) was then able to draw interest and/or third-party dividends on the segregated income, which could then never be touched by Indiana on a separate company basis. Further, when the recipient paid dividends back to Taxpayer for the day-to-day use in Taxpayer's business, Taxpayer would be able to claim a full deduction of the dividends under I.R.C. § 243(b)(1) and thus never be taxed. Other approaches that could be taken to account for Taxpayer's income simply do not take into account the income earned for Taxpayer's operations by Sub IC and Sub IM.

In short, the remedial steps under Ind. Code § 6-3-2-2(*l*) other than forced combination do not fully account for Taxpayer's income from its overall operations. In this particular instance, the combination of legally separate but functionally interdependent identities--a unitary return--is the appropriate remedy.

Taxpayer also protests the inclusion of certain entities in Taxpayer's unitary group. Taxpayer asserts that a laundry list of other companies should have been included on the unitary return, rather than the entities that the Department determined to be part of the return.

This argument has two problems. One, Taxpayer has not provided any information concerning whether the entities were unitary or how the inclusion of various entities would more fairly reflect its Indiana income than the Department's method. Second, a number of the entities appear to be foreign corporations or foreign operating corporations as determined under Ind. Code § 6-3-2-2.4. Taxpayer can make an election to include those entities if it files a request to include those entities with the Department no more than

thirty (30) days after the close of Taxpayer's taxable year. Ind. Code § 6-3-2-2(q). Taxpayer did not do this. Under Ind. Code § 6-3-2-2(o), the Department is precluded from requiring inclusion of the foreign corporations or foreign operating corporations. Accordingly, Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax—Apportionment Factors

DISCUSSION

Taxpayer further argues that, if Taxpayer was required to file a combined return with its various subsidiaries, the Department erroneously eliminated sales between Taxpayer and Sub P. Taxpayer argues that only the sales between a unitary partnership and its corporate partners should be eliminated; therefore, only the sales between Sub P and Sub P's partners, Sub H and Sub SH, should be eliminated.

Taxpayer cites to 45 IAC 3.1-1-153(b)(2), which states:

Intercompany sales between the corporate partner and the partnership shall be eliminated from the corporate partner's sales factor as follows:

(A) Sales by the corporate partner to the partnership to the extent of the corporate partner's interest in the partnership.

(B) Sales by the partnership to the corporate partner not to exceed the corporate partner's interest in all partnership sales.

While 45 IAC 3.1-1-51 and -52 provide for elimination of sales between members of an affiliated group filing consolidated returns, both the statutes and regulations are silent in terms of members of a unitary group that are not partners in a corporate partnership. That stated, the logic behind the elimination of sales between affiliated companies—double counting of the same sale on the return of the same taxpayer (via combination)—is exactly the same in this case. Thus, notwithstanding the language of 45 IAC 3.1-1-153 dealing with corporate partners, the elimination of sales between Taxpayer and Sub P was proper.

FINDING

Taxpayer's protest is denied.

III. Tax Administration—Application of payments

DISCUSSION

Taxpayer also presented a situation that arose after the Department's administrative hearing. Taxpayer had a net assessment of roughly \$550,000 of base tax. However, Taxpayer's position was that it owed only a base tax of \$82,000. Prior to the November 15, 2005, expiration of the amnesty period under Ind. Code § 6-8.1-3-17(c), Taxpayer paid \$82,000; however, Taxpayer did not withdraw its protest of the tax due.

Under the provisions of Indiana Tax Amnesty, taxpayers were given the opportunity to pay their base tax liability as determined by the Department without any penalties or interest that may have been otherwise due. In exchange for the payment, the taxpayers agreed to withdraw and/or forego any rights to refunds, appeals, or administrative protests for the taxes paid.

Even if Taxpayer's position on unitary filing is sustained, Taxpayer's payment cannot be considered a payment subject to the special provisions of the amnesty program because Taxpayer did not waive its continued protest. Accordingly, the payment should be applied in the normal manner under Ind. Code § 6-8.1-8-1.5, without any waiver of penalties and/or interest provided under amnesty.

FINDING

Taxpayer's protest is denied.

IV. Tax Administration—Negligence Penalty

DISCUSSION

The Department may impose a ten percent negligence penalty. Ind. Code 6-8.1-10-2.1 and 45 IAC 15-11-2. Taxpayer's failure to pay taxes as determined by Department audit will result in a negligence penalty. Ind. Code 6-8.1-10-2.1(a)(3). 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.*

With respect to the penalty, Taxpayer has not provided sufficient information to permit penalty waiver.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420050201.LOF

LETTER OF FINDINGS NUMBER 05-0201

RESPONSIBLE OFFICER

SALES TAX AND WITHHOLDING TAX

For Tax Period 1993

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

I. Sales and Withholding Tax -Responsible Officer Liability

Authority: IC 6-2.5-9-3, IC 6-3-4-8 (g), IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of corporate sales and withholding taxes against him as a responsible officer.

STATEMENT OF FACTS

The taxpayer was the vice president of a corporation that did not remit the proper amount of sales and withholding taxes to Indiana for the tax period 1993. The department assessed the outstanding corporate withholding taxes, sales taxes, interest, and penalty against the taxpayer personally. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. 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(g), 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 produced adequate documentation that he had no duty to collect and remit sales and withholding taxes to the state. Therefore, he is not personally responsible for the payment of the corporate sales and withholding taxes.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

01-20050208.LOF

LETTER OF FINDINGS NUMBERS: 05-0208

Personal Income Tax

For the Years 2001-2003

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—Best information available

Authority: Ind. Code § 6-8.1-5-1

Taxpayer protests the imposition income tax for the years in question.

STATEMENT OF FACTS

Taxpayers are a married couple. From 2001 to 2003, Taxpayers did not file Indiana tax returns. The Department conducted an audit for the years in question, and assessed tax, penalties and interest on the income determined by a best information available method. Taxpayer protested the assessment.

On January 13, 2006, the Department sent a letter to Taxpayer scheduling a hearing for February 7, 2006. Taxpayer called the Department on January 17, 2006, with respect to certain matters regarding the hearing. The Department called Taxpayer on January 19, 2006, to indicate that Taxpayer should provide additional information that may permit the Department to grant a short delay in the hearing date. Taxpayer neither furnished the information that would have permitted the delay nor contacted the Department after January 19, 2006. At the scheduled time and date of the hearing, Taxpayer neither appeared at the designated location of the hearing nor called the hearing officer at that time. Accordingly, this letter of findings is being written based on the information in the file.

I. Tax Administration—Best information available**DISCUSSION**

Taxpayer argues several assumptions made by the auditor were incorrect. Assessments by the Department are presumed correct, and the burden of showing the incorrectness of any assessment rests with the taxpayer. Ind. Code § 6-8.1-5-1(a).

Taxpayers' protest listed a variety of contentions. Taxpayers provided little other than conclusory statements without supporting documentation. Accordingly, Taxpayer has not provided sufficient evidence to conclude that the Department's assessment was incorrect.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20050215.LOF

LETTER OF FINDINGS NUMBER: 05-0215**Sales/Use Tax****Periods of 2001 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 this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Sales/Use Tax: Equipment**

Authority: 45 IAC 2.2-5-8; IC 6-8.1-5-1(b); 45 IAC 15-11-2; IC 6-8.1-10-1(e)

The taxpayer protests the proposed assessment of tax on an auto loader.

STATEMENT OF FACTS

The taxpayer manufactures glass/ceramic panels for kitchen appliances, which are in turn sold to appliance manufacturers. More facts will be provided below as needed.

I. Sales/Use Tax: Equipment**DISCUSSION**

As noted, the taxpayer protests the proposed assessment of tax on an auto loader (referred to by the taxpayer as a "[r]obotic loader"). The Auditor found the following:

The review of capital assets revealed taxable purchases on which no sales or use tax has been paid. Additional taxable purchases include an auto loading system, equipment rental and a lathe. The auto loader loads raw materials, glass, onto the production line. No change has occurred to the raw materials prior to being loaded onto the line. As such the auto loader equipment is preproduction and not entitled to the manufacturing exemption.

45 IAC 2.2-5-8(a) states that "In general, all purchases of tangible personal property by persons engaged in the direct production, manufacture, fabrication, assembly, or finishing of tangible personal property are taxable." However, 45 IAC 2.2-5-8(b) notes:

The state gross retail tax does not apply to sales of manufacturing machinery, tools, and equipment to be directly used by the purchaser in the direct production, manufacture, fabrication, assembly, or finishing of tangible personal property.

As 45 IAC 2.2-5-8(c) makes clear, the equipment must "have an immediate effect on the article being produced."

The Auditor argues that the auto loader is pre-production, and thus does not come within the ambit of the manufacturing exemptions. 45 IAC 2.2-5-8(d) deals with "preproduction" and states in relevant part:

"Direct use in the production process" begins at the point of the first operation or activity constituting part of the integrated production process....

Property, per 45 IAC 2.2-5-8(f), "used for moving raw materials to the plant prior to their entrance into the production process is taxable."

The taxpayer states the following:

We are using robotics to lift raw material onto the production line to start production/processing of the product.

And also:

The start of our integrated production process is with the robots lifting the raw material onto the production line.

And in follow-up correspondence, the taxpayer states, in part:

1. Raw materials—Glass is stored in the raw glass storage/warehouse area. The forklift truck brings the glass to the production area. The cutting operator will prepare the raw glass boxes to be loaded into the Reis Robotic loader.

Nonrule Policy Documents

2. Cut set up piece—This is the start of the cut and edge operation. Glass is taken out of the box by the Reis Robotic loader and placed on the conveyor. The conveyor takes the glass to the CNC cutter. At this point the glass is cut to a specific size and placed on the CNC edger. ...

The question is whether or not the auto loader (robotic loader) is the first step in the production process for the taxpayer or is it pre-production. The taxpayer itself seems to characterize the auto loader as pre-production when it states “We are using robotics to lift raw material onto the production line to *start* production/processing of the product.” (*Emphasis added*). 45 IAC 2.2-5-8(c) states in part:

(4) Because of the lack of an essential and integral relationship with the integrated production system in Example (1), the following types of equipment are not exempt:

....
(G) Equipment used to remove raw material from storage prior to introduction into the production process or to move finished products from the last step of production.

Taking raw materials—glass in this case—out of a box, to be loaded on to the conveyor system, is pre-production. The auto loader does not have an immediate effect on the glass.

Lastly, in correspondence, the taxpayer included penalty and interest in its requested adjustments. Under IC 6-8.1-5-1(b) the taxpayer bears the burden of proof. The taxpayer did not develop any arguments regarding the penalty and interest, and is thus denied on the penalty and interest too—See 45 IAC 15-11-2 regarding the penalty, and IC 6-8.1-10-1(e) regarding the interest.

FINDING

The taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

01-20050275.LOF

LETTER OF FINDINGS NUMBER: 05-0275

Individual Income Tax

For the Years 1998-1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

ISSUES

I. Individual Income Tax – Income of S Corporation shareholders

Authority: Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is an individual who was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Individual Income Tax – Income of S Corporation shareholders

DISCUSSION

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer’s protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer’s protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

04-20050325.LOF

LETTER OF FINDINGS NUMBER: 05-0325

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—Helicopter Purchase

Authority: IC 6-2.5-5-8; IC 6-2.5-5-27; 45 IAC 2.2-5-15; Black's Law Dictionary (6th ed. 1990)

Taxpayer protests the imposition of use tax on the purchase of an aircraft.

STATEMENT OF FACTS

Taxpayer is a limited liability company, wholly-owned by a single individual, which purchased a helicopter but did not pay sales tax on the purchase. Taxpayer claimed that the purchase was exempt from sales tax because the helicopter 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 helicopter and determined that there was insufficient evidence to support the claim of rental or leasing as the use of the helicopter. 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 helicopter. Taxpayer protests the assessment. Further facts will be supplied as required.

I. Sales and Use—Helicopter Purchase

DISCUSSION

Taxpayer purchased a helicopter and claimed a sales tax exemption on the purchase price. The Department determined that taxpayer did not qualify for the exemption and issued a proposed assessment on the purchase of the helicopter. Taxpayer protests the denial of the claim for exemption.

The exemption is explained in 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 is leasing the helicopter in the regular course of its business and so qualifies for the exemption. Taxpayer refers to the agreement it signed along with another party to lease the helicopter. The lessee was the same business which sold the helicopter to taxpayer. Taxpayer states that the lease is evidence that it purchased the helicopter for the purpose of leasing it to others.

The Department notes that the lease agreement is dated April 16, 2004, while the helicopter was not delivered to taxpayer until November 2004. Even then, the first leasing activity by the lessee under the leasing agreement signed in April 2004 did not take place until May 2005. 45 IAC 2.2-5-15(C)(2) states that the purchaser must be occupationally engaged in reselling, renting or leasing such property in the regular course of its business. The lack of any leasing activity for over a year under this lease shows that this lease does not satisfy the requirements of 45 IAC 2.2-5-15(c)(2). This lease does not support taxpayer's position that it was in the business of renting or leasing the helicopter.

Next, taxpayer refers to several instances when it rented the aircraft to the individual who owns taxpayer. Taxpayer explains that the member would transport customers for an hourly rate. No rental or leasing agreements or any other materials establishing that the pilot/owner of taxpayer was in the business of public transportation were provided in support of this position. Taxpayer believes that this qualifies as renting or leasing for purposes of the rental exemption. Taxpayer has not provided any leasing or rental agreements between taxpayer and taxpayer's owner (the pilot) establishing the rate and terms of rental or leasing. Taxpayer did not remit sales tax on the rental activity it had with the individual who owns taxpayer.

Taxpayer believes that the pilot was involved in public transportation and therefore was exempt from sales tax on the rental activity. The public transportation exemption is found at 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.

The individual who owns the taxpayer and pilots the helicopter is licensed under Part 91 of the Federal Aviation Administration's (FAA) regulations. Pilots licensed for public transportation are licensed under Part 135. Taxpayer states that the pilot in question was working towards his Part 135 certification. Since the pilot did not hold a public transportation license from the FAA, he did not qualify for the public transportation exemption in IC 6-2.5-27.

Since the use of the helicopter by the pilot/owner of taxpayer did not qualify for the public transportation exemption, sales tax should have been collected on the pilot's use of the helicopter. Black's Law Dictionary, defines an arms-length transaction as:

Said of a transaction negotiated by unrelated parties, each acting in his or her own self interest; the basis for a fair market value determination. A transaction in good faith in the ordinary course of business by parties with independent interests. Commonly applied in areas of taxation when there are dealings between related corporations, *e.g.* parent and subsidiary.

...

Black's Law Dictionary, 109 (6th ed. 1990)

Since sales tax was not collected on the pilot's use of the helicopter, and no leasing or rental agreements between taxpayer and its owner were signed, these uses of the helicopter by the same individual who owns taxpayer do not rise to the level of arms-length transactions. Since these were not arms-length transactions, the pilot/taxpayer owner's use of the helicopter constitutes use of the helicopter by the purchaser. 45 IAC 2.2-5-15(C)(1) explains that the rental/leasing exemption does not apply if the purchaser uses the property. Here, the owner used the property and does not qualify for the exemption.

Alternately, in its protest correspondence with the Department, taxpayer claims that it was itself involved in public transportation, via the leasing of the helicopter to its sole member/owner who then flew his own paying customers. This was not public transportation on the part of the taxpayer. Even when viewed in the light most favorable to taxpayer's argument, taxpayer was renting the helicopter to an individual. It was not transporting anyone. Rather, it was renting the helicopter to someone who claims to transport others. The Department has not received any documentation to suggest that taxpayer is in the business of public transportation. As previously explained, IC 6-2.5-5-27 provides that 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. Here, the person which acquired the property (taxpayer) did not provide public transportation, therefore it does not qualify for the public transportation exemption.

Taxpayer objects that it obtained a Revenue Ruling from the Department which approved of taxpayer's arrangement and that this ruling prohibits the Department from now charging tax on the purchase of the helicopter. Taxpayer states that the ruling specifically approved of the leasing to either Part 91 or Part 135 operators. This is not what the ruling states. The ruling has a "Statement of Facts" which explains the background of the situation. In this section, the ruling explains that taxpayer's leasing agreement contains language stating that the lessee must comply with Part 91 and/or Part 135. The Department's actual ruling on this issue states in its entirety:

The Department rules that the taxpayer's purchase of the helicopter for the purpose of leasing is exempt from sales/use tax under I.C. 6-2.5-5-8, which exempts property acquired for resale, rental, or leasing in the course of one's business, providing that such helicopter was purchased in the regular course of the taxpayer's business and the form of the helicopter was not altered.

The Department did not endorse taxpayer's inclusion of Part 91 as use in public transportation. The ruling merely states that taxpayer's purchase is exempt providing that the circumstances satisfy the requirements. As previously explained, the circumstances do not qualify for the leasing exemption.

The second issue in the ruling explains the Department's decision regarding the lessee in the lease agreement. The Department ruled that the lessee's activities would qualify for the public transportation exemption if it was predominantly engaged in public transportation. As previously explained, the lessee did not lease the helicopter for over a year from the date the agreement was signed, and so the leasing agreement does not support taxpayer's claim for exemption on those grounds. Whether or not the lessee in the agreement was engaged in public transportation but this is ultimately irrelevant since the lessee did not use the helicopter at issue for public transportation for over a year. The ruling did not address the use of the helicopter by the individual who owned taxpayer.

In conclusion, the lease taxpayer had with its lessee does not support taxpayer's claim for exemption. The total lack of leasing activity under that lease for over a year clearly does not qualify for the exemption found in 45 IAC 2.2-5-15. The activity which did take place did not qualify for the public transportation exemption due to the fact that the pilot did not hold the necessary license from the FAA, and sales tax should have been collected on that activity. The use of the helicopter by the same individual who owns taxpayer was not performed at arm's length and therefore constitutes use of the property by the purchaser, which disqualifies the purchase from eligibility for the exemption found in 45 IAC 2.2-5-15. The Revenue Ruling taxpayer received from the Department only states that the purchase would qualify for the exemption found in IC 6-2.5-5-8 if the proper conditions were met. The proper conditions were not met.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

01-20050349.LOF

LETTER OF FINDINGS NUMBER: 05-0349**Individual Income Tax****For the Years 1998-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Individual Income Tax – Income of S Corporation shareholders**

Authority: Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is an individual who was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Individual Income Tax – Income of S Corporation shareholders**DISCUSSION**

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer's protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer's protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

01-20050350.LOF

LETTER OF FINDINGS NUMBER: 05-0350**Individual Income Tax****For the Years 1998-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Individual Income Tax – Income of S Corporation shareholders**

Authority: Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is an individual who was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Individual Income Tax – Income of S Corporation shareholders**DISCUSSION**

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer's protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer's protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

01-20050351.LOF

LETTER OF FINDINGS NUMBER: 05-0351**Individual Income Tax****For the Years 1998-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Individual Income Tax – Income of S Corporation shareholders**

Authority: Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is an individual who was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Individual Income Tax – Income of S Corporation shareholders**DISCUSSION**

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer's protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer's protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

75-20050352.LOF

LETTER OF FINDINGS NUMBER: 05-0352**Fiduciary Income Tax****For the Years 1998-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Fiduciary Income Tax – Income of S Corporation shareholders**

Authority: Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is a trust that was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Fiduciary Income Tax – Income of S Corporation shareholders**DISCUSSION**

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer's protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer's protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

75-20050353.LOF

LETTER OF FINDINGS NUMBER: 05-0353**Fiduciary Income Tax****For the Years 1998-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Fiduciary Income Tax – Income of S Corporation shareholders**

Authority: Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is a trust that was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Fiduciary Income Tax – Income of S Corporation shareholders**DISCUSSION**

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer's protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer's protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

04-20050356.LOF

LETTER OF FINDINGS NUMBER: 05-0356**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); 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); IC 6-8.1-5-1; 45 IAC 2.2-5-15; 45 IAC 2.2-4-27; 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 and claimed an exemption from sales tax on the purchase. The Department of Revenue ("Department") reviewed the claim for exemption and determined that taxpayer did not qualify for the exemption. As a result of this determination, the Department issued an assessment for use tax on the purchase price of the aircraft. Taxpayer protests the assessment and the determination that it does not qualify for the exemption. Taxpayer failed to attend the scheduled administrative hearing. An individual claiming to represent the taxpayer called shortly before the scheduled administrative hearing to request that the hearing be rescheduled. There was no indication in the file that the taxpayer had representation and the hearing officer explained that the Department required a signed Power of Attorney (POA) form before any discussion of the taxpayer's protest could take place. The individual claiming to represent the taxpayer agreed to send in a POA, and the hearing officer agreed to reschedule the hearing to the next week at the same day and time. No one showed up for the rescheduled hearing either, and no explanation was provided. The Letter of Findings (LOF) is based on the information already in the file. Further facts will be supplied as required.

I. Sales and Use—Aircraft Purchase

DISCUSSION

Taxpayer protests the imposition of use tax on its purchase of an aircraft. Taxpayer purchased the aircraft in September 2004 for a purchase price of five hundred fifteen thousand, seven hundred eighty eight dollars (\$515,788.00) but did not pay sales tax on the purchase. Taxpayer claimed the exemption for resale, rental or leasing. The exemption is found in 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 believes that it is entitled to this exemption.

The Department denied the claim for exemption due to the fact that the lease was not an arms-length transaction. The Department based its decision on several factors. First, the lessor and the lessee in the leasing arrangement are owned by the same individual. Second, the rental rate was less all expenses of the lessee, resulting in a rental rate far below the normal market rate. 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 evidence that taxpayer's relationship with its customer was not a valid lessor/lessee relationship. Third, the rate was to be charged on a monthly basis pro-rated for any partial month, without regard to the actual number of hours flown. The lessee could fly the aircraft for any number of hours per month, which could result in an extremely low rate per hour.

Fourth, the insurance policy held by the lessor lists the "purpose of use" of the aircraft as, "Pleasure and Business: means personal and pleasure use in connection with the Insured's business, transportation of executives, employees, guests and customers, but *excluding* any operation for which a charge of any kind is made." (emphasis in original) The insurance policy also defines the only special uses as "Dual Flight Instruction to named Pilots Only", and then names as the only pilot the same individual who owns lessor and lessee. The individual is listed as a student pilot, not a commercially licensed pilot. Fifth, taxpayer is registered with the Department for quarterly Retail Sales Tax (RST) reporting, but has never paid sales tax to the Department. Sixth, there is no evidence that there even is a leasing stream between taxpayer and lessee upon which sales tax would be collected. Taxpayer has failed to prove that it is conducting any business at all, let alone that it leased the aircraft in the regular course of its business as required by 45 IAC 2.2-5-15(c)(2)

After reviewing all of the factors here, 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, the Department reviewed all of the relevant information and properly determined that taxpayer did not qualify for the rental and leasing exemption found in 45 IAC 2.2-5-15. Taxpayer did not enter into a valid lease and has not been in the business of leasing the aircraft. Rather, taxpayer entered into a sham transaction as previously described. Under IC 6-8.1-5-1(b), the burden of proving the assessment wrong rests with the taxpayer. Taxpayer has failed to meet that burden.

FINDING

Taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

4220050386.LOF

LETTER OF FINDINGS NUMBER: 05-0386

IFTA

For Tax Years 2002-03

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. IFTA—Audit Method

Authority: IFTA VI.A.3

Taxpayer protests the method used to audit IFTA filing.

STATEMENT OF FACTS

Taxpayer operates a charter bus company and construction company in Indiana, with bus operations in various states. As the result of an audit, the Indiana Department of Revenue (“Department”) issued proposed assessments for International Fuel Tax Agreement (“IFTA”) fees for the years 2002 and 2003. Taxpayer protests these assessments. Further facts will be supplied as required.

I. IFTA—Audit Method

DISCUSSION

Taxpayer protests the Department’s assessment of IFTA fees. Taxpayer states in its protest letter that the Department used incorrect methodology to calculate several factors in reaching the assessments. Taxpayer has provided no documentation or analysis beyond the mere assertion that the Department is wrong. The Department refers to IFTA VI.A.3, which states in relevant part:

The assessment made by a base jurisdiction pursuant to this procedure shall be presumed to be correct, and in any case where the validity of the assessment is drawn into question, the burden shall be on the licensee to establish by a fair preponderance of the evidence that the assessment is erroneous or excessive.

Taxpayer has not met the burden of establishing by a fair preponderance of evidence that the assessments are erroneous or excessive, as required by IFTA VI.A.3. Taxpayer has not provided any documentation or analysis in support of its protest.

FINDING

Taxpayer’s protest is denied.

DEPARTMENT OF STATE REVENUE

4620050387.LOF

LETTER OF FINDINGS NUMBER: 05-0387**SSRS****For Tax Years 2002-03**

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. SSRS—Audit Method**

Authority: 49 USCS § 14504; IC 6-8.1-5-1; IC 8-2.1-20-7

Taxpayer protests the method used to audit SSRS filing.

STATEMENT OF FACTS

Taxpayer operates a charter bus company and construction company in Indiana, with bus operations in various states. As the result of an audit, the Indiana Department of Revenue ("Department") issued proposed assessments for Single State Registration System ("SSRS") fees for the years 2002 and 2003. Taxpayer protests these assessments. Further facts will be supplied as required.

I. SSRS—Audit Method**DISCUSSION**

Taxpayer protests the Department's assessment of SSRS fees. Taxpayer states in its protest letter that the Department used incorrect methodology to calculate several factors in reaching the assessments. Taxpayer's concerns focus on its belief that registration was not required for the total number of vehicles it used in each state in which it operated. Taxpayer believes that it was only required to register the fact that it had a vehicle in the various states, not the total number of vehicles. Taxpayer has supplied no supporting documentation in support of its assertion that the Department is wrong.

The Department refers to IC 8-2.1-20-7, which states:

Before operating a motor vehicle on the public highways of this state in the interstate transportation of property or passengers, the person who operates the motor vehicle must register under the single state registration system established under 49 U.S.C. 11506.

49 USCS § 14504 requires that Indiana:

... establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that--

(I) *is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates;*

(emphasis added)

Since 49 USCS § 14504(c)(2)(B)(iv)(I) specifically states that the fee system is based on the number of commercial vehicles the carrier operates in a State and on the number of States in which the carrier operates, the Department's method of calculation is clearly correct.

Taxpayer also states that the audit included mileage in Arkansas and Mississippi for one vehicle which taxpayer claims never went into those States. The audit used taxpayer's own records to determine that the vehicle in question did go into those States. Taxpayer has not provided any argument or documentation to convince the Department to ignore taxpayer's own records.

The burden of proving an assessment wrong rests with the person against whom the assessment is made, as provided in IC 6-8.1-5-1(b). Taxpayer has not provided any documentation in support of its position. Taxpayer has not provided any analysis beyond its assertion that the Department is wrong. Taxpayer has not met its burden under IC 6-8.1-5-1(b).

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

01-20050404.LOF

LETTER OF FINDINGS NUMBER: 05-0404**Individual Income Tax****For the Years 1998-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES**I. Individual Income Tax – Income of S Corporation shareholders****Authority:** Ind. Code § 6-8.1-3-17

Taxpayer protests the assessment of adjusted gross income tax based on its interest as a shareholder in an S Corporation.

STATEMENT OF FACTS

Taxpayer is an individual who was assessed income tax on income derived as a shareholder in an S Corporation. Taxpayer filed a protest of the tax. During Indiana Tax Amnesty, Taxpayer paid the taxes assessed.

I. Individual Income Tax – Income of S Corporation shareholders**DISCUSSION**

Taxpayer argued that the assessment of additional income tax was erroneous. Taxpayer paid the base tax liability in question between September 15, 2005, and November 15, 2005. By opting into the Indiana Tax Amnesty program and paying the base tax liability during the amnesty period, Taxpayer has withdrawn its protest of base tax, and has agreed to forego any rights to refund, further protest, or appeal of the tax liability. Accordingly, Taxpayer's protest of base tax is denied, and interest and penalties are waived per Ind. Code § 6-8.1-3-17(c).

FINDING

Taxpayer's protest is sustained in part and denied in part.

DEPARTMENT OF STATE REVENUE

0120050405.LOF

LETTER OF FINDINGS NUMBER: 05-0405**Adjusted Gross Income Tax****For the 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**1. Adjusted Gross Income Tax –Withholding Credit****Authority:** IC 6-8.1-5-1 (b), IC 6-3-2-1, IC 6-3-4-15.7.

The taxpayer protests the assessment of adjusted gross income tax on unreported gross income.

STATEMENT OF FACTS

The taxpayers are a married couple. They filed an amended return for 2003 to include additional income from a retirement distribution on which Indiana adjusted gross income taxes were withheld. When they filed the amended return and paid the associated tax liability, they failed to send in the 1099R indicating the amount of Indiana adjusted gross income taxes withheld from the retirement income. Upon review of the return, the Indiana Department of Revenue (department) disallowed the credit the taxpayers' claimed for the withholding. As a result the department sent the taxpayers a bill for the additional Indiana adjusted gross income, interest, and penalty. The taxpayer's protested the assessment and a hearing was held.

1. Adjusted Gross Income Tax –Withholding Credit**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. Payers of retirement plans are generally required to withhold Indiana adjusted gross income taxes from payments to taxpayers. Those withheld taxes must be remitted to the state and credited to the account of the taxpayers. IC 6-3-4-15.7. In this situation, the retirement income payee actually withheld Indiana adjusted gross income taxes and remitted them to the state. The taxpayer provided the 1099 R to prove that the taxes were withheld and credited to the taxpayer's 2003 Indiana adjusted gross income tax.

The taxpayers sustained their burden of proving that they paid the proper amount of Indiana adjusted gross income taxes to the state.

FINDING

The taxpayer's protest is sustained.

Nonrule Policy Documents

DEPARTMENT OF STATE REVENUE

0320050417P.LOF

LETTER OF FINDINGS NUMBER: 05-0417P

Withholding 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

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 filing of the DB020W-NR annual withholding return for nonresident shareholders for the calendar year 2004. The taxpayer is an out-of-state company.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer requests the penalty be abated as the taxpayer has a complex accounting system and was not able to assemble the information to complete the withholding return by the due date.

The Department points out that the taxpayer could have paid an estimate and the applied for a refund at a later date.

The regulation which controls the application of 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 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

04-20050456.LOF

LETTER OF FINDINGS NUMBER: 05-0456

SALES AND USE TAX

FOR TAX 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 Tax and Use Tax: Exemption

Authority: IC 6-8.1-5-1(b); IC 6-2.5-2-1; IC 6-2.5-5-8; 45 IAC 2.2-5-15; Indiana Dept. of Revenue v. Interstate Warehousing, 783 N.E.2d 248 (Ind. 2003); Black's Law Dictionary 67, 989, 1535, 1587 (8th ed. 1999); Precision Erecting v. Wokurka, 638 N.E.2d 472, 473 (Ind. Ct. App. 1994).

Taxpayer protests the Department's denial of its exemption from sales and use tax.

STATEMENT OF FACTS

Taxpayer purchased an aircraft and registered the aircraft in Indiana. Taxpayer claimed an exemption from sales tax based on renting and leasing the aircraft to others. The Department of Revenue ("Department") conducted an audit review of the taxpayer. The audit denied the taxpayer's sales and use tax exemption claim and assessed tax on the aircraft purchase price. The taxpayer submitted a protest challenging the assessment. The Department held a hearing and now presents this Letter of Findings with additional facts to follow.

I. Sales and Use Tax: Exemption

DISCUSSION

The taxpayer protests the sales and use tax assessment on its aircraft purchase price. The taxpayer purchased the aircraft in August of 2003 for \$1,274,610. Taxpayer contends that it purchased the aircraft to rent and lease to others as a business venture. During the course of the protest, the taxpayer provided its operating agreement, a lease agreement, flight logs, and an insurance policy to support its claim of renting and leasing to others. However, the audit review determined that the taxpayer was not entitled to an exemption because the Department questioned whether the lease agreement was negotiated in an arms-length transaction.

A presumption exists that all tax assessments are accurate. IC 6-8.1-5-1(b). IC 6-2.5-2-1(a) states that “[a]n excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.” IC 6-2.5-5-8 provides:

“[t]ransactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of his business without changing the form of the property. 45 IAC 2.2-5-15 provides:

(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, rental or leasing are exempt from tax if all 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 the 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.... (emphasis added.)

The Indiana Supreme Court stated:

It is well established that exemption statutes are strictly construed against a taxpayer so long as the intent and purpose of the Indiana Legislature is not thwarted. As such, a taxpayer has the burden of establishing its entitlement to an exemption.

Indiana Dept. of Revenue v. Interstate Warehousing, 783 N.E.2d 248, 250 (Ind. 2003).

IC 6-2.5-5-8 involves a fact intensive analysis. No one fact alone will provide conclusive evidence that a taxpayer is entitled to the IC 6-2.5-5-8 exemption. However, certain facts provided by the taxpayer may suggest whether or not the taxpayer intended to acquire property for renting and leasing in the ordinary course of its business.

Using this analysis, the first fact for consideration is the lease agreement between the taxpayer and the aircraft charter service company (“Service Company”). This agreement was initially provided to the audit review and showed that the taxpayer had entered into an “Aircraft Master Lease Agreement” for five hundred and sixty dollars (\$560). The individual that signed the lease agreement for the Service Company, also served as the registered agent of the taxpayer. However, at the protest hearing, the taxpayer stated the agreement was not a lease agreement. The taxpayer stated the agreement was an agreement for pilot service. The taxpayer explained that it desired to charter its aircraft; but, the FAR §91 certificate it held did not allow it to operate as a charter or air-taxi service. To provide this type of service, the FAA requires an individual to have a FAR §135 certificate. As a result of the agreement, the taxpayer was able to charter out its aircraft through the Service Company, until it received its FAR §135 certificate a year later. The taxpayer further argued the rental rate it charged was only for usage of the aircraft, and did not include charges for fuel and pilot service. The taxpayer explained the higher rental rate the audit review used as a comparison reflects the rate charged by holders of a FAR §135 certificate, where the rate includes charges for pilot service and fuel usage. The taxpayer provided additional evidence from other companies to substantiate its argument.

The audit review was correct to question whether the lease agreement between the taxpayer and the Service Company was negotiated in an “arms-length transaction” and for a “fair market rate”. An “arm’s length transaction” is defined as “[a] transaction between two unrelated and unaffiliated parties.” Black’s Law Dictionary 1535 (8th ed. 1999). A “fair market rate” is defined as “[t]he price that a seller is willing to accept and a buyer is willing to pay on the ***open market and in an arm’s length transaction.***” Black’s Law Dictionary 1587 (8th ed. 1999) (emphasis added). “Open market” is defined as “[a] market in which any buyer or seller may trade and in which prices and product availability are determined by free competition.” Black’s Law Dictionary 989 (8th ed. 1999).

In this case, the taxpayer named the owner of the Service Company as its registered agent in Indiana. Designating a person as a registered agent creates an agency relationship. See Precision Erecting v. Wokurka, 638 N.E.2d 472, 473 (Ind. Ct. App. 1994). An “agency relationship” is defined as “[a] fiduciary relationship created by express or implied contract or by law, in which one party (the agent) may act on behalf of another party (the principal) and bind that other party by word or actions. Black’s Law Dictionary

67 (8th ed. 1999). By designating the Service Company owner as its registered agent, the taxpayer created an agency relationship. This relationship gave the owner of the Service Company the ability to act on behalf of the taxpayer and bind the taxpayer, as well as, the owner's own company. By having this ability, the Service Company owner became a related party to the taxpayer. Thus, because the parties to the transactions are related, the transaction was not done at arms-length. Even more so, the transaction was not done for a "fair market rate" because the price was not set by the "open market" and in an "arm's length transaction". By including "the taxpayer has [the] sole right to determine if the aircraft is available for reservation" in its lease agreement, the taxpayer determined the availability of the aircraft and not free competition. Therefore, because the transaction was not an arm's length transaction and the transaction was not conducted on the open market, the audit review was correct to question that the lease agreement was negotiated in an "arms-length transaction" and for a "fair market rate".

Another fact that supports the audits denial of the taxpayer's exemption claim is the flight logs. The taxpayer's flight logs indicate from August 2003 to December of 2003 the aircraft was used predominantly by the taxpayer's owner, or a company owned by the taxpayer's owner. During this period, the flight logs do not indicate any activity for chartering. The only activity indicated is the taxpayer's owner's usage. 45 IAC 2.2-5-15(c)(1) clearly states that the renting and leasing exemption does not apply to individual's that "intend to consume or use the property". It is evident from the flight logs that the taxpayer's owner intended to use the aircraft for their own use. The only time that the aircraft was available for renting and leasing usage was when the usage did not inconvenience the taxpayer's owner.

The facts indicate the taxpayer entered into a questionable lease agreement and the taxpayer's owner used the aircraft for itself. Taking these relevant facts into consideration, the taxpayer failed to establish its entitlement to the IC 6-2.5-5-8 exemption for renting and leasing to others.

FINDING

For the reasons stated above, the department denies the taxpayer's protest.

DEPARTMENT OF STATE REVENUE

0420050491P.LOF

LETTER OF FINDINGS NUMBER: 05-0491P

Sales Tax

For the month of April 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 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 a monthly sales tax return for the month of April 2005. The taxpayer was one day late. The taxpayer is an Indiana company.

I. Tax Administration – Penalty

DISCUSSION

The taxpayer requests the penalty be abated as the taxpayer filed the sales tax return with reasonable business prudence. In filing the return, the taxpayer made an initial filing, canceled the initial filing, and then filed a second return. The taxpayer went through this to make sure the amount was correct. The taxpayer's procedure caused the return to be one day late.

The Department points out that the taxpayer could have filed the initial return and the filed an amended return at a later date. This procedure detailed by the Department would have resulted in a timely filing.

Of further note, the taxpayer had a prior penalty abatement by the Department in March 2001 for the amount of \$9,000.

The regulation which controls the application of 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 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

10-20050503P.LOF

LETTER OF FINDINGS NUMBER: 05-0503P

Food and Beverage Tax

For the Months of July, August, and September 2005

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: Indiana State Department of Revenue Commissioner's Directive # 30 (July 2005); IC 6-8.1-10-2.1

The taxpayer protests the penalties assessed for failure to calculate and remit the appropriate amounts of food and beverage tax.

II. Tax Administration – Interest

Authority: IC 6-8.1-10-1

The taxpayer protests the assessment of interest.

STATEMENT OF FACTS

The City-County Council of Marion County approved an increase in the food and beverage tax rate from one percent to two percent that became effective on July 1, 2005. The taxpayer used the incorrect rate of one percent when calculating the food and beverage tax for the months of July, August, and September 2005. Accordingly, the department issued assessments for the additional tax due. These assessments included penalty and interest. In correspondence to the Department, the taxpayer requested that the Department abate the penalties and interest due to reasonable cause.

DISCUSSION

I. Tax Administration – Penalty

The food and beverage tax returns and remittance of the tax is due 30 days following the close of each taxable month. In Commissioner's Directive # 30, regarding Local Food and Beverage Taxes, the Department advised the public of the increased tax rate.

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.

Because the taxpayer fails to show facts in support of his reasonable cause argument and the Department provided public notification of the change, the Department correctly assessed penalties on the taxpayer.

FINDING

The taxpayer's protest is denied.

II. Tax Administration – Interest

Under IC 6-8.1-10-1, the Department does not have the authority to waive interest.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04-20050534.LOF

LETTER OF FINDINGS NUMBER: 05-0534

STATE GROSS RETAIL TAX

For Years 2002, 2003, AND 2004

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

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of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax —Adequate Documentation

Authority: 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's State Gross Retail tax.

STATEMENT OF FACTS

Taxpayer is a retail merchant of landscaping and gardening products. An audit found that in some instances the taxpayer sold these products without collecting the required sales tax and without an exemption certificate from the purchaser. Additionally, taxpayer purchased some items for use in the business without paying sales tax or self assessing use tax on them. Taxpayer protested these assessments, and a telephone hearing was held.

I. State Gross Retail Tax —Adequate Documentation

DISCUSSION

By the hearing date taxpayer had secured additional exemption certificates for the Department's review.

This issue revolves around the burden of proof in an audit situation, which IC § 6-8.1-5-4 defines as:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Subject to the guidelines above, the Department will grant credit for the applicable transactions for which a valid exemption certificate has been provided. Also, as required by the above guidelines, no credit will be granted for transactions for which no certificate has been provided. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has established a basis for reversal of part of the sales tax assessment.

By the hearing date taxpayer had also provided sufficient documentation to establish that its purchases for the business were exempt purchases and no use tax should be assessed on them.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420050536.LOF

LETTER OF FINDINGS NUMBER 05-0536

RESPONSIBLE OFFICER

SALES TAX

For Tax Period 2002-2003

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

I. Sales Tax -Responsible Officer Liability

Authority: IC 6-2.5-9-3, IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of corporate sales taxes against him as a responsible officer.

STATEMENT OF FACTS

The taxpayer was the president of two corporations that did not remit the proper amount of sales taxes to the state. The Indiana Department of Revenue (department) personally assessed those delinquent corporate sales taxes, interest, and penalty against the taxpayer. The taxpayer protested the assessment and a hearing was scheduled. The taxpayer failed to appear for the hearing. Therefore, this Letter of Findings is based upon the information in the file.

I. Sales Tax -Responsible Officer Liability

DISCUSSION

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 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 taxpayer was the president of the corporations. As the president, he was responsible for seeing that the sales taxes were collected and remitted to the state. Therefore, he had the statutory duty to remit the taxes. He failed to see that the taxes were remitted. The department correctly personally assessed the corporate sales taxes, interest, and penalty against the taxpayer.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320050537.LOF

LETTER OF FINDINGS NUMBER 05-0537

RESPONSIBLE OFFICER

WITHHOLDING TAX

For Tax Period 1997-2003

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

I. Withholding Tax -Responsible Officer Liability

Authority: IC 6-3-4-8 (g), IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of corporate withholding taxes against her as a responsible officer.

STATEMENT OF FACTS

The taxpayer was listed on Indiana Department of Revenue (department) records as vice president of a corporation that did not remit the proper amount of withholding taxes to Indiana for the tax period 1997-2003. She was formerly married to the president of the corporation. When the marriage ended, the husband was awarded the corporation in the divorce settlement. The taxpayer received shares of corporate stock in the settlement. The department assessed the outstanding corporate withholding taxes, interest, and penalty against the taxpayer personally. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. Withholding Tax -Responsible Officer Liability

DISCUSSION

The proposed withholding taxes were assessed against the taxpayer pursuant to IC 6-3-4-8(g), 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 any involvement with the operation of the corporation or control over the financial affairs of the corporation. The taxpayer offered adequate documentation to sustain her burden of proving that she was not responsible for the remittance of the trust taxes to the state during the tax period at issue.

FINDING

The taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420050538.LOF

LETTER OF FINDINGS NUMBER 05-0538

RESPONSIBLE OFFICER

SALES TAX AND WITHHOLDING TAX

For Tax Period 1998-2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of

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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

I. Withholding Tax -Responsible Officer Liability

Authority: IC 6-3-4-8 (g), IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of corporate withholding taxes against her as a responsible officer.

STATEMENT OF FACTS

The taxpayer was listed on Indiana Department of Revenue (department) records as a responsible party of a corporation that did not remit the proper amount of withholding taxes and sales taxes to Indiana for the tax period 1998-2000. The department assessed the outstanding corporate withholding taxes, sales taxes, interest, and penalty against the taxpayer personally. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. 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(g), 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 first argued that he was merely the owner of a small amount of stock in the corporation and that he was not responsible for corporate financial decisions. Therefore, he argued that he did not have the duty to remit the corporate trust taxes to the state. The taxpayer did not submit any evidence to support this contention. Therefore, he did not sustain his burden of proving that the taxes were incorrectly imposed against him.

Secondly, the taxpayer argued that both the corporation and he personally filed bankruptcy and that absolved him of liability for the corporate trust taxes. The taxpayer errs in this conclusion. Corporate trust taxes cannot be erased by a bankruptcy.

Finally the taxpayer argues that the bankruptcy Trustee should have remitted the trust taxes. Responsible parties are jointly and severally liable for the remittance of corporate trust taxes to the state. The trust taxes should have been remitted on a regular basis to the state at the time they were collected. The taxpayer did not see that this was done on a timely basis. Therefore, he is personally responsible for the payment of the taxes. Even if someone else had the opportunity to satisfy the liabilities at a later date but failed to do so, the taxpayer is still personally responsible for the payment of the taxes since liability for these taxes is joint and several.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320060011P.LOF

LETTER OF FINDINGS NUMBER: 06-0011P

Withholding 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

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 filing of an annual withholding tax return for the calendar year 2004. The taxpayer is an Indiana company.

I. Tax Administration – Penalty**DISCUSSION**

The taxpayer requests the penalty be abated as the return was late due to local Post Office procedures.

The U.S. Post Office states the mail procedure in the town where the taxpayer is located is as follows: The Post Office does not postmark the local mail when received. Instead, the local Post Office sends the mail to the regional hub for postmarking. This often results in the mail being postmarked one day late.

The taxpayer states the Post Office procedure is the reason why the annual withholding tax return was not received by the Department on the due date.

The Department points out the annual withholding return was fifteen days late. And therefore, the local Post Office procedures would not be a factor in the abatement of penalty.

The regulation which controls the application of 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 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

0320060014P.LOF

LETTER OF FINDINGS NUMBER: 06-0014P**Withholding 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**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 filing of an annual withholding tax return for the calendar year 2004. The taxpayer is an Indiana company.

I. Tax Administration – Penalty**DISCUSSION**

The taxpayer requests the penalty be abated as the return was late due to local Post Office procedures.

The U.S. Post Office states the mail procedure in the town where the taxpayer is located is as follows: The Post Office does not postmark the local mail when received. Instead, the local Post Office sends the mail to the regional hub for postmarking. This often results in the mail being postmarked one day late.

The taxpayer states the Post Office procedure is the reason why the annual withholding tax return was not received by the Department on the due date.

The Department points out the annual withholding return was fifteen days late. And therefore, the local Post Office procedures would not be a factor in the abatement of penalty.

The regulation which controls the application of penalty is 45 IAC 15-11-2(b) which states,

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Nonrule Policy Documents

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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

0320060015P.LOF

LETTER OF FINDINGS NUMBER: 06-0015P

Withholding Tax

For the Calendar Year 2004

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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 filing of an annual withholding tax return for the calendar year 2004. The taxpayer is an Indiana company.

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DISCUSSION

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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

0320060018P.LOF

LETTER OF FINDINGS NUMBER: 06-0018P

Withholding 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

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2;

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The late penalty was assessed on the late filing of an annual withholding tax return for the calendar year 2004. The taxpayer is an Indiana company.

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DISCUSSION

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The taxpayer states the Post Office procedure is the reason why the annual withholding tax return was not received by the Department on the due date.

The Department points out the annual withholding return was fifteen days late. And therefore, the local Post Office procedures would not be a factor in the abatement of penalty.

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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

0420060020.LOF

LETTER OF FINDINGS: 06-0020

Sales and Use Tax

For the Years 1994 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.

ISSUES

I. Taxable Sales During 2001 through 2003 – Sales and Use Tax.

Authority: IC 6-8.1-5-1(a) IC 6-8.1-5-1(b).

Taxpayer maintains that the audit improperly assessed use tax on items purchased for its business during 2001, 2002, and 2003; in addition, taxpayer objects to the audit's conclusion that taxpayer should have collected sales tax on items purportedly sold to taxpayer's customers.

II. Best Information Available Assessments – Use Tax.

Authority: IC 6-8.1-5-1(a) IC 6-8.1-5-1(b).

Taxpayer argues that the audit's calculation of additional use tax for 1994 through 2000 was erroneous because the audit relied on a flawed "best information available" formulation.

III. Abatement of Interest.

Authority: IC 6-8.1-10-1; IC 6-8.1-10(a).

Taxpayer asks that the amount of interest which has accumulated on the unpaid base tax liability be abated.

IV. Ten-Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer requests that the Department exercise its discretion to abate the ten-percent negligence penalty.

STATEMENT OF FACTS

Taxpayer is a company which operates two tanning salons in Indiana. Taxpayer provides tanning services and sells tangible personal property to its customers.

The Indiana Department of Revenue (Department) conducted an audit review of taxpayer's business records. The audit began as a standard three-year (2001 to 2003) audit. However – on the ground that the taxpayer was making taxable sales to its customer but had not registered to collect Indiana sales tax – the audit was extended to cover ten years (1994 to 2003).

For the years 2001 through 2003 – a three-year period during which taxpayer was able to supply a limited number of business records – the audit concluded that taxpayer had purchased items for which use tax had not been paid.

For the remaining seven-year period, taxpayer was unable to produce any business records. Therefore the audit calculated use tax liability for each of the seven years by means of the “best information available” (BIA).

As a result of the audit, taxpayer was assessed additional tax along with interest and penalties. Taxpayer protested, a telephone hearing was conducted during which taxpayer's representative explained the basis for the protest, and this Letter of Findings results.

DISCUSSION

I. Taxable Sales During 2001 through 2003 – Sales and Use Tax.

Although not registered to collect retail sales tax until after the Department made the initial audit contact with taxpayer in 2004, “the taxpayer admitted that they had been making taxable sales during the years 2001 to 2003.” After further review of taxpayer's 2001 through 2003 records, the audit found “taxable purchases on which no tax was paid or accrued.”

The audit found that taxpayer owed both sales and use tax.

Based upon the total purchases made during 2003, taxpayer protested arguing that the use tax assessment for 2003 was overstated. In addition, taxpayer pointed out that “maybe 1 in 20 clients would buy products, when they can go to Wal-Mart and buy it at a cheaper price.” Taxpayer further points out that if it did not have a “purchase exemption number” and that if it bought products and equipment without paying sales tax, then “someone else [was] at fault also.”

IC 6-8.1-5-1(a) states 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.”

The audit found that taxpayer had purchased items without paying sales tax and – as a result – the taxpayer should have paid use tax on those items. In addition, the audit found (and taxpayer apparently agreed) that taxpayer had been selling its customers tangible personal property without collecting and remitting sales tax. Based upon the incomplete information before it, the audit found that taxpayer owed an amount of sales and use tax

After the assessment was made, it was taxpayer's responsibility to specifically refute the evidence underlying that assessment. IC 6-8.1-5-1(b) in part states that, “The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with person against whom the proposed assessment is made.”

Insofar as the 2001, 2002, and 2003 sales and use tax assessment, the Department is unable to agree that taxpayer has met its burden of demonstrating that the assessment is wrong. There is no indication that taxpayer is now prepared to offer more specific, detailed information than that which was available at the time the original audit was conducted. There is little or no justification for reviewing the sales and use tax assessment for 2001, 2002, and 2003.

FINDING

Taxpayer's protest is respectfully denied.

II. Best Information Available Assessments – Use Tax.

Because taxpayer was unable to produce complete sales records for 1994 through 2000, the audit assessed sales tax based upon the best information available. The audit extrapolated the available 1999 to 2002 sales records to determine total sales for 1994 through 1998. The audit found that it “could discern no pattern of [sales] increase or decrease” during 1999 through 2002. As stated in its final report, “the audit averaged the [1999 to 2002] sales and used that average amount as the unreported taxable sales for 1994-1998.”

The audit acted well within its authority in proposing a 1994 to 1998 assessment based upon the limited information at hand. IC 6-8.1-5-1(a) states 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*.” (*Emphasis added*).

Taxpayer has provided information indicating that its tanning business has increased in size. Taxpayer indicates that it had three tanning beds from 1994 through 1997, that six tanning beds were added in 1998, and that the number of tanning beds increased until it eventually reached 20 beds.

Taxpayer argues that the audit's method of calculating taxpayer's 1994 through 1998 sales, by extrapolating data from available records, was erroneous. Taxpayer believes that the audit failed to take into consideration the fact that taxpayer's business significantly increased over the years and that audit's "best information available" methodology gives unfair weight to the documented sales made during the latter years of the business.

IC 6-8.1-5-1(b) states that, "The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

Taxpayer has not proven that the proposed assessment is wrong; however, taxpayer has raised a substantive question as to whether the proposed assessment overstates the amount of sales made during the years for which the audit proposed an assessment based upon the "best information available."

Taxpayer is provided a *limited* opportunity to supply additional records in order that a supplemental review of the specific years in question may be performed. Specifically, taxpayer is granted 30 days from the issuance of this Letter of Findings to provide the additional records needed for the supplemental review.

FINDING

Taxpayer's protest is sustained.

III. Abatement of Interest.

Taxpayer protests the imposition of interest on assessed taxes and requests that the interest that has accumulated on those taxes be abated. Under IC 6-8.1-10-1(a), if a person incurs a deficiency upon a determination by the Department, "the person *is* subject" to interest on the nonpayment.

The Department has no discretion regarding the imposition of interest. Under IC 6-8.1-10-1, interest may not be abated for any reason.

FINDING

Taxpayer's protest and request for abatement of interest is respectfully denied.

IV. Ten-Percent Negligence Penalty.

Taxpayer asks that the ten-percent negligence penalty be abated.

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 is unable to agree that the negligence penalty should be abated. Taxpayer's failure to timely register with the state to collect sales tax, failure to maintain records, and failure to maintain a system to accrue use tax is not indicative of the "ordinary business care and prudence" expected of an "ordinary reasonable taxpayer."

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420060026.LOF

LETTER OF FINDINGS NUMBER 06-0026

RESPONSIBLE OFFICER

SALES TAX AND WITHHOLDING 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 this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUE

I. Sales and Withholding Tax -Responsible Officer Liability

Authority: IC 6-2.5-9-3, IC 6-3-4-8 (g), IC 6-8.1-5-1 (b).

The taxpayer protested the assessment of corporate sales and withholding taxes against him as a responsible officer.

STATEMENT OF FACTS

The taxpayer was listed on Indiana Department of Revenue (department) records as a responsible party of a corporation that

did not remit the proper amount of withholding taxes and sales taxes to Indiana for the tax period 2000-2002. The department personally assessed the outstanding corporate withholding taxes, sales taxes, interest, and penalty against the taxpayer. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. 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(g), 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 presented documentation indicating that his employment with the corporation was terminated on June 29, 1999. Since he was not associated with the corporation after his termination date, the taxpayer did not have a duty to remit sales and withholding taxes to the state for the 2000-2002 tax period. The taxpayer sustained his burden in proving that he did not personally owe the assessed corporate sales and withholding taxes, interest, and penalty to Indiana.

FINDING

The taxpayer's protest is sustained. The taxpayer is not personally responsible for any of the corporation's trust taxes after June 29, 1999.

Rules Affected by Volumes 28 and 29

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE
10 IAC 5 N 05-319 29 IR 1248 *CPH (29 IR 1964)

TITLE 20 STATE BOARD OF ACCOUNTS
20 IAC 3 RA 05-147 **29 IR 1381**

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 1.1-1-6	A	06-4	29 IR 1971	
25 IAC 1.1-1-7	A	06-4	29 IR 1971	
25 IAC 1.1-1-14	A	06-4	29 IR 1972	
25 IAC 1.1-1-16	A	06-4	29 IR 1972	
25 IAC 2-1-1	A	05-318	29 IR 1586	
25 IAC 2-1-2	A	05-318	29 IR 1586	
25 IAC 2-2-1	A	05-318	29 IR 1587	
25 IAC 2-3-1	A	05-318	29 IR 1588	
25 IAC 2-3-3	A	05-318	29 IR 1588	
25 IAC 2-3-4	A	05-318	29 IR 1588	
25 IAC 2-3-6	A	05-318	29 IR 1588	
25 IAC 2-4-1	A	05-318	29 IR 1589	
25 IAC 2-4-2	A	05-318	29 IR 1589	
25 IAC 2-4-3	A	05-318	29 IR 1589	
25 IAC 2-5-1	A	05-318	29 IR 1589	
25 IAC 2-5-2	A	05-318	29 IR 1589	
25 IAC 2-5-3	A	05-318	29 IR 1590	
25 IAC 2-6-2	A	05-318	29 IR 1590	
25 IAC 2-6-3	A	05-318	29 IR 1590	
25 IAC 2-6-5	A	05-318	29 IR 1590	
25 IAC 2-8-1	A	05-318	29 IR 1591	
25 IAC 2-9-3	A	05-318	29 IR 1591	
25 IAC 2-9-4	R	05-318	29 IR 1596	
25 IAC 2-10-1	A	05-318	29 IR 1591	
25 IAC 2-12-1	A	05-318	29 IR 1591	
25 IAC 2-13-1	A	05-318	29 IR 1592	
25 IAC 2-13-3	A	05-318	29 IR 1592	
25 IAC 2-13-4	A	05-318	29 IR 1592	
25 IAC 2-13-5	A	05-318	29 IR 1592	
25 IAC 2-14-1	A	05-318	29 IR 1592	
25 IAC 2-14-2	A	05-318	29 IR 1593	
25 IAC 2-14-3	A	05-318	29 IR 1593	
25 IAC 2-15-1	A	05-318	29 IR 1593	
25 IAC 2-15-2	R	05-318	29 IR 1596	
25 IAC 2-15-3	R	05-318	29 IR 1596	
25 IAC 2-15-4	A	05-318	29 IR 1593	
25 IAC 2-15-5	R	05-318	29 IR 1596	
25 IAC 2-16-1	R	05-318	29 IR 1596	
25 IAC 2-16-2	A	05-318	29 IR 1593	
25 IAC 2-16-3	A	05-318	29 IR 1593	
25 IAC 2-16-4	A	05-318	29 IR 1594	
25 IAC 2-16-5	A	05-318	29 IR 1594	
25 IAC 2-16-7	A	05-318	29 IR 1594	
25 IAC 2-16-9	N	05-318	29 IR 1594	
25 IAC 2-17-1	R	05-318	29 IR 1596	
25 IAC 2-17-2	R	05-318	29 IR 1596	
25 IAC 2-17-3	R	05-318	29 IR 1596	
25 IAC 2-17-4	R	05-318	29 IR 1596	
25 IAC 2-17-5	R	05-318	29 IR 1596	
25 IAC 2-17-6	R	05-318	29 IR 1596	
25 IAC 2-17-7	A	05-318	29 IR 1595	
25 IAC 2-18-1	A	05-318	29 IR 1595	
25 IAC 2-18-2	A	05-318	29 IR 1595	
25 IAC 2-18-3	A	05-318	29 IR 1595	
25 IAC 2-18-4	A	05-318	29 IR 1596	
25 IAC 5-3-2	A	05-25	28 IR 2761	29 IR 450
25 IAC 5-3-5	A	05-25	28 IR 2762	29 IR 451
25 IAC 5-3-6	A	05-25	28 IR 2764	29 IR 453
25 IAC 5-4-1	A	05-25	28 IR 2765	29 IR 454
25 IAC 5-4-2	A	05-25	28 IR 2766	29 IR 455
25 IAC 5-6-2	A	05-25	28 IR 2766	29 IR 455
25 IAC 6	N	04-172	27 IR 3595	*CPH (28 IR 234)
	N	05-123	28 IR 3328	29 IR 1202
25 IAC 7	N	06-54	29 IR 2595	

TITLE 28 STATE INFORMATION TECHNOLOGY OVERSIGHT
COMMISSION
28 IAC N 04-123 28 IR 986 *CPH (28 IR 1498)

TITLE 31 STATE PERSONNEL DEPARTMENT
31 IAC 1-9-4 A 04-170 27 IR 4049
31 IAC 2-11-4 A 04-170 27 IR 4049

TITLE 40 STATE ETHICS COMMISSION
40 IAC 2-1-5.5 N 04-198 28 IR 987 *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 **29 IR 1205**
*ARR (29 IR 1216)

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 *SPE
N 05-359 29 IR 1596

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE
50 IAC 4.2-4-3 A 05-252 29 IR 836 *ARR (29 IR 2548)
29 IR 2597
50 IAC 12 R 05-143 29 IR 1631 *CPH (29 IR 2586)
50 IAC 13 R 05-253 29 IR 584
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 **29 IR 2512**
50 IAC 21-2-1.5 N 05-142 28 IR 3622 **29 IR 2512**
50 IAC 21-2-2 A 05-142 28 IR 3622 **29 IR 2512**
50 IAC 21-2-2.5 N 05-142 28 IR 3622 **29 IR 2512**
50 IAC 21-2-3 A 05-142 28 IR 3622 **29 IR 2512**
50 IAC 21-3-3 A 05-142 28 IR 3623 **29 IR 2513**
50 IAC 21-4-1 A 05-142 28 IR 3623 **29 IR 2513**
50 IAC 21-4-2 A 05-142 28 IR 3624 **29 IR 2514**
50 IAC 21-4-3 R 05-142 28 IR 3626 **29 IR 2516**
50 IAC 21-5-2 A 05-142 28 IR 3624 **29 IR 2514**
50 IAC 21-6-1 A 05-142 28 IR 3625 **29 IR 2515**
50 IAC 21-7-1 A 05-142 28 IR 3625 **29 IR 2515**
50 IAC 21-8-1 A 05-142 28 IR 3625 **29 IR 2515**
50 IAC 21-9-1 A 05-142 28 IR 3625 **29 IR 2515**
50 IAC 21-10-1 A 05-142 28 IR 3626 **29 IR 2516**
50 IAC 21-11-1 A 05-142 28 IR 3626 **29 IR 2516**
50 IAC 22 N 05-144 29 IR 579 *ARR (29 IR 2204)
29 IR 2257
50 IAC 23 N 05-143 29 IR 1599 *CPH (29 IR 2586)

TITLE 65 STATE LOTTERY COMMISSION
65 IAC 1-1-18 A 06-99 *ER (29 IR 2562)
*ERR (29 IR 2546)
65 IAC 1-4-5.5 A 04-237 *ER (28 IR 217)
65 IAC 3-3-3 A 06-100 *ER (29 IR 2562)
65 IAC 4-2-6 A 05-36 *ER (28 IR 2153)
A 05-312 *ER (29 IR 828)
65 IAC 4-3-2 A 06-64 *ER (29 IR 2207)
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)

Rules Affected by Volumes 28 and 29

65 IAC 4-206	R	05-313	*ER (29 IR 829)	65 IAC 5-15	R	04-249	*ER (28 IR 227)
65 IAC 4-248	R	04-249	*ER (28 IR 227)	65 IAC 5-16	N	05-28	*ER (28 IR 2142)
65 IAC 4-272	R	04-249	*ER (28 IR 227)	65 IAC 5-16-4	A	05-247	*ER (29 IR 49)
65 IAC 4-287	R	04-249	*ER (28 IR 227)	65 IAC 5-16-5	A	05-247	*ER (29 IR 49)
65 IAC 4-317	R	04-249	*ER (28 IR 227)	65 IAC 5-16-6	A	05-247	*ER (29 IR 49)
65 IAC 4-319	R	04-249	*ER (28 IR 227)	65 IAC 5-16-7	A	05-247	*ER (29 IR 49)
65 IAC 4-321	R	04-249	*ER (28 IR 227)	65 IAC 5-16-8	A	05-247	*ER (29 IR 49)
65 IAC 4-330	R	05-313	*ER (29 IR 829)	65 IAC 5-17	N	05-83	*ER (28 IR 2731)
65 IAC 4-331	R	05-313	*ER (29 IR 829)	65 IAC 5-18	N	05-88	*ER (28 IR 2738)
65 IAC 4-332	R	04-249	*ER (28 IR 227)	65 IAC 5-18-5	A	05-136	*ER (28 IR 2993)
65 IAC 4-339	R	05-313	*ER (29 IR 829)	65 IAC 5-19	N	05-159	*ER (28 IR 3313)
65 IAC 4-343	R	04-249	*ER (28 IR 227)	65 IAC 6-2-6	A	05-36	*ER (28 IR 2154)
65 IAC 4-346	R	05-313	*ER (29 IR 829)				
65 IAC 4-348	N	04-241	*ER (28 IR 221)	TITLE 68 INDIANA GAMING COMMISSION			
	R	05-313	*ER (29 IR 829)	68 IAC 1-5-1	A	04-103	27 IR 3115
65 IAC 4-349	N	04-283	*ER (28 IR 975)	68 IAC 2-3-5	A	04-103	27 IR 3115
	R	05-313	*ER (29 IR 829)	68 IAC 2-3-6	A	04-103	27 IR 3117
65 IAC 4-350	N	04-252	*ER (28 IR 229)	68 IAC 2-3-9	A	04-103	27 IR 3118
65 IAC 4-352	N	04-284	*ER (28 IR 978)	68 IAC 2-6-49	A	04-102	27 IR 3109
	R	05-313	*ER (29 IR 829)	68 IAC 2-7-12	A	04-102	27 IR 3109
65 IAC 4-353	N	04-329	*ER (28 IR 1492)	68 IAC 5-3-2	A	04-102	27 IR 3109
65 IAC 4-354	R	04-249	*ER (28 IR 227)	68 IAC 5-3-7	A	04-102	27 IR 3109
65 IAC 4-355	N	05-32	*ER (28 IR 2147)	68 IAC 8-1-11	A	04-102	27 IR 3110
	R	05-313	*ER (29 IR 829)	68 IAC 8-2-29	A	04-102	27 IR 3110
65 IAC 4-356	N	05-87	*ER (28 IR 2734)	68 IAC 9-4-8	A	04-102	27 IR 3110
65 IAC 4-359	R	04-249	*ER (28 IR 227)	68 IAC 10-1-5	A	04-102	27 IR 3110
65 IAC 4-367	R	04-249	*ER (28 IR 227)	68 IAC 11-1-8	A	04-102	27 IR 3110
65 IAC 4-383	R	04-249	*ER (28 IR 227)	68 IAC 11-3-1	A	04-102	27 IR 3110
65 IAC 4-390	R	04-249	*ER (28 IR 227)	68 IAC 12-1-0.5	N	05-199	29 IR 1632
65 IAC 4-401	R	04-249	*ER (28 IR 227)	68 IAC 12-1-1	A	05-199	29 IR 1632
65 IAC 4-402	R	04-249	*ER (28 IR 227)	68 IAC 12-1-1.5	N	05-199	29 IR 1633
65 IAC 4-403	R	04-249	*ER (28 IR 227)	68 IAC 12-1-1.7	N	05-199	29 IR 1633
65 IAC 4-404	R	04-249	*ER (28 IR 227)	68 IAC 12-1-2	A	05-199	29 IR 1633
65 IAC 4-405	R	04-249	*ER (28 IR 227)	68 IAC 12-1-3	A	05-199	29 IR 1634
65 IAC 4-406	R	04-249	*ER (28 IR 227)	68 IAC 12-1-4	A	05-199	29 IR 1636
65 IAC 4-408	R	04-249	*ER (28 IR 227)	68 IAC 12-1-5	A	05-199	29 IR 1636
65 IAC 4-437	R	04-249	*ER (28 IR 227)	68 IAC 12-1-5.5	N	05-199	29 IR 1637
65 IAC 4-438	R	05-313	*ER (29 IR 829)	68 IAC 12-1-6	A	05-199	29 IR 1638
65 IAC 4-439	R	04-249	*ER (28 IR 227)	68 IAC 12-1-6.5	N	05-199	29 IR 1639
65 IAC 4-440	R	04-249	*ER (28 IR 227)	68 IAC 12-1-7	A	05-199	29 IR 1639
65 IAC 4-441	R	04-249	*ER (28 IR 227)	68 IAC 12-1-8	A	05-199	29 IR 1639
65 IAC 4-442	R	04-249	*ER (28 IR 227)	68 IAC 12-1-9	A	05-199	29 IR 1640
65 IAC 4-443	R	04-249	*ER (28 IR 227)	68 IAC 12-1-10	A	05-199	29 IR 1641
65 IAC 4-444	R	05-313	*ER (29 IR 829)	68 IAC 12-1-11	A	05-199	29 IR 1641
65 IAC 4-445	R	04-249	*ER (28 IR 227)	68 IAC 12-1-12	A	05-199	29 IR 1641
65 IAC 4-446	R	04-249	*ER (28 IR 227)	68 IAC 12-1-13	A	05-199	29 IR 1642
65 IAC 4-447	R	04-249	*ER (28 IR 227)	68 IAC 12-1-14	A	05-199	29 IR 1642
65 IAC 4-448	R	04-249	*ER (28 IR 227)	68 IAC 12-1-15	A	04-102	27 IR 3111
65 IAC 4-450	R	04-249	*ER (28 IR 227)		A	05-199	29 IR 1642
65 IAC 4-451	R	05-313	*ER (29 IR 829)	68 IAC 14-4-8	A	04-102	27 IR 3112
65 IAC 4-453	R	04-249	*ER (28 IR 227)	68 IAC 14-5-6	A	04-102	27 IR 3112
65 IAC 4-454	N	05-311	*ER (29 IR 826)	68 IAC 15-1-8	A	04-102	27 IR 3112
65 IAC 5-2-6	A	05-36	*ER (28 IR 2153)	68 IAC 15-3-3	A	04-179	28 IR 237
	A	05-312	*ER (29 IR 828)	68 IAC 15-5-1.5	N	05-107	28 IR 3627
65 IAC 5-3-2	A	06-75	*ER (29 IR 2208)				
65 IAC 5-10-4	A	05-352	*ER (29 IR 1563)				
65 IAC 5-12-2	A	05-245	*ER (29 IR 41)	68 IAC 15-5-2	A	04-179	28 IR 237
65 IAC 5-12-3	A	05-245	*ER (29 IR 42)	68 IAC 15-6-2	A	04-179	28 IR 238
65 IAC 5-12-4	A	05-245	*ER (29 IR 42)	68 IAC 15-6-3	A	04-179	28 IR 239
65 IAC 5-12-5	A	05-245	*ER (29 IR 43)	68 IAC 15-6-5	A	04-179	28 IR 240
65 IAC 5-12-6	A	05-245	*ER (29 IR 43)	68 IAC 15-9-4	A	04-102	27 IR 3112
65 IAC 5-12-9	A	05-245	*ER (29 IR 44)	68 IAC 15-10-4.1	A	04-102	27 IR 3113
65 IAC 5-12-10	A	05-245	*ER (29 IR 45)	68 IAC 15-13-2.5	N	04-102	27 IR 3113
65 IAC 5-12-11	A	05-245	*ER (29 IR 45)	68 IAC 16-1-16	A	04-102	27 IR 3113
65 IAC 5-12-11.5	A	05-245	*ER (29 IR 46)	68 IAC 17-1-5	A	04-102	27 IR 3114
65 IAC 5-12-12	A	05-245	*ER (29 IR 46)	68 IAC 17-2-6	A	04-102	27 IR 3114
65 IAC 5-12-12.5	A	05-245	*ER (29 IR 47)	68 IAC 18-1-2	A	04-102	27 IR 3114
65 IAC 5-13	R	04-249	*ER (28 IR 227)	68 IAC 18-1-6	A	04-102	27 IR 3114
65 IAC 5-14	R	04-249	*ER (28 IR 227)				

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TITLE 71 INDIANA HORSE RACING COMMISSION

71 IAC 1-1-1.5	N	05-246	*ER (29 IR 829)
71 IAC 1-1-75.5	N	05-246	*ER (29 IR 829)
71 IAC 1.5-1-1.5	N	05-246	*ER (29 IR 829)
71 IAC 1.5-1-71.5	N	05-246	*ER (29 IR 829)
71 IAC 3-2-9	A	05-115	*ER (28 IR 2745)
	A	06-24	*ER (29 IR 1955)
71 IAC 3-3-11	A	05-115	*ER (28 IR 2746)
71 IAC 3-4-1	A	05-115	*ER (28 IR 2746)
71 IAC 3-7-3	R	05-115	*ER (28 IR 2751)
71 IAC 3-11-1	A	05-115	*ER (28 IR 2746)
71 IAC 4-4-10	N	06-78	*ER (29 IR 2210)
71 IAC 4-4-11	N	06-78	*ER (29 IR 2210)
71 IAC 4.5-4-10	N	06-78	*ER (29 IR 2210)
71 IAC 4.5-4-11	N	06-78	*ER (29 IR 2210)
71 IAC 5-1-21	A	06-78	*ER (29 IR 2211)
71 IAC 5-2-1	A	06-78	*ER (29 IR 2211)
71 IAC 5-3-1	A	05-115	*ER (28 IR 2746)
71 IAC 5-3-3	A	06-78	*ER (29 IR 2212)
			*ERR (29 IR 2546)
71 IAC 5-3-3.1	N	06-78	*ER (29 IR 2213)
71 IAC 5.5-1-21	A	06-78	*ER (29 IR 2213)
71 IAC 5.5-2-1	A	06-78	*ER (29 IR 2213)
71 IAC 5.5-3-3	A	06-78	*ER (29 IR 2214)
			*ERR (29 IR 2546)
71 IAC 5.5-3-3.1	N	06-78	*ER (29 IR 2215)
71 IAC 6-1-3	A	05-115	*ER (28 IR 2747)
	A	06-78	*ER (29 IR 2215)
71 IAC 6-1-4	N	05-115	*ER (28 IR 2748)
	N	06-78	*ER (29 IR 2217)
			*ERR (29 IR 2546)
71 IAC 7-1-29	A	05-115	*ER (28 IR 2748)
71 IAC 7-3-7	A	05-115	*ER (28 IR 2749)
71 IAC 7-3-13	A	05-115	*ER (28 IR 2750)
71 IAC 7-3-18	A	05-115	*ER (28 IR 2750)
71 IAC 7-3-29	A	05-115	*ER (28 IR 2751)
71 IAC 7-3-36	N	05-115	*ER (28 IR 2751)
71 IAC 7-5-1	A	05-115	*ER (28 IR 2751)
71 IAC 7-5-2	A	05-115	*ER (28 IR 2751)
71 IAC 7.5-1-16	N	06-78	*ER (29 IR 2217)
71 IAC 7.5-6-3	A	05-27	*ER (28 IR 2154)
71 IAC 8-1-1	A	06-78	*ER (29 IR 2217)
			*ERR (29 IR 2546)
71 IAC 8-1-5	A	06-78	*ER (29 IR 2218)
71 IAC 8-5-4	R	06-78	*ER (29 IR 2228)
71 IAC 8-5-5	A	06-78	*ER (29 IR 2219)
71 IAC 8-5-7	R	06-78	*ER (29 IR 2228)
71 IAC 8-5-8	A	06-78	*ER (29 IR 2219)
71 IAC 8-5-9	N	06-78	*ER (29 IR 2219)
71 IAC 8-5-10	N	06-78	*ER (29 IR 2220)
71 IAC 8-5-11	N	06-78	*ER (29 IR 2220)
71 IAC 8-5-12	N	06-78	*ER (29 IR 2220)
71 IAC 8-5-13	N	06-78	*ER (29 IR 2220)
71 IAC 8-6-2	A	06-78	*ER (29 IR 2220)
71 IAC 8-8-1	A	06-78	*ER (29 IR 2221)
71 IAC 8-8-2	N	06-78	*ER (29 IR 2222)
			*ERR (29 IR 2546)
71 IAC 8-9-1	A	06-78	*ER (29 IR 2222)
			*ERR (29 IR 2546)
71 IAC 8-10-2	A	06-78	*ER (29 IR 2222)
71 IAC 8.5-1-1	A	06-78	*ER (29 IR 2223)
			*ERR (29 IR 2546)
71 IAC 8.5-1-5	A	06-78	*ER (29 IR 2223)
			*ERR (29 IR 2546)
71 IAC 8.5-4-5	A	06-78	*ER (29 IR 2224)
71 IAC 8.5-4-7	A	06-78	*ER (29 IR 2225)
71 IAC 8.5-4-9	N	06-78	*ER (29 IR 2225)
71 IAC 8.5-4-10	N	06-78	*ER (29 IR 2225)
71 IAC 8.5-4-11	N	06-78	*ER (29 IR 2225)
			*ERR (29 IR 2546)

71 IAC 8.5-4-12	N	06-78	*ER (29 IR 2225)
71 IAC 8.5-4-13	N	06-78	*ER (29 IR 2225)
71 IAC 8.5-5-2	A	06-78	*ER (29 IR 2226)
			*ERR (29 IR 2546)
71 IAC 8.5-7-1	A	06-78	*ER (29 IR 2227)
71 IAC 8.5-7-2	N	06-78	*ER (29 IR 2227)
			*ERR (29 IR 2546)
71 IAC 8.5-10-2	A	06-78	*ER (29 IR 2227)
71 IAC 8.5-13	N	05-221	*ER (28 IR 3599)
71 IAC 9-1-14	A	05-246	*ER (29 IR 830)
71 IAC 12-2-15	A	06-71	*ER (29 IR 2208)
			*ERR (29 IR 2546)
71 IAC 13.5-3-3	A	05-115	*ER (28 IR 2751)

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

105 IAC 13	N	05-161	29 IR 59	*CPH (29 IR 832)
				*CPH (29 IR 1243)
105 IAC 14	N	05-258	29 IR 588	*CPH (29 IR 1964)
			29 IR 1646	

TITLE 135 INDIANA FINANCE AUTHORITY

135 IAC 2-1-1	A	05-257	29 IR 598	*CPH (29 IR 1965)
			29 IR 1680	
135 IAC 2-2-1	A	05-257	29 IR 600	*CPH (29 IR 1965)
			29 IR 1682	
135 IAC 2-2-3	A	05-257	29 IR 601	*CPH (29 IR 1965)
			29 IR 1683	
135 IAC 2-2-5	A	05-257	29 IR 601	*CPH (29 IR 1965)
			29 IR 1683	
135 IAC 2-2-10	A	05-257	29 IR 601	*CPH (29 IR 1965)
			29 IR 1683	
135 IAC 2-2-12	A	05-257	29 IR 601	*CPH (29 IR 1965)
			29 IR 1683	
135 IAC 2-3-1	A	05-257	29 IR 602	*CPH (29 IR 1965)
			29 IR 1684	
135 IAC 2-3-2	A	05-257	29 IR 602	*CPH (29 IR 1965)
			29 IR 1684	
135 IAC 2-4-1	A	05-257	29 IR 602	*CPH (29 IR 1965)
			29 IR 1684	
135 IAC 2-4-2	A	05-257	29 IR 602	*CPH (29 IR 1965)
			29 IR 1684	
135 IAC 2-4-4	A	05-257	29 IR 603	*CPH (29 IR 1965)
			29 IR 1685	
135 IAC 2-5-1	A	05-257	29 IR 603	*CPH (29 IR 1965)
			29 IR 1685	
135 IAC 2-5-2	R	05-257	29 IR 614	*CPH (29 IR 1965)
			29 IR 1720	
135 IAC 2-5-2.1	N	05-257	29 IR 603	*CPH (29 IR 1965)
			29 IR 1685	
135 IAC 2-5-3	A	05-257	29 IR 607	*CPH (29 IR 1965)
			29 IR 1714	
135 IAC 2-5-5	A	05-257	29 IR 607	*CPH (29 IR 1965)
			29 IR 1714	
135 IAC 2-7-1	A	05-257	29 IR 608	*CPH (29 IR 1965)
			29 IR 1714	
135 IAC 2-7-2	A	05-257	29 IR 608	*CPH (29 IR 1965)
			29 IR 1714	
135 IAC 2-7-3	A	05-257	29 IR 608	*CPH (29 IR 1965)
			29 IR 1714	
135 IAC 2-7-5	A	05-257	29 IR 608	*CPH (29 IR 1965)
			29 IR 1715	
135 IAC 2-7-6	A	05-257	29 IR 609	*CPH (29 IR 1965)
			29 IR 1715	
135 IAC 2-7-7	A	05-257	29 IR 609	*CPH (29 IR 1965)
			29 IR 1715	
135 IAC 2-7-8	A	05-257	29 IR 609	*CPH (29 IR 1965)
			29 IR 1715	
135 IAC 2-7-11	A	05-257	29 IR 609	*CPH (29 IR 1965)
			29 IR 1716	

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135 IAC 2-7-12	A	05-257	29 IR 609 29 IR 1716	*CPH (29 IR 1965)	170 IAC 5-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-13	A	05-257	29 IR 610 29 IR 1716	*CPH (29 IR 1965)		A	05-100	28 IR 3627	29 IR 2164
135 IAC 2-7-14	A	05-257	29 IR 610 29 IR 1716	*CPH (29 IR 1965)	170 IAC 5-1-16	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-15	A	05-257	29 IR 610 29 IR 1716	*CPH (29 IR 1965)	170 IAC 5-1-16.5	A	05-100	28 IR 3630	29 IR 2166
135 IAC 2-7-16	A	05-257	29 IR 610 29 IR 1716	*CPH (29 IR 1965)	170 IAC 5-1-16.6	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-17	A	05-257	29 IR 610 29 IR 1717	*CPH (29 IR 1965)	170 IAC 5-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-18	A	05-257	29 IR 610 29 IR 1717	*CPH (29 IR 1965)	170 IAC 5-1.2	N	04-144	27 IR 4065	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-19	A	05-257	29 IR 611 29 IR 1717	*CPH (29 IR 1965)	170 IAC 6-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-20	A	05-257	29 IR 611 29 IR 1717	*CPH (29 IR 1965)	170 IAC 6-1-16	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-21	A	05-257	29 IR 611 29 IR 1718	*CPH (29 IR 1965)	170 IAC 6-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-22	A	05-257	29 IR 612 29 IR 1718	*CPH (29 IR 1965)	170 IAC 6-1.1	N	04-268	28 IR 1518	*CPH (28 IR 1710) 29 IR 456
135 IAC 2-7-23	A	05-257	29 IR 612 29 IR 1718	*CPH (29 IR 1965)	170 IAC 6-1.2	N	04-144	27 IR 4073	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-7-24	A	05-257	29 IR 612 29 IR 1719	*CPH (29 IR 1965)	170 IAC 7-1.3-2	A	04-144	27 IR 4080	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-8-1	A	05-257	29 IR 612 29 IR 1719	*CPH (29 IR 1965)	170 IAC 7-1.3-3	A	04-144	27 IR 4081	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-8-3	A	05-257	29 IR 612 29 IR 1719	*CPH (29 IR 1965)	170 IAC 7-1.3-8	A	04-144	27 IR 4083	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-8-5	A	05-257	29 IR 613 29 IR 1719	*CPH (29 IR 1965)	170 IAC 7-1.3-9	A	04-144	27 IR 4084	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-8-7	A	05-257	29 IR 613 29 IR 1719	*CPH (29 IR 1965)	170 IAC 7-1.3-10	A	04-144	27 IR 4085	*CPH (28 IR 620) *AWR (28 IR 2730)
135 IAC 2-8-11	A	05-257	29 IR 613 29 IR 1720	*CPH (29 IR 1965)	170 IAC 7-6	RA	05-22	28 IR 2458	29 IR 144
135 IAC 2-10-1	R	05-257	29 IR 614 29 IR 1720	*CPH (29 IR 1965)	170 IAC 7-6-1	A	06-45	29 IR 2599	
135 IAC 2-10-2	A	05-257	29 IR 613 29 IR 1720	*CPH (29 IR 1965)	170 IAC 7-6-2	A	06-45	29 IR 2599	
					170 IAC 7-6-3	A	06-45	29 IR 2600	
					170 IAC 7-6-4	N	06-45	29 IR 2600	
					170 IAC 7-6-5	N	06-45	29 IR 2601	
					170 IAC 7-6-6	N	06-45	29 IR 2601	
					170 IAC 7-7	RA	06-49		29 IR 2670
TITLE 140 BUREAU OF MOTOR VEHICLES					170 IAC 8.5-2-1	A	04-144	27 IR 4086	*CPH (28 IR 620) *AWR (28 IR 2730)
140 IAC 4-4	RA	04-162	28 IR 323	28 IR 1315					*CPH (28 IR 620)
140 IAC 7-4	N	05-237	29 IR 64	29 IR 1534	170 IAC 8.5-2-3	A	04-144	27 IR 4087	*AWR (28 IR 2730) *CPH (28 IR 620)
140 IAC 8-4	RA	04-162	28 IR 323	28 IR 1315					*AWR (28 IR 2730)
TITLE 170 INDIANA UTILITY REGULATORY COMMISSION					170 IAC 8.5-2-4	A	04-144	27 IR 4089	*CPH (28 IR 620) *AWR (28 IR 2730)
170 IAC 1-1.1	RA	06-49		29 IR 2670					*CPH (28 IR 620)
170 IAC 1-4	RA	04-163	27 IR 4140	*CPH (28 IR 620) 28 IR 1315	170 IAC 8.5-2-5	A	04-144	27 IR 4092	*AWR (28 IR 2730) *CPH (28 IR 620)
170 IAC 1-5	RA	04-163	27 IR 4140	*CPH (28 IR 620) 28 IR 1315					*AWR (28 IR 2730)
170 IAC 4-1-15	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)	TITLE 203 VICTIM SERVICES DIVISION				
170 IAC 4-1-16	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)	203 IAC	N	04-63	27 IR 2526	28 IR 6
170 IAC 4-1-16.5	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)	TITLE 207 CORONERS TRAINING BOARD				
170 IAC 4-1-16.6	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)	207 IAC 2	N	04-231	28 IR 624	*ARR (28 IR 2392)
170 IAC 4-1-17	R	04-144	27 IR 4095	*CPH (28 IR 620) *AWR (28 IR 2730)	TITLE 240 STATE POLICE DEPARTMENT				
170 IAC 4-1-23	A	04-68	27 IR 2765	28 IR 789	240 IAC 1-4-3	A	05-287	29 IR 838	
170 IAC 4-1.2	N	04-144	27 IR 4057	*CPH (28 IR 620) *AWR (28 IR 2730)	240 IAC 1-4-24.1	A	05-287	29 IR 1721	29 IR 2178
170 IAC 4-4.1-7	A	05-130	28 IR 3331	29 IR 2169	240 IAC 1-5-5	A	05-287	29 IR 838	29 IR 2178
170 IAC 4-4.2	N	03-305	27 IR 2312	28 IR 786	240 IAC 1-5-5	A	05-287	29 IR 839	
170 IAC 4-4.2-5	A	05-130	28 IR 3332	29 IR 2169	240 IAC 8	RA	04-164	27 IR 1721	29 IR 2178
170 IAC 4-4.3	N	05-130	28 IR 3333	29 IR 2170				27 IR 4140	28 IR 677
					TITLE 260 STATE DEPARTMENT OF TOXICOLOGY				
					260 IAC 1.1-1-1	RA	05-152		29 IR 896
					260 IAC 1.1-2-2	RA	05-152		29 IR 896

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TITLE 280 DIVISION OF PREPAREDNESS AND TRAINING

280 IAC 1-1	RA	05-300	29 IR 1381
280 IAC 1-2	RA	05-300	29 IR 1381
280 IAC 1-3	RA	05-300	29 IR 1381
280 IAC 1-4	RA	05-300	29 IR 1381

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

305 IAC 1-2	RA	05-60	28 IR 3052	29 IR 690
305 IAC 1-2-6	A	03-212	27 IR 216	*ARR (28 IR 215) 28 IR 12
305 IAC 1-3-4	A	03-212	27 IR 216	*ARR (28 IR 215) 28 IR 12
305 IAC 1-4-1	A	03-212	27 IR 217	*ARR (28 IR 215) 28 IR 12
305 IAC 1-4-2	A	03-212	27 IR 217	*ARR (28 IR 215) 28 IR 13
305 IAC 1-5	N	03-212	27 IR 217	*ARR (28 IR 215) 28 IR 13

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312 IAC 2-4-6	A	04-215	28 IR 626	28 IR 2348
312 IAC 2-4-12	A	04-67	27 IR 3604	28 IR 1460
312 IAC 2-4-14	N	04-215	28 IR 626	28 IR 2348
312 IAC 3-1-7	A	04-263	28 IR 1203	28 IR 2660
312 IAC 3-1-9	A	05-57	28 IR 3003	*DAG (29 IR 1384)
312 IAC 4-6-6	A	04-208	28 IR 625	*ARR (28 IR 2140)
312 IAC 5-6-5	A	04-84	28 IR 240	28 IR 1680
312 IAC 5-6-5.5	N	04-210	28 IR 989	28 IR 2944
312 IAC 5-7-5	A	05-263	29 IR 839	
312 IAC 5-9-5	N	05-324	29 IR 1974	
312 IAC 5-14-1	A	04-155	27 IR 4100	28 IR 1461
312 IAC 5-14-2	A	04-155	27 IR 4100	28 IR 1461
312 IAC 5-14-4	A	04-155	27 IR 4101	28 IR 1462
312 IAC 5-14-5	R	04-155	27 IR 4109	28 IR 1470
312 IAC 5-14-5.1	N	04-155	27 IR 4101	28 IR 1462
312 IAC 5-14-6	R	04-155	27 IR 4109	28 IR 1470
312 IAC 5-14-6.1	N	04-155	27 IR 4102	28 IR 1463
312 IAC 5-14-7	A	04-155	27 IR 4102	28 IR 1463
312 IAC 5-14-8	A	04-155	27 IR 4102	28 IR 1464
312 IAC 5-14-9	A	04-155	27 IR 4103	28 IR 1464
312 IAC 5-14-11	A	04-155	27 IR 4103	28 IR 1464
312 IAC 5-14-15	A	04-155	27 IR 4103	28 IR 1465
312 IAC 5-14-16	A	04-155	27 IR 4104	28 IR 1465
312 IAC 5-14-17	A	04-155	27 IR 4104	28 IR 1465
312 IAC 5-14-18	A	04-155	27 IR 4105	28 IR 1466
312 IAC 5-14-19	A	04-155	27 IR 4105	28 IR 1467
312 IAC 5-14-20	A	04-155	27 IR 4106	28 IR 1467
312 IAC 5-14-21	A	04-155	27 IR 4106	28 IR 1467
312 IAC 5-14-22	A	04-155	27 IR 4106	28 IR 1468
312 IAC 5-14-24	A	04-155	27 IR 4107	28 IR 1468
312 IAC 5-14-25	A	04-155	27 IR 4108	28 IR 1469
312 IAC 5-14-26	R	04-155	27 IR 4109	28 IR 1470
312 IAC 5-14-27	N	04-155	27 IR 4109	28 IR 1470
312 IAC 6.2	N	04-66	27 IR 3119	28 IR 1459
312 IAC 6.5	N	04-3	27 IR 2767	28 IR 15
312 IAC 8	RA	03-315	27 IR 2339	28 IR 1315
312 IAC 8-1-4	A	05-18	28 IR 2412	29 IR 461
	A	06-9	29 IR 2269	
312 IAC 8-2-3	A	05-18	28 IR 2413	29 IR 461
	A	06-9	29 IR 2270	
312 IAC 8-2-8	A	05-18	28 IR 2414	29 IR 463
	A	05-344	29 IR 1975	
312 IAC 8-2-9	A	06-9	29 IR 2272	
312 IAC 9-1-9.5	N	03-311	27 IR 1946	28 IR 536
312 IAC 9-1-11.5	N	03-311	27 IR 1946	28 IR 536
312 IAC 9-2-1	A	05-214	29 IR 618	*CPH (29 IR 1581)
312 IAC 9-2-14	N	04-253	28 IR 1522	
	N	05-214	29 IR 618	*CPH (29 IR 1581)

312 IAC 9-2-15	N	04-253	28 IR 1522	
312 IAC 9-3-2	A	03-311	27 IR 1946	28 IR 536
	A	05-214	29 IR 619	*CPH (29 IR 1581)
	A	05-261	29 IR 1726	
312 IAC 9-3-2.5	N	05-262	29 IR 1250	
312 IAC 9-3-3	A	03-311	27 IR 1947	28 IR 538
	A	05-214	29 IR 620	*CPH (29 IR 1581)
312 IAC 9-3-4	A	03-311	27 IR 1948	28 IR 538
	A	04-253	28 IR 1523	28 IR 2945
312 IAC 9-3-5	A	04-253	28 IR 1523	28 IR 2945
312 IAC 9-3-10	A	03-311	27 IR 1949	28 IR 539
312 IAC 9-3-11	A	03-311	27 IR 1949	28 IR 539
312 IAC 9-3-12	A	03-311	27 IR 1949	28 IR 539
	A	05-214	29 IR 621	*CPH (29 IR 1581)
312 IAC 9-3-13	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-14	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-15	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-17	A	03-311	27 IR 1950	28 IR 540
312 IAC 9-3-18.1	N	05-214	29 IR 621	*CPH (29 IR 1581)
312 IAC 9-3-18.2	N	05-214	29 IR 621	*CPH (29 IR 1581)
312 IAC 9-3-18.3	N	05-214	29 IR 621	*CPH (29 IR 1581)
312 IAC 9-3-18.4	N	05-214	29 IR 621	*CPH (29 IR 1581)
312 IAC 9-3-18.5	N	05-261	29 IR 1727	
312 IAC 9-3-19	A	05-214	29 IR 622	*CPH (29 IR 1581)
312 IAC 9-4-2	A	05-214	29 IR 622	*CPH (29 IR 1581)
312 IAC 9-4-5.5	N	05-214	29 IR 622	*CPH (29 IR 1581)
312 IAC 9-4-7	R	03-311	27 IR 1966	28 IR 556
312 IAC 9-4-10	A	03-311	27 IR 1951	
312 IAC 9-4-11	A	03-311	27 IR 1951	28 IR 541
	A	04-253	28 IR 1524	28 IR 2946
	A	05-214	29 IR 623	*CPH (29 IR 1581)
312 IAC 9-4-14	A	03-311	27 IR 1952	28 IR 542
312 IAC 9-5-4	A	03-311	27 IR 1953	28 IR 542
	A	04-253	28 IR 1526	28 IR 2947
312 IAC 9-5-6	A	03-311	27 IR 1953	28 IR 543
312 IAC 9-5-7	A	03-311	27 IR 1953	28 IR 543
	A	04-253	28 IR 1526	28 IR 2948
	A	06-9	29 IR 2272	
312 IAC 9-5-9	A	03-311	27 IR 1955	28 IR 545
	A	04-253	28 IR 1528	28 IR 2950
312 IAC 9-5-11	N	03-311	27 IR 1956	28 IR 546
	A	05-214	29 IR 624	*CPH (29 IR 1581)
312 IAC 9-6-9	A	03-311	27 IR 1957	28 IR 547
312 IAC 9-7-2	A	03-311	27 IR 1957	28 IR 547
312 IAC 9-7-6	A	03-311	27 IR 1959	28 IR 549
312 IAC 9-7-13	A	03-311	27 IR 1960	28 IR 550
312 IAC 9-10-5	A	05-214	29 IR 626	*CPH (29 IR 1581)
312 IAC 9-10-7	A	06-9	29 IR 2274	
312 IAC 9-10-9	A	03-311	27 IR 1960	28 IR 550
312 IAC 9-10-9.5	N	03-311	27 IR 1961	28 IR 551
312 IAC 9-10-10	A	03-311	27 IR 1962	28 IR 552
312 IAC 9-10-11	A	05-214	29 IR 626	*CPH (29 IR 1581)
312 IAC 9-10-12	A	05-214	29 IR 628	*CPH (29 IR 1581)
312 IAC 9-10-13.5	N	03-311	27 IR 1963	28 IR 553
312 IAC 9-10-17	A	03-311	27 IR 1964	28 IR 554
312 IAC 9-10-21	N	05-261	29 IR 1728	
312 IAC 9-11-1	A	03-311	27 IR 1964	28 IR 554
312 IAC 9-11-2	A	03-311	27 IR 1965	28 IR 555
312 IAC 9-11-13	A	05-214	29 IR 628	*CPH (29 IR 1581)
312 IAC 9-11-14	A	03-311	27 IR 1965	28 IR 555
312 IAC 10-3-6	A	06-9	29 IR 2274	
312 IAC 10-4-4	A	06-9	29 IR 2275	
312 IAC 11	RA	05-1	28 IR 2203	28 IR 3661
312 IAC 11-2-2	A	05-38	28 IR 2767	29 IR 464
312 IAC 11-2-4	A	06-9	29 IR 2275	
312 IAC 11-2-5	A	04-157	28 IR 1521	28 IR 2660
312 IAC 11-2-7	A	05-38	28 IR 2767	29 IR 464
312 IAC 11-2-11	A	05-38	28 IR 2768	29 IR 464
	A	06-9	29 IR 2275	

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312 IAC 11-2-11.5	N	04-94	27 IR 4095	28 IR 1681	312 IAC 25-6-20				*ERR (28 IR 214)
312 IAC 11-2-11.8	N	05-38	28 IR 2768	29 IR 464		A	06-68	29 IR 2609	
312 IAC 11-2-14.5	N	05-38	28 IR 2768	29 IR 464	312 IAC 25-6-66	A	06-68	29 IR 2612	
	A	06-9	29 IR 2275		312 IAC 25-6-143	A	06-67	29 IR 2604	
312 IAC 11-2-20	A	05-38	28 IR 2768	29 IR 465	312 IAC 25-7-1				*ERR (28 IR 214)
312 IAC 11-2-21	A	06-9	29 IR 2275			A	06-68	29 IR 2613	
312 IAC 11-2-24	A	05-38	28 IR 2768	29 IR 465	312 IAC 26	RA	03-315	27 IR 2339	28 IR 1315
	A	06-9	29 IR 2275						
312 IAC 11-2-25.2	N	05-38	28 IR 2768	29 IR 465	TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION				
312 IAC 11-2-27	A	06-9	29 IR 2276		315 IAC 1	RA	04-71	27 IR 2879	28 IR 323
312 IAC 11-2-27.5	N	05-38	28 IR 2769	29 IR 465	315 IAC 1-2-1	A	04-70	28 IR 990	*CPH (28 IR 1498)
312 IAC 11-2-28	R	06-9	29 IR 2278						*SPE
312 IAC 11-3-1	A	04-94	27 IR 4095	28 IR 1681		A	05-73	28 IR 2772	29 IR 469
312 IAC 11-3-3	A	05-38	28 IR 2769	29 IR 465	315 IAC 1-3-1	A	04-70	28 IR 991	*CPH (28 IR 1498)
312 IAC 11-4-2	A	05-38	28 IR 2770	29 IR 466					*SPE
	A	06-9	29 IR 2276			A	05-73	28 IR 2773	29 IR 469
312 IAC 11-4-3	A	05-38	28 IR 2770	29 IR 467	315 IAC 1-3-2	A	04-70	28 IR 991	*CPH (28 IR 1498)
	A	06-9	29 IR 2276						*SPE
312 IAC 11-4-4	A	05-38	28 IR 2771	29 IR 467		A	05-73	28 IR 2774	29 IR 470
	A	06-9	29 IR 2277		315 IAC 1-3-2.1	N	04-70	28 IR 992	*CPH (28 IR 1498)
312 IAC 11-4-5	A	06-9	29 IR 2278						*SPE
312 IAC 11-4-6	A	06-9	29 IR 2278			N	05-73	28 IR 2775	29 IR 471
312 IAC 11-5-2	A	05-274	29 IR 1251		315 IAC 1-3-3	A	04-70	28 IR 992	*CPH (28 IR 1498)
312 IAC 11-5-3	N	05-38	28 IR 2771	29 IR 468					*SPE
312 IAC 12	RA	05-1	28 IR 2203	28 IR 3661		A	05-73	28 IR 2775	29 IR 471
312 IAC 13	RA	05-1	28 IR 2203	28 IR 3661	315 IAC 1-3-4	A	04-70	28 IR 993	*CPH (28 IR 1498)
312 IAC 13-8-1	A	05-341	29 IR 2265						*SPE
312 IAC 13-8-3	A	05-341	29 IR 2265		315 IAC 1-3-5	A	05-73	28 IR 2776	29 IR 472
312 IAC 13-10-2	A	05-341	29 IR 2267			A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 16	RA	03-315	27 IR 2339	28 IR 1315					*SPE
312 IAC 16-1-1	A	05-288	29 IR 1730			A	05-73	28 IR 2776	29 IR 473
312 IAC 16-1-2.5	N	05-288	29 IR 1730		315 IAC 1-3-7	A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 16-1-28.3	N	05-288	29 IR 1730						*SPE
312 IAC 16-1-31.2	N	05-288	29 IR 1730			A	05-73	28 IR 2777	29 IR 473
312 IAC 16-1-32.5	N	05-288	29 IR 1730		315 IAC 1-3-8	A	04-70	28 IR 994	*CPH (28 IR 1498)
312 IAC 16-1-32.6	N	05-288	29 IR 1730						*SPE
312 IAC 16-1-39.6	N	05-288	29 IR 1730			A	05-73	28 IR 2777	29 IR 474
312 IAC 16-1-39.8	N	05-288	29 IR 1730		315 IAC 1-3-9	A	04-70	28 IR 995	*CPH (28 IR 1498)
312 IAC 16-1-52	N	05-288	29 IR 1731						*SPE
312 IAC 16-3-2	A	04-121	27 IR 4097	28 IR 1682		A	05-73	28 IR 2778	29 IR 474
312 IAC 16-3-8	A	04-121	27 IR 4099	28 IR 1684	315 IAC 1-3-10	A	04-70	28 IR 995	*CPH (28 IR 1498)
312 IAC 16-5-4	A	05-248	29 IR 1722						*SPE
312 IAC 16-5-5	A	05-248	29 IR 1723			A	05-73	28 IR 2778	29 IR 475
312 IAC 16-5-14	A	04-23	27 IR 2532	28 IR 556	315 IAC 1-3-12	A	04-70	28 IR 996	*CPH (28 IR 1498)
312 IAC 16-5-19	A	05-14	28 IR 2410	29 IR 458					*SPE
312 IAC 17	RA	03-315	27 IR 2339	28 IR 1315		A	05-73	28 IR 2778	29 IR 475
312 IAC 17-3	R	05-99	28 IR 3632	29 IR 1876	315 IAC 1-3-14	A	04-70	28 IR 996	*CPH (28 IR 1498)
312 IAC 17-3-1	A	04-23	27 IR 2532	28 IR 557					*SPE
312 IAC 17-3-2	A	04-23	27 IR 2532	28 IR 557		A	05-73	28 IR 2779	29 IR 475
312 IAC 17-3-3	A	04-23	27 IR 2532	28 IR 557	315 IAC 1-3-15	N	04-70	28 IR 996	*CPH (28 IR 1498)
312 IAC 17-3-4	A	04-23	27 IR 2533	28 IR 558					*SPE
312 IAC 17-3-6	A	04-23	27 IR 2534	28 IR 558		N	05-73	28 IR 2779	29 IR 476
312 IAC 17-3-8	A	04-23	27 IR 2534	28 IR 558					
312 IAC 17-3-9	A	04-23	27 IR 2534	28 IR 558	TITLE 326 AIR POLLUTION CONTROL BOARD				
312 IAC 18-3-12	A	04-270	28 IR 1203	*GRAT (28 IR 3053)	326 IAC 1-1-3	A	02-337	26 IR 1997	*ARR (27 IR 2500)
				28 IR 2951					*CPH (27 IR 2521)
	A	05-213	29 IR 614	*ARR (29 IR 2204)					28 IR 17
			29 IR 2263			A	04-299	28 IR 1815	*CPH (28 IR 2406)
312 IAC 18-3-18	N	04-177	28 IR 1201	28 IR 2942					29 IR 795
312 IAC 18-3-19	N	04-127	28 IR 1521	28 IR 2942		A	05-230	29 IR 632	29 IR 2517
312 IAC 19	RA	03-315	27 IR 2339	28 IR 1315	326 IAC 1-1-3.5	A	02-337	26 IR 1997	*ARR (27 IR 2500)
312 IAC 23	RA	05-1	28 IR 2203	28 IR 3661					*CPH (27 IR 2521)
312 IAC 25-1-57	A	06-68	29 IR 2606						28 IR 18
312 IAC 25-4-87	A	06-68	29 IR 2606			A	04-299	28 IR 1815	*CPH (28 IR 2406)
312 IAC 25-4-102				*ERR (28 IR 214)					29 IR 795
	A	06-67	29 IR 2602		326 IAC 1-1-6	N	04-180	28 IR 248	*GRAT (28 IR 2205)
312 IAC 25-4-114				*ERR (28 IR 214)					28 IR 2046
312 IAC 25-5-16				*ERR (28 IR 214)	326 IAC 1-2-33.5	A	05-79	28 IR 3005	29 IR 795
	A	06-68	29 IR 2607			A	06-19	29 IR 2288	

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326 IAC 1-2-48	A	05-79	28 IR 3005	29 IR 796	326 IAC 2-9-10	A	02-337	26 IR 2013	*ARR (27 IR 2500)
326 IAC 1-2-52	A	03-228	27 IR 3120	28 IR 1471					*CPH (27 IR 2521)
326 IAC 1-2-52.2	N	03-228	27 IR 3121	28 IR 1471					28 IR 27
326 IAC 1-2-52.4	N	03-228	27 IR 3121	28 IR 1471		RA	04-44	27 IR 3163	28 IR 809
326 IAC 1-2-65	A	02-337	26 IR 1997	*ARR (27 IR 2500)	326 IAC 2-9-11	RA	04-44	27 IR 3164	28 IR 810
				*CPH (27 IR 2521)	326 IAC 2-9-12	RA	04-44	27 IR 3165	28 IR 811
				28 IR 18	326 IAC 2-9-13	A	02-337	26 IR 2014	*ARR (27 IR 2500)
326 IAC 1-2-82.5	N	03-228	27 IR 3121	28 IR 1471					*CPH (27 IR 2521)
326 IAC 1-2-90	A	02-337	26 IR 1998	*ARR (27 IR 2500)					28 IR 28
				*CPH (27 IR 2521)					28 IR 811
				28 IR 18	326 IAC 2-9-14	RA	04-44	27 IR 3165	28 IR 814
	A	05-79	28 IR 3006	29 IR 796	326 IAC 3-4-1	RA	04-44	27 IR 3167	*ARR (27 IR 2500)
326 IAC 1-3-4	A	03-228	27 IR 3121	28 IR 1471		A	02-337	26 IR 2016	*CPH (27 IR 2521)
	A	05-235	29 IR 633	29 IR 2179					28 IR 30
326 IAC 1-4-1	A	04-148	27 IR 3606	28 IR 1182	326 IAC 3-4-3	A	02-337	26 IR 2016	*ARR (27 IR 2500)
	A	06-18	29 IR 2287						*CPH (27 IR 2521)
326 IAC 2-2-13	A	02-337	26 IR 1998	*ARR (27 IR 2500)					28 IR 31
				*CPH (27 IR 2521)	326 IAC 3-5-2	A	02-337	26 IR 2017	*ARR (27 IR 2500)
				28 IR 19					*CPH (27 IR 2521)
326 IAC 2-2-16	A	02-337	26 IR 1999	*ARR (27 IR 2500)	326 IAC 3-5-3	A	02-337	26 IR 2019	28 IR 32
				*CPH (27 IR 2521)					*ARR (27 IR 2500)
				28 IR 20					*CPH (27 IR 2521)
326 IAC 2-5.1-1	RA	04-44	27 IR 3144	28 IR 791					28 IR 33
326 IAC 2-5.1-2	RA	04-44	27 IR 3145	28 IR 791	326 IAC 3-5-4	A	02-337	26 IR 2019	*ARR (27 IR 2500)
326 IAC 2-5.5-1	RA	04-44	27 IR 3146	28 IR 792					*CPH (27 IR 2521)
326 IAC 2-5.5-2	RA	04-44	27 IR 3146	28 IR 793					28 IR 34
326 IAC 2-5.5-3	RA	04-44	27 IR 3146	28 IR 793	326 IAC 3-5-5	A	02-337	26 IR 2020	*ARR (27 IR 2500)
326 IAC 2-5.5-4	RA	04-44	27 IR 3147	28 IR 793					*CPH (27 IR 2521)
326 IAC 2-5.5-5	RA	04-44	27 IR 3147	28 IR 794					28 IR 34
326 IAC 2-5.5-6	RA	04-44	27 IR 3147	28 IR 794	326 IAC 3-6-1	A	02-337	26 IR 2022	*ARR (27 IR 2500)
326 IAC 2-6-1	A	05-78	29 IR 1255						*CPH (27 IR 2521)
326 IAC 2-6-3	A	05-78	29 IR 1256						28 IR 36
326 IAC 2-6-4	A	05-78	29 IR 1257		326 IAC 3-6-3	A	02-337	26 IR 2022	*ARR (27 IR 2500)
326 IAC 2-6.1-1	RA	04-44	27 IR 3149	28 IR 795					*CPH (27 IR 2521)
326 IAC 2-6.1-2	RA	04-44	27 IR 3149	28 IR 795					28 IR 37
326 IAC 2-6.1-3	RA	04-44	27 IR 3149	28 IR 795	326 IAC 3-6-5	A	02-337	26 IR 2023	*ARR (27 IR 2500)
326 IAC 2-6.1-4	RA	04-44	27 IR 3150	28 IR 796					*CPH (27 IR 2521)
326 IAC 2-6.1-5	RA	04-44	27 IR 3150	28 IR 796					28 IR 37
326 IAC 2-6.1-6	RA	04-44	27 IR 3151	28 IR 797	326 IAC 3-7-2	A	02-337	26 IR 2024	*ARR (27 IR 2500)
326 IAC 2-6.1-7	RA	04-44	27 IR 3154	28 IR 801					*CPH (27 IR 2521)
326 IAC 2-7-3	A	02-337	26 IR 2006	*ARR (27 IR 2500)	326 IAC 3-7-4	A	02-337	26 IR 2025	28 IR 38
				*CPH (27 IR 2521)					*ARR (27 IR 2500)
				28 IR 20					*CPH (27 IR 2521)
326 IAC 2-7-8	A	02-337	26 IR 2006	*ARR (27 IR 2500)	326 IAC 3-8	N	04-182	29 IR 1254	28 IR 40
				*CPH (27 IR 2521)	326 IAC 5-1-2	A	02-337	26 IR 2026	*ARR (27 IR 2500)
				28 IR 20					*CPH (27 IR 2521)
326 IAC 2-7-18	A	02-337	26 IR 2007	*ARR (27 IR 2500)	326 IAC 5-1-4	A	02-337	26 IR 2026	28 IR 40
				*CPH (27 IR 2521)					*ARR (27 IR 2500)
				28 IR 21					*CPH (27 IR 2521)
326 IAC 2-8-3	A	02-337	26 IR 2008	*ARR (27 IR 2500)	326 IAC 5-1-5	A	02-337	26 IR 2027	28 IR 41
				*CPH (27 IR 2521)					*ARR (27 IR 2500)
				28 IR 22					*CPH (27 IR 2521)
326 IAC 2-9-1	RA	04-44	27 IR 3155	28 IR 801	326 IAC 6-1-1	R	02-335	28 IR 1813	28 IR 41
326 IAC 2-9-2.5	RA	04-44	27 IR 3156	28 IR 802	326 IAC 6-1-1.5	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-3	RA	04-44	27 IR 3156	28 IR 803	326 IAC 6-1-2	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-4	RA	04-44	27 IR 3157	28 IR 803	326 IAC 6-1-3	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-5	RA	04-44	27 IR 3158	28 IR 805	326 IAC 6-1-4	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-6	RA	04-44	27 IR 3159	28 IR 805	326 IAC 6-1-5	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-7	A	02-337	26 IR 2009	*ARR (27 IR 2500)	326 IAC 6-1-6	R	02-335	28 IR 1813	28 IR 3550
				*CPH (27 IR 2521)	326 IAC 6-1-7	R	02-335	28 IR 1813	28 IR 3550
				28 IR 23	326 IAC 6-1-8.1	R	02-335	28 IR 1813	28 IR 3550
	RA	04-44	27 IR 3159	28 IR 805	326 IAC 6-1-9	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-8	A	02-337	26 IR 2010	*ARR (27 IR 2500)	326 IAC 6-1-10.1	R	02-335	28 IR 1813	28 IR 3550
				*CPH (27 IR 2521)	326 IAC 6-1-10.2	R	02-335	28 IR 1813	28 IR 3550
				28 IR 25	326 IAC 6-1-11.1	R	02-335	28 IR 1813	28 IR 3550
	RA	04-44	27 IR 3160	28 IR 806	326 IAC 6-1-11.2	R	02-335	28 IR 1813	28 IR 3550
326 IAC 2-9-9	A	02-337	26 IR 2012	*ARR (27 IR 2500)	326 IAC 6-1-12	A	04-43	28 IR 242	*GRAT (28 IR 2204)
				*CPH (27 IR 2521)					28 IR 2037
				28 IR 26					*ERR (28 IR 2137)
	RA	04-44	27 IR 3162	28 IR 808		R	02-335	28 IR 1813	28 IR 3550

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326 IAC 6-1-13	A	03-195	27 IR 2318	28 IR 115	326 IAC 8-10-7	A	02-337	26 IR 2044	*ARR (27 IR 2500)
	R	02-335	28 IR 1813	28 IR 3550					*CPH (27 IR 2521)
326 IAC 6-1-14	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-11-2	A	02-337	26 IR 2044	28 IR 58
326 IAC 6-1-15	R	02-335	28 IR 1813	28 IR 3550					*ARR (27 IR 2500)
326 IAC 6-1-16	R	02-335	28 IR 1813	28 IR 3550					*CPH (27 IR 2521)
326 IAC 6-1-17	R	02-335	28 IR 1813	28 IR 3550	326 IAC 8-11-6	A	02-337	26 IR 2046	28 IR 59
326 IAC 6-1-18	R	02-335	28 IR 1813	28 IR 3550					*ARR (27 IR 2500)
326 IAC 6-2-1				*ERR (29 IR 819)					*CPH (27 IR 2521)
326 IAC 6-3-1				*ERR (29 IR 819)	326 IAC 8-11-7	A	02-337	26 IR 2050	28 IR 61
326 IAC 6-5-4				*ERR (29 IR 819)					*ARR (27 IR 2500)
326 IAC 6-6-1				*ERR (29 IR 819)					*CPH (27 IR 2521)
326 IAC 6.5	N	02-335	28 IR 1714	28 IR 3454	326 IAC 8-12-3	A	02-337	26 IR 2050	28 IR 64
				*ERR (29 IR 548)					*ARR (27 IR 2500)
326 IAC 6.5-7-13	A	04-234	28 IR 1814	*CPH (28 IR 2406)					*CPH (27 IR 2521)
				29 IR 476	326 IAC 8-12-5	A	02-337	26 IR 2052	28 IR 65
326 IAC 6.8	N	02-335	28 IR 1766	28 IR 3503					*ARR (27 IR 2500)
326 IAC 6.8-2-4	A	04-278	28 IR 3004	29 IR 794					*CPH (27 IR 2521)
326 IAC 7-1.1-1	A	00-236	28 IR 632	*CPH (28 IR 982)	326 IAC 8-12-6	A	02-337	26 IR 2053	28 IR 67
				*CPH (28 IR 1710)					*ARR (27 IR 2500)
326 IAC 7-1.1-2	A	00-236	28 IR 632	28 IR 2953					*CPH (27 IR 2521)
				*CPH (28 IR 982)	326 IAC 8-12-7	A	02-337	26 IR 2054	28 IR 68
				*CPH (28 IR 1710)					*ARR (27 IR 2500)
326 IAC 7-2-1	A	02-337	26 IR 2028	28 IR 2953					*CPH (27 IR 2521)
				*ARR (27 IR 2500)	326 IAC 8-13-5	A	02-337	26 IR 2055	28 IR 68
				*CPH (27 IR 2521)					*ARR (27 IR 2500)
				28 IR 42					*CPH (27 IR 2521)
	A	00-236	28 IR 632	*CPH (28 IR 982)	326 IAC 10-1-2	A	02-337	26 IR 2056	28 IR 69
				*CPH (28 IR 1710)					*ARR (27 IR 2500)
326 IAC 7-4-1.1	R	00-236	28 IR 644	28 IR 2953					*CPH (27 IR 2521)
				*CPH (28 IR 982)	326 IAC 10-1-4	A	02-337	26 IR 2057	28 IR 70
				*CPH (28 IR 1710)					*ARR (27 IR 2500)
				28 IR 2966					*CPH (27 IR 2521)
326 IAC 7-4-3	A	03-195	27 IR 2319	28 IR 117					28 IR 71
326 IAC 7-4-10	A	02-337	26 IR 2029	*ARR (27 IR 2500)	326 IAC 10-1-5	A	02-337	26 IR 2059	*ARR (27 IR 2500)
				*CPH (27 IR 2521)					*CPH (27 IR 2521)
				28 IR 43					28 IR 73
326 IAC 7-4-13	A	03-282	27 IR 2768	*CPH (27 IR 3591)	326 IAC 10-1-6	A	02-337	26 IR 2059	*ARR (27 IR 2500)
				*GRAT (28 IR 2204)					*CPH (27 IR 2521)
				28 IR 2021	326 IAC 10-3-3	A	04-200	28 IR 2781	28 IR 74
326 IAC 7-4.1	N	00-236	28 IR 633	*CPH (28 IR 982)	326 IAC 10-4-1	A	04-200	28 IR 2782	29 IR 1876
				*CPH (28 IR 1710)	326 IAC 10-4-2	A	04-200	28 IR 2783	29 IR 1877
				28 IR 2954	326 IAC 10-4-3	A	04-200	28 IR 2790	29 IR 1879
326 IAC 8-1-4	A	02-337	26 IR 2030	*ARR (27 IR 2500)	326 IAC 10-4-9	A	04-200	28 IR 2791	29 IR 1885
				*CPH (27 IR 2521)	326 IAC 10-4-13	A	04-200	28 IR 2797	29 IR 1886
				28 IR 44	326 IAC 10-4-14	A	04-200	28 IR 2797	29 IR 1893
326 IAC 8-1-6	A	05-166	29 IR 1259		326 IAC 10-4-15	A	04-200	28 IR 2801	29 IR 1896
326 IAC 8-4-6	A	02-337	26 IR 2032	*ARR (27 IR 2500)	326 IAC 10-5	A	04-200	28 IR 2801	29 IR 1897
				*CPH (27 IR 2521)	326 IAC 11-3-4	N	04-200	28 IR 2803	29 IR 1899
				28 IR 47		A	02-337	26 IR 2060	*ARR (27 IR 2500)
326 IAC 8-4-9	A	02-337	26 IR 2035	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)					28 IR 74
				28 IR 49	326 IAC 11-7-1	A	02-337	26 IR 2061	*ARR (27 IR 2500)
326 IAC 8-7-7	A	02-337	26 IR 2036	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 13-1.1-1	A	02-337	26 IR 2062	28 IR 75
				28 IR 51					*ARR (27 IR 2500)
326 IAC 8-9-2	A	02-337	26 IR 2037	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 13-1.1-8	A	02-337	26 IR 2063	28 IR 76
				28 IR 51					*ARR (27 IR 2500)
326 IAC 8-9-3	A	02-337	26 IR 2037	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 13-1.1-10	A	02-337	26 IR 2063	28 IR 77
				28 IR 51					*ARR (27 IR 2500)
326 IAC 8-9-4	A	02-337	26 IR 2038	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)	326 IAC 13-1.1-13	A	02-337	26 IR 2064	28 IR 78
				28 IR 52					*ARR (27 IR 2500)
326 IAC 8-9-5	A	02-337	26 IR 2040	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)					28 IR 79
				28 IR 54	326 IAC 13-1.1-14	A	02-337	26 IR 2065	*ARR (27 IR 2500)
326 IAC 8-9-6	A	02-337	26 IR 2042	*ARR (27 IR 2500)					*CPH (27 IR 2521)
				*CPH (27 IR 2521)					28 IR 80
				28 IR 56					

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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	29 IR 797
326 IAC 14-10-3	A	02-337	26 IR 2076	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 91	326 IAC 20-13-1		06-41		*ERR (29 IR 1936)
326 IAC 14-10-4	A	02-337	26 IR 2078	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 93	326 IAC 20-25-1	A	03-264	27 IR 3123	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2017
326 IAC 15-1-2	A	02-337	26 IR 2080	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 95	326 IAC 20-25-2	A	03-264	27 IR 3124	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2018
326 IAC 15-1-4	A	02-337	26 IR 2083	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98	326 IAC 20-29	N	05-236	29 IR 635	29 IR 2517
326 IAC 16-3-1	A	02-337	26 IR 2084	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 98	326 IAC 20-56	N	03-264	27 IR 3126	*CPH (27 IR 3590) *GRAT (28 IR 2204) 28 IR 2020
326 IAC 18-1-1	A	03-283	27 IR 3128	*CPH (27 IR 3591) *GRAT (28 IR 2204) 28 IR 2022	326 IAC 20-57	N	03-284	27 IR 1618	*CPH (27 IR 1937) 28 IR 119
					326 IAC 20-58	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
					326 IAC 20-59	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
					326 IAC 20-60	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 119
					326 IAC 20-61	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120

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326 IAC 20-62	N	03-284	27 IR 1619	*CPH (27 IR 1937) 28 IR 120	TITLE 327 WATER POLLUTION CONTROL BOARD 327 IAC 1-1-1	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 1-1-2	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 1-1-3	A	03-129	27 IR 3608	*GRAT (28 IR 2205) 28 IR 2046
326 IAC 20-65	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 20-66	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-6	A	03-129	27 IR 3609	*GRAT (28 IR 2205) 28 IR 2047
326 IAC 20-67	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-8	A	03-129	27 IR 3617	*ERR (29 IR 2546) *GRAT (28 IR 2205) 28 IR 2055
326 IAC 20-68	N	03-285	27 IR 2323	28 IR 122	327 IAC 2-1-8.1	A	03-129	27 IR 3617	*GRAT (28 IR 2205) 28 IR 2055
326 IAC 20-69	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 20-70	N	03-284	27 IR 1620	*CPH (27 IR 1937) 28 IR 120	327 IAC 2-1-8.3	A	03-129	27 IR 3620	*GRAT (28 IR 2205) 28 IR 2057
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 2-1-8.9	N	03-129	27 IR 3621	*GRAT (28 IR 2205) 28 IR 2058
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 2-1-9	A	03-129	27 IR 3622	*ERR (28 IR 3582) *GRAT (28 IR 2205) 28 IR 2060
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 2-1-12	A	03-129	27 IR 3627	*GRAT (28 IR 2205) 28 IR 2064
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 2-1-13	N	06-34 03-129	27 IR 3627	*ERR (29 IR 1936) *GRAT (28 IR 2205) 28 IR 2065
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 2-1.5-2	A	03-129	27 IR 3631	*GRAT (28 IR 2205) 28 IR 2068
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 2-1.5-6	A	03-129	27 IR 3637	*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 2-1.5-8	A	03-129	27 IR 3638	*GRAT (28 IR 2205) 28 IR 2074
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 2-1.5-10	A	03-129	27 IR 3650	*ERR (29 IR 2546) *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 2-1.5-11	A	03-129	27 IR 3651	*GRAT (28 IR 2205) 28 IR 2084
326 IAC 20-80	N	04-181	29 IR 2279	*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
326 IAC 20-81	N	04-181	29 IR 2280		327 IAC 2-1.5-20	A	03-129	27 IR 3662	*ERR (28 IR 3582) *GRAT (28 IR 2205) 28 IR 2096
326 IAC 20-82	N	04-235	28 IR 997	28 IR 2966	327 IAC 2-4-3	A	06-34 03-129	27 IR 3663	*ERR (29 IR 1936) *GRAT (28 IR 2205) 28 IR 2097
326 IAC 20-83	N	04-236	28 IR 998	28 IR 2967	327 IAC 2-6.1-7		06-34		*ERR (29 IR 1936)
326 IAC 20-84	N	04-236	28 IR 998	28 IR 2967	327 IAC 2-10-3		06-34		*ERR (29 IR 1936)
326 IAC 20-85	N	04-236	28 IR 999	28 IR 2967	327 IAC 2-10-8		06-34		*ERR (29 IR 1936)
326 IAC 20-86	N	04-236	28 IR 999	28 IR 2967	327 IAC 2-11-3		06-34		*ERR (29 IR 1936)
326 IAC 20-87	N	04-236	28 IR 999	28 IR 2968	327 IAC 3-1-2		06-117		*ERR (29 IR 2547)
326 IAC 20-88	N	04-236	28 IR 999	28 IR 2968	327 IAC 3-2.1-2		06-117		*ERR (29 IR 2547)
326 IAC 20-90	N	04-300	28 IR 1816	28 IR 3550	327 IAC 3-2.1-3		06-117		*ERR (29 IR 2547)
326 IAC 20-91	N	04-300	28 IR 1816	28 IR 3550	327 IAC 3-2-1.5	N	04-320	28 IR 2192	28 IR 3551
326 IAC 20-92	N	04-300	28 IR 1817	28 IR 3550	327 IAC 3-2-3.5	N	04-320	28 IR 2192	28 IR 3552
326 IAC 20-93	N	04-300	28 IR 1817	28 IR 3551	327 IAC 3-2-5.5	N	04-320	28 IR 2193	28 IR 3552
326 IAC 20-94	N	04-300	28 IR 1817	28 IR 3551	327 IAC 3-6-2		06-117		*ERR (29 IR 2547)
326 IAC 20-95	N	05-23	29 IR 2284		327 IAC 5-1.5-72	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 22-1-1	A	02-337	26 IR 2098	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 113	327 IAC 5-2-1.5	A	03-129	27 IR 3663	*GRAT (28 IR 2205) 28 IR 2097
326 IAC 23-1-31	A	02-337	26 IR 2099	*ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 114	327 IAC 5-2-11.1	A	06-34 03-129	27 IR 3664	*ERR (29 IR 1936) *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 8-2-13	A	04-13	28 IR 1239	28 IR 3217
				*ERR (28 IR 3582)	327 IAC 8-2-21		06-34		*ERR (29 IR 1937)
327 IAC 5-2-11.5	A	03-129	27 IR 3679	*GRAT (28 IR 2205) 28 IR 2112	327 IAC 8-2-34	A	04-13	28 IR 1239	28 IR 3218
					327 IAC 8-2-34.1	N	04-13	28 IR 1240	28 IR 3218
327 IAC 5-2-11.6	A	03-129	27 IR 3689	*GRAT (28 IR 2205) 28 IR 2120	327 IAC 8-2-45	A	04-13	28 IR 1240	28 IR 3218
									*ERR (28 IR 3583)
327 IAC 5-2-13	A	03-129	27 IR 3694	*GRAT (28 IR 2205) 28 IR 2125	327 IAC 8-2-46	A	04-13	28 IR 1242	28 IR 3220
					327 IAC 8-2.1-3	A	04-13	28 IR 1244	28 IR 3223
327 IAC 5-2-15	A	03-129	27 IR 3694	*GRAT (28 IR 2205) 28 IR 2126			06-34		*ERR (28 IR 3583)
									*ERR (29 IR 1937)
327 IAC 5-3.5	N	03-130	28 IR 650	*CPH (28 IR 1197) 28 IR 2349	327 IAC 8-2.1-4	A	04-13	28 IR 1247	28 IR 3226
				*ERR (28 IR 3582)	327 IAC 8-2.1-6	A	04-13	28 IR 1248	28 IR 3227
					327 IAC 8-2.1-8	A	04-13	28 IR 1255	28 IR 3233
327 IAC 5-4-3	A	05-322	29 IR 1982		327 IAC 8-2.1-9	A	04-13	28 IR 1256	28 IR 3234
327 IAC 5-4-6		06-34		*ERR (29 IR 1936)	327 IAC 8-2.1-13		06-34		*ERR (29 IR 1937)
327 IAC 5-17-12		06-34		*ERR (29 IR 1936)			06-117		*ERR (29 IR 2547)
327 IAC 5-18-4		06-34		*ERR (29 IR 1936)	327 IAC 8-2.1-14	A	04-13	28 IR 1257	28 IR 3235
327 IAC 5-18-5		06-34		*ERR (29 IR 1936)	327 IAC 8-2.1-16	A	04-13	28 IR 1257	28 IR 3236
327 IAC 5-18-10		06-34		*ERR (29 IR 1936)					*ERR (28 IR 3583)
327 IAC 5-19-6		06-34		*ERR (29 IR 1936)	327 IAC 8-2.1-17	A	04-13	28 IR 1261	28 IR 3240
327 IAC 5-20-1		06-34		*ERR (29 IR 1936)	327 IAC 8-2.5-5		06-34		*ERR (29 IR 1937)
327 IAC 5-20-2		06-34		*ERR (29 IR 1937)	327 IAC 8-2.5-6		06-34		*ERR (29 IR 1937)
327 IAC 6.1-2-8		06-34		*ERR (29 IR 1937)		A	05-255	29 IR 2617	
327 IAC 6.1-2-13		06-34		*ERR (29 IR 1937)	327 IAC 8-2.5-7	A	05-255	29 IR 2621	
327 IAC 6.1-4-6		06-34		*ERR (29 IR 1937)	327 IAC 8-2.5-8	A	05-255	29 IR 2622	
327 IAC 6.1-4-11		06-34		*ERR (29 IR 1937)	327 IAC 8-2.5-9	A	05-255	29 IR 2624	
		06-117		*ERR (29 IR 2547)	327 IAC 8-2.6-1	A	04-13	28 IR 1268	28 IR 3247
327 IAC 6.1-4-13		06-34		*ERR (29 IR 1937)					*ERR (29 IR 30)
327 IAC 6.1-4-14		06-34		*ERR (29 IR 1937)	327 IAC 8-2.6-2	A	04-13	28 IR 1269	28 IR 3248
327 IAC 6.1-4-15		06-34		*ERR (29 IR 1937)					*ERR (28 IR 3583)
327 IAC 6.1-4-16		06-34		*ERR (29 IR 1937)	327 IAC 8-2.6-2.1	N	04-13	28 IR 1271	28 IR 3250
327 IAC 6.1-6-2		06-34		*ERR (29 IR 1937)					*ERR (28 IR 3583)
327 IAC 6.1-7-2		06-34		*ERR (29 IR 1937)	327 IAC 8-2.6-3	A	04-13	28 IR 1273	28 IR 3252
327 IAC 6.1-7-3		06-34		*ERR (29 IR 1937)	327 IAC 8-2.6-4	A	04-13	28 IR 1274	28 IR 3253
327 IAC 6.1-7-4		06-34		*ERR (29 IR 1937)	327 IAC 8-2.6-5	A	04-13	28 IR 1274	28 IR 3253
327 IAC 6.1-7-5		06-34		*ERR (29 IR 1937)	327 IAC 8-2.6-6	A	05-255	29 IR 2626	
327 IAC 6.1-7-10		06-34		*ERR (29 IR 1937)	327 IAC 8-3-1	A	04-106	28 IR 2165	*ARR (29 IR 31)
327 IAC 6.1-7.5-1		06-34		*ERR (29 IR 1937)	327 IAC 8-3-1.1	A	04-106	28 IR 2166	*ARR (29 IR 31)
327 IAC 6.1-8-6		06-34		*ERR (29 IR 1937)	327 IAC 8-3-2	A	04-106	28 IR 2166	*ARR (29 IR 31)
327 IAC 8-1-1	A	04-106	28 IR 2163	*ARR (29 IR 31)	327 IAC 8-3-2.1	N	04-106	28 IR 2167	*ARR (29 IR 31)
327 IAC 8-1-2	A	04-106	28 IR 2164	*ARR (29 IR 31)	327 IAC 8-3-3	A	04-106	28 IR 2168	*ARR (29 IR 31)
327 IAC 8-1-3	A	04-106	28 IR 2164	*ARR (29 IR 31)	327 IAC 8-3-8	A	04-106	28 IR 2168	*ARR (29 IR 31)
327 IAC 8-1-4	A	04-106	28 IR 2165	*ARR (29 IR 31)			06-34		*ERR (29 IR 1937)
		06-34		*ERR (29 IR 1937)	327 IAC 8-3.1-1	A	04-106	28 IR 2169	*ARR (29 IR 31)
327 IAC 8-2-1	A	04-13	28 IR 1206	28 IR 3184	327 IAC 8-3.1-2	A	04-106	28 IR 2169	*ARR (29 IR 31)
327 IAC 8-2-4	A	04-13	28 IR 1210	28 IR 3188			06-34		*ERR (29 IR 1937)
327 IAC 8-2-4.1	A	04-13	28 IR 1212	28 IR 3190	327 IAC 8-3.2-1	A	04-106	28 IR 2170	*ARR (29 IR 31)
327 IAC 8-2-4.2	A	04-13	28 IR 1217	28 IR 3196	327 IAC 8-3.2-2	A	04-106	28 IR 2170	*ARR (29 IR 31)
				*ERR (28 IR 3582)			06-34		*ERR (29 IR 1937)
				*ERR (29 IR 30)	327 IAC 8-3.2-4	A	04-106	28 IR 2171	*ARR (29 IR 31)
327 IAC 8-2-5.1	A	04-13	28 IR 1220	28 IR 3198	327 IAC 8-3.2-8	A	04-106	28 IR 2171	*ARR (29 IR 31)
327 IAC 8-2-5.2	A	04-13	28 IR 1222	28 IR 3200	327 IAC 8-3.2-11	A	04-106	28 IR 2173	*ARR (29 IR 31)
				*ERR (28 IR 3582)	327 IAC 8-3.2-17	A	04-106	28 IR 2173	*ARR (29 IR 31)
				*ERR (29 IR 1937)	327 IAC 8-3.2-18	A	04-106	28 IR 2174	*ARR (29 IR 31)
327 IAC 8-2-5.3		06-34		28 IR 3203	327 IAC 8-3.2-20	A	04-106	28 IR 2175	*ARR (29 IR 31)
327 IAC 8-2-5.5	A	04-13	28 IR 1225	*ERR (28 IR 3582)	327 IAC 8-3.3-4	A	04-106	28 IR 2175	*ARR (29 IR 31)
				*ERR (29 IR 1937)	327 IAC 8-3.3-5	A	04-106	28 IR 2176	*ARR (29 IR 31)
327 IAC 8-2-5.6		06-34		*ERR (29 IR 1937)	327 IAC 8-3.3-6	A	04-106	28 IR 2176	*ARR (29 IR 31)
327 IAC 8-2-8.2	A	05-255	29 IR 2615		327 IAC 8-3.4-1	A	04-106	28 IR 2176	*ARR (29 IR 31)
327 IAC 8-2-8.4		06-34		*ERR (29 IR 1937)			06-34		*ERR (29 IR 1937)
327 IAC 8-2-8.5	A	04-13	28 IR 1228	28 IR 3206	327 IAC 8-3.4-2	A	04-106	28 IR 2178	*ARR (29 IR 31)
327 IAC 8-2-8.7	A	04-13	28 IR 1229	28 IR 3207	327 IAC 8-3.4-3	A	04-106	28 IR 2178	*ARR (29 IR 31)
				*ERR (28 IR 3582)	327 IAC 8-3.4-4	A	04-106	28 IR 2179	*ARR (29 IR 31)
327 IAC 8-2-9	A	04-13	28 IR 1230	28 IR 3209	327 IAC 8-3.4-8	A	04-106	28 IR 2180	*ARR (29 IR 31)
327 IAC 8-2-10.1	A	04-13	28 IR 1230	28 IR 3209			06-34		*ERR (29 IR 1937)
				*ERR (28 IR 3582)	327 IAC 8-3.4-9	A	04-106	28 IR 2180	*ARR (29 IR 31)
327 IAC 8-2-10.2	A	04-13	28 IR 1233	28 IR 3212			06-34		*ERR (29 IR 1937)
				*ERR (28 IR 3582)	327 IAC 8-3.4-9.1	N	04-106	28 IR 2182	*ARR (29 IR 31)
327 IAC 8-2-10.3	N	04-13	28 IR 1237	28 IR 3215	327 IAC 8-3.4-12	A	04-106	28 IR 2183	*ARR (29 IR 31)

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327 IAC 8-3.4-13	A	04-106	28 IR 2183	*ARR (29 IR 31)	328 IAC 1-1-8	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
327 IAC 8-3.4-14	A	04-106	28 IR 2183	*ARR (29 IR 31)					
327 IAC 8-3.4-16	A	04-106	28 IR 2184	*ARR (29 IR 31)	328 IAC 1-1-8.3	N	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 124
		06-34		*ERR (29 IR 1937)					
327 IAC 8-3.4-17	A	04-106	28 IR 2185	*ARR (29 IR 31)	328 IAC 1-1-8.5	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-3.4-23	A	04-106	28 IR 2185	*ARR (29 IR 31)					
		06-34		*ERR (29 IR 1937)	328 IAC 1-1-9	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-3.4-24	A	04-106	28 IR 2186	*ARR (29 IR 31)					
327 IAC 8-3.4-25	A	04-106	28 IR 2187	*ARR (29 IR 31)	328 IAC 1-1-10	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-3.4-27	A	04-106	28 IR 2188	*ARR (29 IR 31)					
327 IAC 8-3.5-1	A	04-106	28 IR 2188	*ARR (29 IR 31)	328 IAC 1-2-1	A	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-3.5-2	A	04-106	28 IR 2189	*ARR (29 IR 31)					
		06-34		*ERR (29 IR 1937)	328 IAC 1-2-3	A	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 125
327 IAC 8-3.5-5	A	04-106	28 IR 2189	*ARR (29 IR 31)					
327 IAC 8-3.6-4		06-34		*ERR (29 IR 1937)	328 IAC 1-3-1	A	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 126
327 IAC 8-4-1	A	04-106	28 IR 2190	*ARR (29 IR 31)					
327 IAC 8-4-2	N	04-106	28 IR 2191	*ARR (29 IR 31)	328 IAC 1-3-1.3	N	02-204	27 IR 2780	*CPH (27 IR 3095) 28 IR 126
		06-34		*ERR (29 IR 1937)					
327 IAC 8-4.1-5		06-34		*ERR (29 IR 1938)	328 IAC 1-3-1.6	N	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-6-1	A	04-106	28 IR 2191	*ARR (29 IR 31)					
		06-34		*ERR (29 IR 1938)	328 IAC 1-3-2	A	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-10-13		06-34							
327 IAC 8-11-1	A	05-255	29 IR 2627		328 IAC 1-3-3	A	02-204	27 IR 2781	*CPH (27 IR 3095) 28 IR 127
327 IAC 8-12-1	A	05-255	29 IR 2628						
327 IAC 8-12-2	A	05-255	29 IR 2629						
327 IAC 8-12-3	A	05-255	29 IR 2630						
327 IAC 8-12-3.2	A	05-255	29 IR 2630		328 IAC 1-3-4	A	02-204	27 IR 2783	*ERR (28 IR 608) *CPH (27 IR 3095) 28 IR 129
327 IAC 8-12-3.4	A	05-255	29 IR 2633						
327 IAC 8-12-3.5	N	05-255	29 IR 2633		328 IAC 1-3-5	A	02-204	27 IR 2784	*CPH (27 IR 3095) 28 IR 129
327 IAC 8-12-3.6	A	05-255	29 IR 2634						
327 IAC 8-12-4	A	05-255	29 IR 2635		328 IAC 1-3-6	A	02-204	27 IR 2791	*CPH (27 IR 3095) 28 IR 137
327 IAC 8-12-4.5	N	05-255	29 IR 2636						
327 IAC 8-12-6	A	05-255	29 IR 2636		328 IAC 1-4-1	A	02-204	27 IR 2791	*CPH (27 IR 3095) 28 IR 137
327 IAC 8-12-7	A	05-255	29 IR 2638						
327 IAC 8-12-7.5	A	05-255	29 IR 2638						
		06-34		*ERR (29 IR 1938)	328 IAC 1-4-1.5	N	02-204		*ERR (28 IR 608) †† 28 IR 140
327 IAC 15-4-3		06-117		*ERR (29 IR 2547)	328 IAC 1-4-3	A	02-204	27 IR 2794	*CPH (27 IR 3095) 28 IR 141
327 IAC 15-5-5		06-34		*ERR (29 IR 1938)					
327 IAC 15-6-2		06-34		*ERR (29 IR 1938)					
327 IAC 15-6-4		06-34		*ERR (29 IR 1938)	328 IAC 1-4-4	N	02-204	27 IR 2795	*ERR (28 IR 608) *CPH (27 IR 3095) 28 IR 141
327 IAC 15-6-8.5		06-34		*ERR (29 IR 1938)					
327 IAC 15-6-12		06-34		*ERR (29 IR 1938)					
327 IAC 15-7-5		06-34		*ERR (29 IR 1938)	328 IAC 1-4-5	N	02-204		*ERR (28 IR 608) †† 28 IR 141
327 IAC 15-8-5		06-34		*ERR (29 IR 1938)	328 IAC 1-5-1	A	02-204	27 IR 2795	*CPH (27 IR 3095) 28 IR 142
327 IAC 15-9-5		06-34		*ERR (29 IR 1938)					
327 IAC 15-10-5		06-34		*ERR (29 IR 1938)	328 IAC 1-5-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 142
327 IAC 15-11-5		06-34		*ERR (29 IR 1938)					
327 IAC 15-12-5		06-34		*ERR (29 IR 1939)	328 IAC 1-5-3	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143
327 IAC 15-13-9		06-34		*ERR (29 IR 1939)					
327 IAC 15-14				*ERR (28 IR 214)	328 IAC 1-6-1	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143
327 IAC 15-14-4		06-34		*ERR (29 IR 1939)					
327 IAC 15-15-3		06-34		*ERR (29 IR 1939)	328 IAC 1-6-2	A	02-204	27 IR 2796	*CPH (27 IR 3095) 28 IR 143
327 IAC 15-15-5		06-34		*ERR (29 IR 1939)					
327 IAC 15-15-11	A	05-322	29 IR 1987		328 IAC 1-7-2	A	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
327 IAC 15-15-12	A	05-322	29 IR 1987						
327 IAC 17	N	04-228	28 IR 1288	28 IR 2968	328 IAC 1-7-3	R	02-204	27 IR 2797	*CPH (27 IR 3095) 28 IR 144
				*ERR (29 IR 548)					

TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

328 IAC 1-1-2	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 123
328 IAC 1-1-3	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 123
328 IAC 1-1-4	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 124
328 IAC 1-1-5.1	A	02-204	27 IR 2778	*CPH (27 IR 3095) 28 IR 124
328 IAC 1-1-7.5	N	02-204	27 IR 2779	*CPH (27 IR 3095) 28 IR 124

TITLE 329 SOLID WASTE MANAGEMENT BOARD

329 IAC 3.1-1-7	A	03-312	27 IR 4110	28 IR 2661
	A	05-66	29 IR 1261	*CPH (29 IR 1582)
329 IAC 3.1-1-9	A	05-66	29 IR 1261	*CPH (29 IR 1582)
329 IAC 3.1-1-12.5	N	05-66	29 IR 1262	*CPH (29 IR 1582)
329 IAC 3.1-1-14.1	A	05-66	29 IR 1262	*CPH (29 IR 1582)
329 IAC 3.1-6-2	A	03-312	27 IR 4111	28 IR 2662
329 IAC 3.1-6-3	A	03-312	27 IR 4112	28 IR 2663
	A	05-66	29 IR 1264	*CPH (29 IR 1582)
329 IAC 3.1-6-6	A	04-318	28 IR 2194	28 IR 3553
329 IAC 3.1-6-7	N	05-85	29 IR 843	
329 IAC 3.1-7-2	A	05-66	29 IR 1264	*CPH (29 IR 1582)

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329 IAC 3.1-7.5	N	03-312	27 IR 4112	28 IR 2663	329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962)
	R	05-66	29 IR 1268	*CPH (29 IR 1582)					*CPH (26 IR 2646)
329 IAC 3.1-12-2	A	03-312	27 IR 4113	28 IR 2665					*CPH (26 IR 3073)
329 IAC 3.1-13-2	A	03-312	27 IR 4114	28 IR 2665					*CPH (26 IR 3367)
329 IAC 4.1-1-1	A	05-219	29 IR 2641						*CPH (26 IR 3671)
329 IAC 4.1-1-2	A	05-219	29 IR 2641						*CPH (27 IR 2299)
329 IAC 4.1-1-3	A	05-219	29 IR 2641						*CPH (27 IR 2300)
329 IAC 4.1-1-4	A	05-219	29 IR 2642						*ARR (27 IR 2500)
329 IAC 4.1-1-5	A	05-219	29 IR 2642						*CPH (27 IR 2521)
329 IAC 4.1-1-6	A	05-219	29 IR 2642					27 IR 3209	28 IR 177
329 IAC 4.1-2-1	A	05-219	29 IR 2644		329 IAC 9-1-10.2	R	01-161	26 IR 1239	*CPH (26 IR 1962)
329 IAC 4.1-2-2	A	05-219	29 IR 2644						*CPH (26 IR 2646)
329 IAC 4.1-2-3	A	05-219	29 IR 2644						*CPH (26 IR 3073)
329 IAC 4.1-2-4	A	05-219	29 IR 2644						*CPH (26 IR 3367)
329 IAC 4.1-2-5	A	05-219	29 IR 2645						*CPH (26 IR 3671)
329 IAC 4.1-2-6	A	05-219	29 IR 2645						*CPH (27 IR 2299)
329 IAC 4.1-2-7	A	05-219	29 IR 2645						*CPH (27 IR 2300)
329 IAC 4.1-2-8	A	05-219	29 IR 2645						*ARR (27 IR 2500)
329 IAC 4.1-2-9	A	05-219	29 IR 2645						*CPH (27 IR 2521)
329 IAC 4.1-3-1	A	05-219	29 IR 2645					27 IR 3209	28 IR 177
329 IAC 4.1-4-1	A	05-219	29 IR 2646		329 IAC 9-1-10.4	N	01-161	26 IR 1209	*CPH (26 IR 1962)
329 IAC 4.1-4-2	A	05-219	29 IR 2646						*CPH (26 IR 2646)
329 IAC 4.1-5-1	A	05-219	29 IR 2646						*CPH (26 IR 3073)
329 IAC 4.1-5-2	A	05-219	29 IR 2646						*CPH (26 IR 3367)
329 IAC 4.1-6-1	A	05-219	29 IR 2646						*CPH (26 IR 3671)
329 IAC 4.1-6-2	A	05-219	29 IR 2647						*CPH (27 IR 2299)
329 IAC 4.1-7-1	A	05-219	29 IR 2647						*CPH (27 IR 2300)
329 IAC 4.1-7-2	A	05-219	29 IR 2647						*ARR (27 IR 2500)
329 IAC 4.1-7-3	A	05-219	29 IR 2647						*CPH (27 IR 2521)
329 IAC 4.1-7-4	A	05-219	29 IR 2648					27 IR 3177	28 IR 146
329 IAC 4.1-7-5	A	05-219	29 IR 2648		329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962)
329 IAC 4.1-8-1	A	05-219	29 IR 2648						*CPH (26 IR 2646)
329 IAC 4.1-8-2	A	05-219	29 IR 2648						*CPH (26 IR 3073)
329 IAC 4.1-8-3	A	05-219	29 IR 2648						*CPH (26 IR 3367)
329 IAC 4.1-8-4	A	05-219	29 IR 2649						*CPH (26 IR 3671)
329 IAC 4.1-8-5	A	05-219	29 IR 2649						*CPH (27 IR 2299)
329 IAC 4.1-9-1	A	05-219	29 IR 2649						*CPH (27 IR 2300)
329 IAC 4.1-9-2	A	05-219	29 IR 2649						*ARR (27 IR 2500)
329 IAC 4.1-9-3	A	05-219	29 IR 2650						*CPH (27 IR 2521)
329 IAC 4.1-9-4	A	05-219	29 IR 2650					27 IR 3178	28 IR 146
329 IAC 4.1-9-5	A	05-219	29 IR 2651		329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 1962)
329 IAC 4.1-10-1	A	05-219	29 IR 2651						*CPH (26 IR 2646)
329 IAC 4.1-11-1	A	05-219	29 IR 2652						*CPH (26 IR 3073)
329 IAC 4.1-11-2	A	05-219	29 IR 2652						*CPH (26 IR 3367)
329 IAC 4.1-11-3	A	05-219	29 IR 2652						*CPH (26 IR 3671)
329 IAC 4.1-11-4	A	05-219	29 IR 2652						*CPH (27 IR 2299)
329 IAC 4.1-12-1	A	05-219	29 IR 2652						*CPH (27 IR 2300)
329 IAC 4.1-13-1	A	05-219	29 IR 2653						*ARR (27 IR 2500)
329 IAC 4.1-13-2	A	05-219	29 IR 2653						*CPH (27 IR 2521)
329 IAC 4.1-13-3	N	05-219	29 IR 2653					27 IR 3178	28 IR 146
329 IAC 4.1-13-4	N	05-219	29 IR 2654		329 IAC 9-1-14	A	01-161	26 IR 1210	*CPH (26 IR 1962)
329 IAC 4.1-13-5	N	05-219	29 IR 2654						*CPH (26 IR 2646)
329 IAC 9-1-1	A	01-161	26 IR 1209	*CPH (26 IR 1962)					*CPH (26 IR 3073)
				*CPH (26 IR 2646)					*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 145				27 IR 3178	28 IR 146
329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962)	329 IAC 9-1-14.1	R	01-161	26 IR 1239	*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)
				28 IR 145				27 IR 3209	28 IR 177
			27 IR 3177						

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329 IAC 9-1-14.3	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 146	329 IAC 9-1-36.5 329 IAC 9-1-39.5	N	01-161	27 IR 3179 26 IR 1211	28 IR 147 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-14.5	N	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 146	329 IAC 9-1-41	R	01-161	27 IR 3179 26 IR 1239	28 IR 147 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-14.7	N	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 146	329 IAC 9-1-41.1	R	01-161	27 IR 3209 26 IR 1239	28 IR 177 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-25	A	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 146	329 IAC 9-1-41.5	N	01-161	27 IR 3209 26 IR 1211	28 IR 177 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-27	A	01-161	27 IR 3178 26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 146	329 IAC 9-1-42.1	R	01-161	27 IR 3179 26 IR 1239	28 IR 147 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-29.1	R	01-161	27 IR 3178 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 147	329 IAC 9-1-47	A	01-161	27 IR 3209 26 IR 1211	28 IR 177 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
329 IAC 9-1-36	A	01-161	27 IR 3209 26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521) 28 IR 177	329 IAC 9-1-47.1	A	01-161	27 IR 3179 26 IR 1211	28 IR 147 *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 147				27 IR 3179	28 IR 147

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329 IAC 9-2-1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3179	28 IR 148				27 IR 3188	28 IR 156
329 IAC 9-2-2	A	01-161	26 IR 1214	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3182	28 IR 150				27 IR 3188	28 IR 156
329 IAC 9-2.1-1	A	01-161	26 IR 1215	*ERR (28 IR 608) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3183	28 IR 151				27 IR 3189	28 IR 157
329 IAC 9-3-1	A	01-161	26 IR 1216	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3184	28 IR 152				27 IR 3189	28 IR 158
329 IAC 9-3-2	N	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3187	28 IR 155				27 IR 3190	28 IR 158
329 IAC 9-3.1-1	A	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)
			27 IR 3187	28 IR 155				27 IR 3191	28 IR 160
329 IAC 9-3.1-2	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	329 IAC 9-5-3.1	R	01-161	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 3187	28 IR 155				27 IR 3209	28 IR 177

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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) *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)	345 IAC 5-1-2	R	05-41	28 IR 3648	*GRAT (29 IR 2058) 29 IR 1552
					345 IAC 5-2	N	05-41	28 IR 3633	*GRAT (29 IR 2058) 29 IR 1537
					345 IAC 5-3	N	05-41	28 IR 3641	*GRAT (29 IR 2058) 29 IR 1545
					345 IAC 5-4	N	05-41	28 IR 3642	*GRAT (29 IR 2058) 29 IR 1546
					345 IAC 5-5	N	05-41	28 IR 3644	*GRAT (29 IR 2058) 29 IR 1548
329 IAC 9-7-5	A	01-161	27 IR 3207	28 IR 175	345 IAC 5-6	N	05-41	28 IR 3645	*GRAT (29 IR 2058) 29 IR 1549
329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367) *CPH (26 IR 3671) *CPH (27 IR 2299) *CPH (27 IR 2300) *ARR (27 IR 2500) *CPH (27 IR 2521)	345 IAC 5-7	N	05-41	28 IR 3646	*GRAT (29 IR 2058) 29 IR 1550
					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
					345 IAC 7-5-17	R	05-216	29 IR 853	29 IR 2523
					345 IAC 7-5-18	R	05-216	29 IR 853	29 IR 2523
					345 IAC 7-5-22	A	04-16	27 IR 2798	28 IR 559
					345 IAC 8-2-1.1	A	04-286	28 IR 1821	28 IR 3557
					345 IAC 8-2-1.5	A	04-286	28 IR 1823	28 IR 3560
					345 IAC 8-2-1.6	N	04-286	28 IR 1824	28 IR 3560
					345 IAC 8-2-1.7	A	04-286	28 IR 1824	28 IR 3560
					345 IAC 8-2-1.9	A	04-286	28 IR 1825	28 IR 3561
					345 IAC 8-2-4	A	04-286	28 IR 1826	28 IR 3562
					345 IAC 8-3-1	A	04-286	28 IR 1828	28 IR 3564
					345 IAC 8-3-2	A	04-286	28 IR 1829	28 IR 3565
					345 IAC 8-3-12	N	04-286	28 IR 1829	28 IR 3565
					345 IAC 8-4-1	A	04-286	28 IR 1830	28 IR 3566
					345 IAC 9-2.1-1	A	05-70	28 IR 3648	*GRAT (29 IR 2058) 29 IR 1552
					345 IAC 9-12-2	A	05-70	28 IR 3649	*GRAT (29 IR 2058) 29 IR 1553
					345 IAC 9-20-2	A	05-70	28 IR 3650	*GRAT (29 IR 2058) 29 IR 1554
					345 IAC 9-21.5	N	05-70	28 IR 3650	*GRAT (29 IR 2058) 29 IR 1554
					345 IAC 10-2-5	N	04-135	27 IR 4119	28 IR 1473
					345 IAC 10-2.1-1	A	04-135	27 IR 4119	28 IR 1474
						A	05-70	28 IR 3650	*GRAT (29 IR 2058) 29 IR 1554
TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA									
					355 IAC 2-1-1	A	04-312	28 IR 1838	28 IR 3570
					355 IAC 2-1-6	A	04-312	28 IR 1838	28 IR 3571
					355 IAC 2-2-1	A	04-312	28 IR 1839	28 IR 3571
					355 IAC 2-2-1.5	N	04-312	28 IR 1839	28 IR 3571
					355 IAC 2-2-6	A	04-312	28 IR 1839	28 IR 3571
					355 IAC 2-2-9	A	04-312	28 IR 1839	28 IR 3571
					355 IAC 2-2-10	A	04-312	28 IR 1839	28 IR 3571
					355 IAC 2-2-13	A	04-312	28 IR 1840	28 IR 3572
					355 IAC 2-2-14	A	04-312	28 IR 1840	28 IR 3572
					355 IAC 2-2-15	A	04-312	28 IR 1840	28 IR 3572
					355 IAC 2-2-17	A	04-312	28 IR 1840	28 IR 3572
					355 IAC 2-3-4	A	04-312	28 IR 1840	28 IR 3572
					355 IAC 2-3-6	A	04-312	28 IR 1841	28 IR 3573
					355 IAC 2-3-8	A	04-312	28 IR 1841	28 IR 3573
					355 IAC 2-3-11	A	04-312	28 IR 1841	28 IR 3573
					355 IAC 2-3-12	A	04-312	28 IR 1841	28 IR 3573
					355 IAC 2-4-1	A	04-312	28 IR 1842	28 IR 3574
					355 IAC 2-5-1	A	04-312	28 IR 1842	28 IR 3575
					355 IAC 2-5-2	A	04-312	28 IR 1843	28 IR 3575
					355 IAC 2-5-3	A	04-312	28 IR 1844	28 IR 3576
					355 IAC 2-5-4	A	04-312	28 IR 1844	28 IR 3576
					355 IAC 2-5-6	A	04-312	28 IR 1844	28 IR 3576
					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
TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH									
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 1-3-17	A	05-216	29 IR 852	29 IR 2523					
345 IAC 1-3-19	A	05-216	29 IR 852	29 IR 2523					
345 IAC 1-3-20	R	05-41	28 IR 3648	*GRAT (29 IR 2058) 29 IR 1552					
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	*GRAT (29 IR 2059) 29 IR 1556					
345 IAC 1-7	N	05-121	29 IR 847	29 IR 2518					
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 2.5-3-2	A	05-177	29 IR 849	29 IR 2520					
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	*GRAT (29 IR 2058) 29 IR 1552					

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355 IAC 2-5-12.5	A	04-312	28 IR 1845	28 IR 3577	405 IAC 1-14.6-9	A	05-112	29 IR 1737	*AROC (29 IR 2054)
355 IAC 2-5-13	A	04-312	28 IR 1846	28 IR 3578					*NRA (29 IR 2251)
355 IAC 2-5-14	R	04-312	28 IR 1846	28 IR 3578	405 IAC 1-14.6-18	A	05-112	29 IR 1739	*AROC (29 IR 2054)
355 IAC 2-6-1.5	A	04-312	28 IR 1846	28 IR 3578					*NRA (29 IR 2251)
355 IAC 2-6-2	R	04-312	28 IR 1846	28 IR 3578	405 IAC 1-14.6-23	N	05-114	28 IR 3655	*ARR (29 IR 1216)
355 IAC 2-8	R	04-312	28 IR 1846	28 IR 3578				29 IR 1269	*AROC (29 IR 2054)
355 IAC 2-9-1	A	04-312	28 IR 1846	28 IR 3578	405 IAC 1-14.6-24	N	05-112	29 IR 1740	*AROC (29 IR 2054)
355 IAC 4-2-2	A	04-309	28 IR 1834	29 IR 6					*NRA (29 IR 2251)
355 IAC 4-2-8	A	04-309	28 IR 1834	29 IR 6	405 IAC 1-14.6-25	N	05-112	29 IR 1741	*AROC (29 IR 2054)
355 IAC 4-5-1	A	04-310	28 IR 1835	29 IR 7					*NRA (29 IR 2251)
355 IAC 4-5-2	A	04-310	28 IR 1836	29 IR 7	405 IAC 2-2-3	A	04-319	28 IR 1847	*NRA (28 IR 2752)
355 IAC 4-5-3	A	04-310	28 IR 1836	29 IR 8					29 IR 9
355 IAC 4-5-4	R	04-310	28 IR 1836	29 IR 8	405 IAC 2-3-10	A	03-263	27 IR 1210	*ARR (27 IR 4024)
355 IAC 4-5-5	R	04-310	28 IR 1836	29 IR 8					*NRA (27 IR 4044)
355 IAC 4-5-6	R	04-310	28 IR 1836	29 IR 8					28 IR 178
355 IAC 4-5-11	R	04-310	28 IR 1836	29 IR 8					*NRA (28 IR 3321)
355 IAC 4-6-1	A	04-311	28 IR 1837	29 IR 8					28 IR 3579
355 IAC 4-6-2	R	04-311	28 IR 1837	29 IR 9	405 IAC 2-9-5	A	04-319	28 IR 1848	*NRA (28 IR 2752)
355 IAC 4-6-3	A	04-311	28 IR 1837	29 IR 8					29 IR 10
355 IAC 4-6-4	R	04-311	28 IR 1838	29 IR 9	405 IAC 5-1-5	A	04-178	28 IR 260	*NRA (28 IR 1497)
355 IAC 4-6-6	R	04-311	28 IR 1838	29 IR 9					28 IR 2131
355 IAC 4-6-10	R	04-311	28 IR 1838	29 IR 9	405 IAC 5-3-13	A	04-178	28 IR 260	*NRA (28 IR 1497)
TITLE 357 INDIANA PESTICIDE REVIEW BOARD									28 IR 2132
357 IAC 1-6-1	A	04-160	28 IR 253	28 IR 1689					*NRA (29 IR 1580)
357 IAC 1-6-2	A	04-160	28 IR 254	28 IR 1690	405 IAC 5-4-4	N	05-294	29 IR 1990	29 IR 1903
357 IAC 1-6-3	R	04-160	28 IR 257	28 IR 1693	405 IAC 5-5-1	A	05-220	29 IR 640	*NRA (29 IR 2585)
357 IAC 1-6-4	A	04-160	28 IR 256	28 IR 1692					*NRA (29 IR 1580)
357 IAC 1-6-5	A	04-160	28 IR 256	28 IR 1692	405 IAC 5-9-1	A	04-178	28 IR 261	29 IR 1904
357 IAC 1-6-6	A	04-160	28 IR 256	28 IR 1693					*NRA (28 IR 1497)
357 IAC 1-6-7	N	04-160	28 IR 257	28 IR 1693	405 IAC 5-19-1	A	04-178	28 IR 261	28 IR 2132
357 IAC 1-6-8	N	04-160	28 IR 257	28 IR 1693					*NRA (28 IR 1497)
357 IAC 1-7-1	A	04-159	28 IR 249	28 IR 1685	405 IAC 5-19-3	A	03-207	27 IR 267	28 IR 2133
357 IAC 1-7-2	A	04-159	28 IR 250	28 IR 1686	405 IAC 5-19-10	A	04-178	28 IR 262	*AROC (27 IR 2342)
357 IAC 1-7-3	R	04-159	28 IR 252	28 IR 1689					*NRA (28 IR 1497)
357 IAC 1-7-4	A	04-159	28 IR 251	28 IR 1687	405 IAC 5-22-8	A	05-200	29 IR 638	28 IR 2134
357 IAC 1-7-5	A	04-159	28 IR 252	28 IR 1688					*NRA (29 IR 1580)
357 IAC 1-7-6	A	04-159	28 IR 252	28 IR 1688	405 IAC 5-24-4	A	05-76	28 IR 3653	29 IR 1902
357 IAC 1-7-7	N	04-159	28 IR 252	28 IR 1688					*NRA (29 IR 575)
357 IAC 1-7-8	N	04-159	28 IR 252	28 IR 1689	405 IAC 5-24-5	A	05-76	28 IR 3653	29 IR 1212
357 IAC 1-8	RA	05-171		29 IR 1381					*NRA (29 IR 575)
357 IAC 1-12	N	05-215	29 IR 853	29 IR 2523	405 IAC 5-26-5	A	04-178	28 IR 262	29 IR 1212
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES									*NRA (28 IR 1497)
405 IAC 1-1-3.1	N	04-321	28 IR 2196	*NRA (28 IR 3321)	405 IAC 6-2-5	A	04-95	27 IR 3210	28 IR 2134
				28 IR 3579					*NRA (27 IR 4044)
405 IAC 1-1-5	A	04-178	28 IR 258	*NRA (28 IR 1497)	405 IAC 6-3-3	A	04-95	27 IR 3210	28 IR 180
				28 IR 2129	405 IAC 6-4-2	A	04-95	27 IR 3210	*NRA (27 IR 4044)
405 IAC 1-1.5-1	A	04-142	27 IR 3699	*NRA (28 IR 619)	405 IAC 6-4-3	A	04-95	27 IR 3211	28 IR 180
				28 IR 815					*NRA (27 IR 4044)
				*ERR (28 IR 970)	405 IAC 6-5-1	A	04-95	27 IR 3211	28 IR 180
405 IAC 1-1.5-2	A	04-178	28 IR 259	*NRA (28 IR 1497)					*NRA (27 IR 4044)
				28 IR 2131	405 IAC 6-5-2	A	04-95	27 IR 3211	28 IR 181
405 IAC 1-1.6	N	04-142	27 IR 3699	*NRA (28 IR 619)					*NRA (27 IR 4044)
				28 IR 816	405 IAC 6-5-3	A	04-95	27 IR 3211	28 IR 181
				*ERR (28 IR 970)					*NRA (27 IR 4044)
405 IAC 1-5-1	A	04-219	28 IR 655	*NRA (28 IR 1497)	405 IAC 6-5-4	A	04-95	27 IR 3212	28 IR 181
				28 IR 2134					*NRA (27 IR 4044)
405 IAC 1-11.5-2	A	05-200	29 IR 637	*NRA (29 IR 1580)	405 IAC 6-5-6	A	04-95	27 IR 3212	28 IR 181
				29 IR 1901					*NRA (27 IR 4044)
405 IAC 1-12-27	N	05-113	28 IR 3654	*AWR (29 IR 821)	405 IAC 6-10	N	05-209	29 IR 854	28 IR 182
405 IAC 1-14.5-27	N	05-114	28 IR 3655	*ARR (29 IR 1216)					*NRA (29 IR 2251)
			29 IR 1269	*AROC (29 IR 2054)	405 IAC 8	N	05-209	29 IR 856	29 IR 2524
405 IAC 1-14.6-2	A	05-112	29 IR 1731	*AROC (29 IR 2054)					*NRA (29 IR 2251)
				*NRA (29 IR 2251)					29 IR 2526
405 IAC 1-14.6-5	A	05-112	29 IR 1734	*AROC (29 IR 2054)	TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM				
				*NRA (29 IR 2251)	407 IAC 2-2-3	A	05-155	28 IR 3656	29 IR 1213
405 IAC 1-14.6-7	A	05-112	29 IR 1735	*AROC (29 IR 2054)	407 IAC 2-3-1	A	05-156	28 IR 3657	29 IR 1213
				*NRA (29 IR 2251)					

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TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 1-2.3-47	A	05-189	29 IR 2290	*AROC (29 IR 2671)
410 IAC 1-2.3-48	A	05-189	29 IR 2293	*AROC (29 IR 2671)
410 IAC 1-2.3-87	R	05-189	29 IR 2300	*AROC (29 IR 2671)
410 IAC 1-2.4	N	04-100	28 IR 2806	*AROC (28 IR 1561)
				29 IR 798
410 IAC 1-4-1.1	A	05-259	29 IR 1750	29 IR 2536
410 IAC 1-4-4.3	A	05-259	29 IR 1750	29 IR 2536
410 IAC 1-4-8	A	05-259	29 IR 1750	29 IR 2537
410 IAC 1-6	RA	05-20	28 IR 2458	28 IR 3661
410 IAC 3.6	N	05-19	29 IR 870	*AROC (29 IR 898)
410 IAC 5-11	R	05-190	29 IR 2311	*AROC (29 IR 2671)
410 IAC 5.2	N	05-190	29 IR 2301	*AROC (29 IR 2671)
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 15-1.1-1	A	05-193	29 IR 1742	*AROC (29 IR 2672)
410 IAC 15-1.1-2.5	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-3.3	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-3.7	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-8.5	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-13.1	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-13.2	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-13.3	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-13.4	N	05-193	29 IR 1743	*AROC (29 IR 2672)
410 IAC 15-1.1-13.5	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-13.6	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-14.2	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-15.5	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-20	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-21	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-22	N	05-193	29 IR 1744	*AROC (29 IR 2672)
410 IAC 15-1.1-23	N	05-193	29 IR 1745	*AROC (29 IR 2672)
410 IAC 15-1.4-2.2	N	05-193	29 IR 1745	*AROC (29 IR 2672)
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 15-2.4-3	N	05-321	29 IR 2322	
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 17-10-1	A	05-260	29 IR 2313	
410 IAC 17-12-1	A	05-260	29 IR 2316	
410 IAC 17-12-3	A	05-260	29 IR 2317	
410 IAC 17-13-1	A	05-260	29 IR 2318	
410 IAC 17-13-2	N	05-260	29 IR 2319	
410 IAC 17-13-3	N	05-260	29 IR 2319	
410 IAC 17-16-1	A	05-260	29 IR 2320	
410 IAC 21-3-6	R	04-161	28 IR 657	28 IR 2356
410 IAC 21-3-7	A	05-256	29 IR 1748	
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
	A	05-256	29 IR 1748	
410 IAC 26	N	05-94	29 IR 85	*ARR (29 IR 1940)
				*AROC (29 IR 2055)
				*GRAT (29 IR 2060)
410 IAC 26-1-1	A	05-321	29 IR 2324	
410 IAC 26-1-3.5	N	05-321	29 IR 2324	
410 IAC 26-1-4.6	N	05-321	29 IR 2324	
410 IAC 26-1-4.8	N	05-321	29 IR 2324	
410 IAC 26-1-9.5	N	05-321	29 IR 2325	
410 IAC 26-1-12.5	N	05-321	29 IR 2325	
410 IAC 26-1-12.6	N	05-321	29 IR 2325	
410 IAC 26-1-12.7	N	05-321	29 IR 2325	
410 IAC 26-1-12.8	N	05-321	29 IR 2325	
410 IAC 26-1-12.9	N	05-321	29 IR 2325	
410 IAC 26-1-13.5	N	05-321	29 IR 2325	
410 IAC 26-1-17.5	N	05-321	29 IR 2326	
410 IAC 26-1-17.8	N	05-321	29 IR 2326	
410 IAC 26-1-19	N	05-321	29 IR 2326	
410 IAC 26-6-2	N	05-321	29 IR 2326	
410 IAC 27	N	05-93	29 IR 66	*GRAT (29 IR 2059)
				29 IR 1904
410 IAC 27-1-1	A	05-321	29 IR 2328	
410 IAC 27-1-1.5	N	05-321	29 IR 2328	
410 IAC 27-1-2.5	N	05-321	29 IR 2328	
410 IAC 27-1-3.5	N	05-321	29 IR 2328	
410 IAC 27-1-9.5	N	05-321	29 IR 2328	
410 IAC 27-1-13.4	N	05-321	29 IR 2328	
410 IAC 27-1-13.5	N	05-321	29 IR 2328	
410 IAC 27-1-13.6	N	05-321	29 IR 2328	
410 IAC 27-1-13.7	N	05-321	29 IR 2329	
410 IAC 27-1-13.8	N	05-321	29 IR 2329	
410 IAC 27-1-13.9	N	05-321	29 IR 2329	
410 IAC 27-1-15.5	N	05-321	29 IR 2329	
410 IAC 27-1-16.5	N	05-321	29 IR 2329	
410 IAC 27-1-21.5	N	05-321	29 IR 2329	
410 IAC 27-1-23	N	05-321	29 IR 2329	
410 IAC 27-1-24	N	05-321	29 IR 2330	
410 IAC 27-6-2	N	05-321	29 IR 2330	
410 IAC 28	N	05-192	29 IR 1271	*AWR (29 IR 2549)
410 IAC 29	N	05-189	29 IR 2294	*AROC (29 IR 2671)

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2-1-2.1	A	05-35	28 IR 3341	29 IR 799
412 IAC 2-1-10	A	05-35	28 IR 3341	29 IR 800
412 IAC 2-1-13	R	05-35	28 IR 3342	29 IR 801
412 IAC 2-1-14	A	05-35	28 IR 3342	29 IR 800

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TITLE 414 HOSPITAL COUNCIL				460 IAC 1.1	N	03-245	27 IR 2799	*AROC (27 IR 3344)
414 IAC 1-1-3	N	05-95	29 IR 103	*GRAT (29 IR 2372)				*NRA (28 IR 233)
				29 IR 2538				*GRAT (28 IR 2204)
414 IAC 1-1-4	N	05-95	29 IR 103	*GRAT (29 IR 2372)				28 IR 912
				29 IR 2538	460 IAC 1.2	N	05-119	*AROC (29 IR 2055)
					460 IAC 2-2.1	N	04-76	*NRA (28 IR 233)
TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION								28 IR 2368
440 IAC 7.5-1-1	A	04-229	28 IR 657	*NRA (28 IR 1497)	460 IAC 3.5-2-3	N	04-269	*AWR (28 IR 1697)
				28 IR 2356	TITLE 465 DEPARTMENT OF CHILD SERVICES			
440 IAC 7.5-2-1	A	04-229	28 IR 660	*NRA (28 IR 1497)	465 IAC 2-9-31	A	04-316	29 IR 2008
				28 IR 2359	465 IAC 2-9-32	A	04-316	29 IR 2008
440 IAC 7.5-2-8	A	04-229	28 IR 661	*NRA (28 IR 1497)	465 IAC 2-9-57	A	04-316	29 IR 2008
				28 IR 2359	465 IAC 2-9-58	A	04-316	29 IR 2008
440 IAC 7.5-2-12	A	04-229	28 IR 661	*NRA (28 IR 1497)	465 IAC 2-9-59	A	04-316	29 IR 2009
				28 IR 2360	465 IAC 2-10-31	A	04-316	29 IR 2010
440 IAC 7.5-2-13	A	04-229	28 IR 662	*NRA (28 IR 1497)	465 IAC 2-10-32	A	04-316	29 IR 2010
				28 IR 2361	465 IAC 2-10-57	A	04-316	29 IR 2010
440 IAC 7.5-3-3	A	04-229	28 IR 663	*NRA (28 IR 1497)	465 IAC 2-10-58	A	04-316	29 IR 2011
				28 IR 2362	465 IAC 2-10-59	A	04-316	29 IR 2012
440 IAC 7.5-3-4	A	04-229	28 IR 664	*NRA (28 IR 1497)	465 IAC 2-12-57	A	04-316	29 IR 2012
				28 IR 2363	465 IAC 2-13-57	A	04-316	29 IR 2013
440 IAC 7.5-3-7	A	04-229	28 IR 664	*NRA (28 IR 1497)	TITLE 470 DIVISION OF FAMILY RESOURCES			
				28 IR 2363	470 IAC 3-1.1-0.5	A	04-77	27 IR 2837
440 IAC 7.5-4-4	A	04-229		*NRA (28 IR 1497)				*NRA (28 IR 1196)
				28 IR 2363				*AROC (28 IR 1317)
440 IAC 7.5-4-7	A	04-229	28 IR 664	*NRA (28 IR 1497)				*ARR (28 IR 2140)
				28 IR 2364				*GRAT (28 IR 2205)
440 IAC 7.5-4-8	A	04-229	28 IR 665	*NRA (28 IR 1497)	470 IAC 3-1.1-1	A	04-77	27 IR 2838
				28 IR 2364				*NRA (28 IR 1196)
440 IAC 7.5-5-1	A	04-229	28 IR 665	*NRA (28 IR 1497)				*AROC (28 IR 1317)
				28 IR 2364				*ARR (28 IR 2140)
440 IAC 7.5-8-1	A	04-229	28 IR 666	*NRA (28 IR 1497)				*GRAT (28 IR 2205)
				28 IR 2365				*AWR (28 IR 2393)
440 IAC 7.5-8-2	A	04-229	28 IR 666	*NRA (28 IR 1497)	470 IAC 3-1.1-2	A	04-77	27 IR 2838
				28 IR 2365				*NRA (28 IR 1196)
440 IAC 7.5-8-3	A	04-229	28 IR 666	*NRA (28 IR 1497)				*AROC (28 IR 1317)
				28 IR 2365				*ARR (28 IR 2140)
440 IAC 7.5-9-1	A	04-229	28 IR 666	*NRA (28 IR 1497)				*GRAT (28 IR 2205)
				28 IR 2365	470 IAC 3-1.1-4	A	04-77	27 IR 2838
440 IAC 7.5-9-2	A	04-229	28 IR 666	*NRA (28 IR 1497)				*AWR (28 IR 2393)
				28 IR 2366				*NRA (28 IR 1196)
440 IAC 7.5-9-3	A	04-229	28 IR 667	*NRA (28 IR 1497)				*AROC (28 IR 1317)
				28 IR 2366				*ARR (28 IR 2140)
440 IAC 7.5-10-1	A	04-229	28 IR 667	*NRA (28 IR 1497)	470 IAC 3-1.1-6	A	04-77	27 IR 2838
				28 IR 2366				*GRAT (28 IR 2205)
440 IAC 7.5-10-2	A	04-229	28 IR 667	*NRA (28 IR 1497)				*AWR (28 IR 2393)
				28 IR 2366				*NRA (28 IR 1196)
440 IAC 7.5-10-3	N	04-229	28 IR 667	*NRA (28 IR 1497)				*AROC (28 IR 1317)
				28 IR 2367	470 IAC 3-1.1-7.2	A	04-77	27 IR 2838
440 IAC 7.5-11	N	04-229	28 IR 667	*NRA (28 IR 1497)				*ARR (28 IR 2140)
				28 IR 2367				*GRAT (28 IR 2205)
TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES								*AWR (28 IR 2393)
460 IAC 1-3.4	N	04-75	28 IR 1002	*NRA (28 IR 1497)	470 IAC 3-1.1-7.4	A	04-77	27 IR 2839
				28 IR 2690				*NRA (28 IR 1196)
460 IAC 1-8-3	A	04-199	28 IR 1007	*NRA (28 IR 1497)				*AROC (28 IR 1317)
				28 IR 2690				*ARR (28 IR 2140)
460 IAC 1-8-11	N	04-199	28 IR 1007	*NRA (28 IR 1497)	470 IAC 3-1.1-8	A	04-77	27 IR 2839
				28 IR 2691				*GRAT (28 IR 2205)
460 IAC 1-8-12	N	04-199	28 IR 1008	*NRA (28 IR 1497)				*AWR (28 IR 2393)
				28 IR 2691				*NRA (28 IR 1196)
460 IAC 1-8-13	N	04-199	28 IR 1008	*NRA (28 IR 1497)				*AROC (28 IR 1317)
				28 IR 2691				*ARR (28 IR 2140)
460 IAC 1-10	N	03-231	27 IR 3303	*NRA (28 IR 233)	470 IAC 3-1.1-9	R	04-77	27 IR 2857
				28 IR 910				*GRAT (28 IR 2205)
460 IAC 1-11	N	04-136	28 IR 1004	*NRA (28 IR 1497)				*AWR (28 IR 2393)
				28 IR 2687				

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[illegible]

Rules Affected by Volumes 28 and 29

[illegible]

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TITLE 511 INDIANA STATE BOARD OF EDUCATION					511 IAC 6.2-2-7					*ERR (28 IR 3307)									
511 IAC 1-2.5-1					*ERR (28 IR 3306)					511 IAC 6.2-2-8					*ERR (28 IR 3307)				
511 IAC 1-3-1					A 04-101 27 IR 3305 28 IR 965					511 IAC 6.2-2-9					*ERR (28 IR 3307)				
					*ERR (28 IR 3306)					511 IAC 6.2-2-11					*ERR (28 IR 3307)				
511 IAC 1-3-2					*ERR (28 IR 3306)					511 IAC 6.2-2-12					*ERR (28 IR 3307)				
511 IAC 1-6-1					*ERR (28 IR 3306)					511 IAC 6.2-2.5-4					*ERR (28 IR 3307)				
511 IAC 1-6-2					*ERR (28 IR 3306)					511 IAC 6.2-2.5-9					*ERR (28 IR 3307)				
511 IAC 1-6-3					*ERR (28 IR 3306)					511 IAC 6.2-3-1					*ERR (28 IR 3307)				
511 IAC 1-6-4					*ERR (28 IR 3306)					511 IAC 6.2-3-3					*ERR (28 IR 3307)				
511 IAC 1-6-5					*ERR (28 IR 3306)					511 IAC 6.2-4-1					*ERR (28 IR 3307)				
511 IAC 1-7-1					*ERR (28 IR 3306)					511 IAC 6.2-4-2					*ERR (28 IR 3307)				
511 IAC 1-8-2					*ERR (28 IR 3306)					511 IAC 6.2-4-4					*ERR (28 IR 3307)				
511 IAC 1-8-7					*ERR (28 IR 3306)					511 IAC 6.2-6-2					*ERR (28 IR 3307)				
511 IAC 1-8-11					*ERR (28 IR 3306)					511 IAC 6.2-6-3					*ERR (28 IR 3307)				
511 IAC 1-9					RA 04-47 27 IR 2879 28 IR 323					511 IAC 6.2-6-7					*ERR (28 IR 3307)				
511 IAC 4-4-3					*ERR (28 IR 3306)					511 IAC 6.2-6-10					*ERR (28 IR 3307)				
511 IAC 5-1-1					*ERR (28 IR 3306)					511 IAC 6.2-7-2					*ERR (28 IR 3307)				
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 28 IR 323				
511 IAC 6-7-6					RA 04-47 27 IR 2879 28 IR 323					511 IAC 8-1-1					*ERR (28 IR 3308)				
					*ERR (28 IR 3306)					511 IAC 9-1-0.5					*ERR (28 IR 3308)				
					*ERR (28 IR 3306)					511 IAC 9-1-1					*ERR (28 IR 3308)				
511 IAC 6-7-6.1					A 04-36 27 IR 2552 28 IR 959					511 IAC 9-1-2					*ERR (28 IR 3308)				
511 IAC 6-7-6.5					N 04-277 28 IR 1303 29 IR 801					511 IAC 9-2-2					*ERR (28 IR 3308)				
511 IAC 6-7-1					N 04-276 28 IR 1849 *AWR (28 IR 2992)					511 IAC 9-5-2					*ERR (28 IR 3308)				
511 IAC 6-7-1-4.5					N 04-276 28 IR 1849					511 IAC 9-5-4					*ERR (28 IR 3308)				
511 IAC 6-9.1					RA 05-15 28 IR 2459 28 IR 3052					511 IAC 9-6-1					*ERR (28 IR 3308)				
511 IAC 6-10-1					*ERR (28 IR 3306)					511 IAC 10-6-1					*ERR (28 IR 3308)				
511 IAC 6.1-1-1					*ERR (28 IR 3306)					511 IAC 10-6-3					*ERR (28 IR 3308)				
511 IAC 6.1-1-2					*ERR (28 IR 3306)					511 IAC 10-6-5					*ERR (28 IR 3308)				
511 IAC 6.1-1-4					*ERR (28 IR 3306)					511 IAC 11-7-3					*ERR (28 IR 3308)				
511 IAC 6.1-1-9					*ERR (28 IR 3306)					511 IAC 12-2-4					*ERR (28 IR 3308)				

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TITLE 512 DEPARTMENT OF EDUCATION
512 IAC N 06-39 29 IR 2332

TITLE 514 INDIANA SCHOOL FOR THE DEAF BOARD
514 IAC N 03-298 27 IR 1634 **28 IR 197**

TITLE 515 PROFESSIONAL STANDARDS, ADVISORY BOARD
OF THE DIVISION OF

515 IAC 1-1-89				*ERR (28 IR 3308)
515 IAC 1-1-93				*ERR (28 IR 3308)
515 IAC 1-2-2	R	05-339	29 IR 1754	
515 IAC 1-2-17				*ERR (28 IR 3308)
515 IAC 1-2-18				*ERR (28 IR 3308)
515 IAC 1-4-1	A	03-320	27 IR 2558	*ARR (28 IR 610)
				28 IR 1475
				*ERR (28 IR 3308)
515 IAC 1-4-2	A	03-320	27 IR 2558	*ARR (28 IR 610)
				28 IR 1475
515 IAC 1-6-1				*ERR (28 IR 3308)
515 IAC 1-6-4				*ERR (28 IR 3308)
515 IAC 1-6-6				*ERR (28 IR 3308)
515 IAC 1-7-13				*ERR (28 IR 3308)
515 IAC 1-7-16				*ERR (28 IR 3308)
515 IAC 2-1-3				*ERR (28 IR 3308)
515 IAC 2-1-4				*ERR (28 IR 3308)
515 IAC 4-1-2				*ERR (28 IR 3308)
515 IAC 4-1-3				*ERR (28 IR 3308)
515 IAC 4-2-6				*ERR (28 IR 3308)
515 IAC 4-2-7				*ERR (28 IR 3308)
515 IAC 5-1-4				*ERR (28 IR 3308)
515 IAC 8-1-1				*ERR (28 IR 3308)
	A	05-338	29 IR 1751	
515 IAC 8-1-21	A	05-338	29 IR 1752	
515 IAC 8-1-23	A	03-321	27 IR 2330	*ARR (28 IR 610)
				28 IR 1477
515 IAC 8-1-35	A	05-338	29 IR 1752	
515 IAC 8-1-42	A	03-321	27 IR 2330	*ARR (28 IR 610)
				28 IR 1478
515 IAC 9-1-1				*ERR (28 IR 3308)
	A	05-339	29 IR 1753	
515 IAC 9-1-2	A	05-339	29 IR 1754	
515 IAC 9-1-18				*ERR (28 IR 3309)
515 IAC 9-1-19				*ERR (28 IR 3309)
515 IAC 9-1-22	A	03-322	27 IR 2331	*ARR (28 IR 610)
				28 IR 1479
515 IAC 10	N	04-197	28 IR 263	*ARR (28 IR 2991)
515 IAC 12	N	04-141	27 IR 3703	28 IR 2135
515 IAC 12-1-0.5	N	05-340	29 IR 1755	
515 IAC 12-1-1	A	05-340	29 IR 1755	
515 IAC 12-1-3	A	05-340	29 IR 1755	

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY
540 IAC 1-1-11 RA 04-54 27 IR 2880 *CPH (27 IR 3096)
28 IR 324
540 IAC 1-1-17 RA 04-54 27 IR 2880 *CPH (27 IR 3096)
28 IR 324

TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

570 IAC 1-1-1	A	05-178	29 IR 111
570 IAC 1-2-3	A	05-178	29 IR 114
570 IAC 1-2-4	A	05-178	29 IR 114
570 IAC 1-3-1	A	05-178	29 IR 114
570 IAC 1-3-2	A	05-178	29 IR 115
570 IAC 1-3-3	A	05-178	29 IR 116
570 IAC 1-4-1	A	05-178	29 IR 116
570 IAC 1-4-2	A	05-178	29 IR 117
570 IAC 1-4-3	A	05-178	29 IR 118
570 IAC 1-4-4	A	05-178	29 IR 119
570 IAC 1-5-2	A	05-178	29 IR 119

570 IAC 1-5-3	A	05-178	29 IR 120
570 IAC 1-5-4	A	05-178	29 IR 120
570 IAC 1-5-5	A	05-178	29 IR 120
570 IAC 1-5-6	A	05-178	29 IR 120
570 IAC 1-5-7	A	05-178	29 IR 121
570 IAC 1-6-1	A	05-178	29 IR 121
570 IAC 1-6-2	A	05-178	29 IR 121
570 IAC 1-6-3	A	05-178	29 IR 121
570 IAC 1-6-4	A	05-178	29 IR 121
570 IAC 1-6-6	A	05-178	29 IR 122
570 IAC 1-8-3	A	05-178	29 IR 122
570 IAC 1-8-4.5	A	05-178	29 IR 123
570 IAC 1-8-5.5	N	05-178	29 IR 123
570 IAC 1-8-7	A	05-178	29 IR 123
570 IAC 1-9-5	A	05-178	29 IR 124
570 IAC 1-10.1-4	A	05-178	29 IR 124
570 IAC 1-10.1-6	A	05-178	29 IR 125
570 IAC 1-11-4	A	05-178	29 IR 125
570 IAC 1-11-8	A	05-178	29 IR 125
570 IAC 1-12-1	A	05-178	29 IR 125
570 IAC 1-12-2	A	05-178	29 IR 126
570 IAC 1-13-1	A	05-178	29 IR 126
570 IAC 1-13-2	A	05-178	29 IR 126
570 IAC 1-13-3	A	05-178	29 IR 127
570 IAC 1-13-4	A	05-178	29 IR 127
570 IAC 1-14-2	A	05-178	29 IR 127
570 IAC 1-14-3	A	05-178	29 IR 128
570 IAC 1-14-4	A	05-178	29 IR 128
570 IAC 1-14-10	A	05-178	29 IR 128
570 IAC 1-14-11	A	05-178	29 IR 128

TITLE 575 STATE SCHOOL BUS COMMITTEE
575 IAC 1-1-1 *ERR (28 IR 3583)
575 IAC 1-1-5 *ERR (28 IR 3583)
575 IAC 1-5.5-1 *ERR (28 IR 3583)

TITLE 590 INDIANA LIBRARY AND HISTORICAL BOARD
590 IAC 3 RA 05-89 **29 IR 1382**

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

646 IAC 2-1-2	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-4	A	05-228	29 IR 643
			29 IR 886
646 IAC 2-1-9	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-13	A	05-228	29 IR 644
			29 IR 886
646 IAC 2-1-15	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-16	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-17	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-19	A	05-228	29 IR 644
			29 IR 887
646 IAC 2-1-20	A	05-228	29 IR 644
			29 IR 887
646 IAC 2-1-21	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-23	R	05-228	29 IR 649
			29 IR 891
646 IAC 2-1-24	A	05-228	29 IR 644
			29 IR 887
646 IAC 2-1-27	A	05-228	29 IR 645
			29 IR 888
646 IAC 2-2-2	A	05-228	29 IR 645
			29 IR 888
646 IAC 2-3	R	05-228	29 IR 649
			29 IR 891

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646 IAC 2-4	R	05-228	29 IR 649 29 IR 891		655 IAC 1-2.1-11	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
646 IAC 2-5-1	R	05-228	29 IR 649 29 IR 891		655 IAC 1-2.1-12	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
646 IAC 2-5-2	A	05-228	29 IR 646 29 IR 889		655 IAC 1-2.1-13	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
646 IAC 2-6-1	A	05-228	29 IR 647 29 IR 890		655 IAC 1-2.1-14	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
646 IAC 2-7-2	R	05-228	29 IR 649 29 IR 891		655 IAC 1-2.1-15	A	04-138	28 IR 1017	*AROC (28 IR 1073) 28 IR 2701
646 IAC 2-7-3	A	05-228	29 IR 647 29 IR 890		655 IAC 1-2.1-20	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
646 IAC 2-7-4	A	05-228	29 IR 647 29 IR 890		655 IAC 1-2.1-22	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
646 IAC 2-8-1	A	05-228	29 IR 648 29 IR 891		655 IAC 1-2.1-23	A	04-138	28 IR 1018	*AROC (28 IR 1073) 28 IR 2702
646 IAC 2-9-1	A	05-228	29 IR 648 29 IR 891		655 IAC 1-2.1-23.1	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2702
646 IAC 3-1-7	A	05-225	29 IR 641 29 IR 883		655 IAC 1-2.1-24	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
646 IAC 3-1-12	N	03-317	27 IR 2858	28 IR 560	655 IAC 1-2.1-24.1	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
646 IAC 3-1-13	N	03-317	27 IR 2858	28 IR 561	655 IAC 1-2.1-24.2	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
646 IAC 3-4-11	N	03-317	27 IR 2858	28 IR 561	655 IAC 1-2.1-24.3	A	04-138	28 IR 1019	*AROC (28 IR 1073) 28 IR 2703
646 IAC 3-4-12	N	05-225	29 IR 642 29 IR 884		655 IAC 1-2.1-75	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
646 IAC 3-5-1	A	03-317	27 IR 2859	28 IR 561	655 IAC 1-2.1-75.2	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
646 IAC 3-10-9	A	05-128	28 IR 3343 29 IR 882	*ARR (29 IR 820)	655 IAC 1-2.1-75.3	A	04-138	28 IR 1020	*AROC (28 IR 1073) 28 IR 2704
646 IAC 3-10-13	A	05-128	28 IR 3343 29 IR 882	*ARR (29 IR 820)	655 IAC 1-2.1-75.4	A	04-138	28 IR 1021	*AROC (28 IR 1073) 28 IR 2705
TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION					655 IAC 1-2.1-75.5	A	04-138	28 IR 1021	*AROC (28 IR 1073) 28 IR 2705
655 IAC 1-1-1	A	05-249	29 IR 2655		655 IAC 1-2.1-76.1	A	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-1-1.1	A	05-249	29 IR 2655		655 IAC 1-2.1-76.2	R	04-138	28 IR 1029	*AROC (28 IR 1073) 28 IR 2712
655 IAC 1-1-5.1	A	04-138	28 IR 1009	*AROC (28 IR 1073) 28 IR 2693	655 IAC 1-2.1-76.3	R	04-138	28 IR 1029	*AROC (28 IR 1073) 28 IR 2712
	A	04-297	28 IR 2415	*AROC (28 IR 3354) 29 IR 477	655 IAC 1-2.1-96	N	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
	A	06-37	29 IR 2661		655 IAC 1-2.1-97	N	04-138	28 IR 1022	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-1-6.1	A	05-249	29 IR 2656		655 IAC 1-2.1-98	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2706
655 IAC 1-1-7	A	05-249	29 IR 2656		655 IAC 1-2.1-99	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2707
655 IAC 1-1-9	A	05-249	29 IR 2657		655 IAC 1-2.1-100	N	04-138	28 IR 1023	*AROC (28 IR 1073) 28 IR 2707
655 IAC 1-1-12	A	05-249	29 IR 2657		655 IAC 1-2.1-101	N	04-138	28 IR 1024	*AROC (28 IR 1073) 28 IR 2708
655 IAC 1-1-13	A	05-249	29 IR 2659		655 IAC 1-2.1-102	N	04-138	28 IR 1024	*AROC (28 IR 1073) 28 IR 2708
655 IAC 1-1-14	R	05-249	29 IR 2660		655 IAC 1-2.1-103	N	04-138	28 IR 1025	*AROC (28 IR 1073) 28 IR 2709
655 IAC 1-2.1-3	A	04-138	28 IR 1012	*AROC (28 IR 1073) 28 IR 2696	655 IAC 1-2.1-104	N	04-138	28 IR 1025	*AROC (28 IR 1073) 28 IR 2709
655 IAC 1-2.1-4	A	04-138	28 IR 1012	*AROC (28 IR 1073) 28 IR 2696	655 IAC 1-2.1-105	N	04-138	28 IR 1026	*AROC (28 IR 1073) 28 IR 2710
655 IAC 1-2.1-5	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2696	655 IAC 1-2.1-106	N	04-138	28 IR 1026	*AROC (28 IR 1073) 28 IR 2710
655 IAC 1-2.1-6	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697	655 IAC 1-2.1-107	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2710
655 IAC 1-2.1-6.1	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697	655 IAC 1-2.1-108	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711
655 IAC 1-2.1-6.2	A	04-138	28 IR 1013	*AROC (28 IR 1073) 28 IR 2697	655 IAC 1-2.1-109	N	04-138	28 IR 1027	*AROC (28 IR 1073) 28 IR 2711
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					

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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) 29 IR 481
655 IAC 1-2.1-112	N	04-297	28 IR 2423	*AROC (28 IR 3354) 29 IR 485
655 IAC 1-2.1-113	N	04-297	28 IR 2423	*AROC (28 IR 3354) 29 IR 485
655 IAC 1-2.1-114	N	04-297	28 IR 2424	*AROC (28 IR 3354) 29 IR 485
655 IAC 1-2.1-115	N	04-297	28 IR 2425	*AROC (28 IR 3354) 29 IR 486
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 12-1.1-1	A	05-108	29 IR 1317	675 IAC 12-8-9	A	05-108	29 IR 1345	
675 IAC 12-1.1-2	A	05-108	29 IR 1317	675 IAC 12-8-10	A	05-108	29 IR 1346	
675 IAC 12-1.1-3	A	05-108	29 IR 1317	675 IAC 12-8-11	A	05-108	29 IR 1346	
675 IAC 12-1.1-4	A	05-108	29 IR 1317	675 IAC 12-8-12	A	05-108	29 IR 1347	
675 IAC 12-1.1-5	A	05-108	29 IR 1318	675 IAC 12-8-13	A	05-108	29 IR 1347	
675 IAC 12-3-2	A	05-108	29 IR 1318	675 IAC 12-8-14	A	05-108	29 IR 1347	
675 IAC 12-3-6	A	05-108	29 IR 1319	675 IAC 12-8-15	A	05-108	29 IR 1348	
675 IAC 12-3-8	A	05-108	29 IR 1320	675 IAC 12-8-17	A	05-108	29 IR 1348	
675 IAC 12-3-11	A	05-108	29 IR 1320	675 IAC 12-8-18	A	05-108	29 IR 1349	
675 IAC 12-3-13	A	05-108	29 IR 1320	675 IAC 12-8-19	A	05-108	29 IR 1349	
675 IAC 12-3-14	A	05-108	29 IR 1321	675 IAC 12-8-20	A	05-108	29 IR 1349	
675 IAC 12-3-15	A	05-108	29 IR 1322	675 IAC 12-8-21	A	05-108	29 IR 1350	
675 IAC 12-4-4	A	05-108	29 IR 1322	675 IAC 12-9-1	A	05-108	29 IR 1350	
675 IAC 12-4-5	A	05-108	29 IR 1322	675 IAC 12-9-2	A	05-108	29 IR 1350	
675 IAC 12-4-7	A	05-108	29 IR 1322	675 IAC 12-9-3	A	05-108	29 IR 1351	
675 IAC 12-4-11	A	05-108	29 IR 1323	675 IAC 12-9-4	A	05-108	29 IR 1352	
675 IAC 12-5-2	A	05-108	29 IR 1324	675 IAC 12-9-5	A	05-108	29 IR 1352	
675 IAC 12-5-4	A	05-108	29 IR 1325	675 IAC 12-9-6	A	05-108	29 IR 1352	
675 IAC 12-5-5	A	05-108	29 IR 1325	675 IAC 12-9-7	A	05-108	29 IR 1353	
675 IAC 12-5-6	A	05-108	29 IR 1326	675 IAC 12-9-9	A	05-108	29 IR 1353	
675 IAC 12-5-9	A	05-108	29 IR 1327	675 IAC 12-10-8	A	05-108	29 IR 1353	
675 IAC 12-6-2	A	05-108	29 IR 1327	675 IAC 12-10-9	A	05-108	29 IR 1353	
675 IAC 12-6-3	A	05-108	29 IR 1328	675 IAC 12-11-1	A	05-108	29 IR 1354	
675 IAC 12-6-4	A	05-108	29 IR 1328	675 IAC 12-11-2	A	05-108	29 IR 1354	
675 IAC 12-6-6	A	05-108	29 IR 1331	675 IAC 12-11-3	A	05-108	29 IR 1355	
675 IAC 12-6-7	A	05-108	29 IR 1332	675 IAC 12-11-4	A	05-108	29 IR 1355	
675 IAC 12-6-8	A	05-108	29 IR 1333	675 IAC 12-11-5	A	05-108	29 IR 1355	
675 IAC 12-6-9	A	05-108	29 IR 1334	675 IAC 12-11-6	A	05-108	29 IR 1355	
675 IAC 12-6-10	A	05-108	29 IR 1335	675 IAC 12-11-7	R	05-108	29 IR 1360	
675 IAC 12-6-11	A	05-104	29 IR 1335	675 IAC 12-11-8	A	05-108	29 IR 1356	
675 IAC 12-6-12	A	05-108	29 IR 1336	675 IAC 12-11-9	A	05-108	29 IR 1356	
675 IAC 12-6-14	A	05-108	29 IR 1336	675 IAC 12-12-1	A	05-108	29 IR 1356	
675 IAC 12-6-15	A	05-108	29 IR 1337	675 IAC 12-12-2	A	05-108	29 IR 1356	
675 IAC 12-6-16	A	05-108	29 IR 1338	675 IAC 12-12-3	A	05-108	29 IR 1357	
675 IAC 12-6-18	A	05-108	29 IR 1338	675 IAC 12-12-4	A	05-108	29 IR 1357	
675 IAC 12-6-19	A	05-108	29 IR 1339	675 IAC 12-12-5	A	05-108	29 IR 1357	
675 IAC 12-6-20	A	05-108	29 IR 1339	675 IAC 12-12-6	A	05-108	29 IR 1358	
675 IAC 12-6-21	A	05-108	29 IR 1339	675 IAC 12-12-7	A	05-108	29 IR 1358	
675 IAC 12-6-23	A	05-108	29 IR 1340	675 IAC 12-13-2	A	05-108	29 IR 1358	
675 IAC 12-7-1	A	05-108	29 IR 1340	675 IAC 12-13-3	A	05-108	29 IR 1359	
675 IAC 12-7-2	A	05-108	29 IR 1340	675 IAC 12-13-4	A	05-108	29 IR 1359	
675 IAC 12-7-3	A	05-108	29 IR 1341	675 IAC 12-14-1	A	05-108	29 IR 1359	
675 IAC 12-7-4	A	05-108	29 IR 1341	675 IAC 13-1-4	R	05-104	29 IR 1316	
675 IAC 12-7-5	A	05-108	29 IR 1342	675 IAC 13-1-5	R	05-104	29 IR 1316	
675 IAC 12-8-1	A	05-108	29 IR 1342	675 IAC 13-1-9.5	R	05-104	29 IR 1316	
675 IAC 12-8-3	A	05-108	29 IR 1342	675 IAC 13-1-9.6	R	05-104	29 IR 1316	
675 IAC 12-8-4	A	05-108	29 IR 1343	675 IAC 13-1-22	R	05-104	29 IR 1316	
675 IAC 12-8-5	A	05-108	29 IR 1344	675 IAC 13-1-27	R	05-104	29 IR 1316	
675 IAC 12-8-6	A	05-108	29 IR 1344	675 IAC 13-1-28	R	05-104	29 IR 1316	
675 IAC 12-8-7	A	05-108	29 IR 1344	675 IAC 13-2.4-3		02-115		*ERR (28 IR 1695)
675 IAC 12-8-8	A	05-108	29 IR 1345	675 IAC 13-2.4-10	A	04-216	28 IR 1529	*AROC (29 IR 146) 29 IR 496
				675 IAC 13-2.4-15		02-115		*ERR (28 IR 1695)
				675 IAC 13-2.4-19	A	04-216	28 IR 1529	*AROC (29 IR 146) 29 IR 496
				675 IAC 13-2.4-20	A	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 496
				675 IAC 13-2.4-22	A	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 496
				675 IAC 13-2.4-24.3	N	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 496
				675 IAC 13-2.4-32.5	N	04-216	28 IR 1530	*AROC (29 IR 146) 29 IR 497
				675 IAC 13-2.4-40.5	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497
				675 IAC 13-2.4-40.6	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497
				675 IAC 13-2.4-41.5	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497

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675 IAC 13-2.4-42.7	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-214.7	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503
675 IAC 13-2.4-43.2	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-222		02-115		*ERR (28 IR 1695)
675 IAC 13-2.4-43.6	N	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 13-2.4-228.5	N	04-216	28 IR 1538	*AROC (29 IR 146) 29 IR 504
675 IAC 13-2.4-47	A	04-216	28 IR 1531	*AROC (29 IR 146) 29 IR 497	675 IAC 14-4.2	R	04-194	28 IR 312	28 IR 3304
675 IAC 13-2.4-55	A	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 499	675 IAC 14-4.2-3				*ERR (28 IR 970)
675 IAC 13-2.4-55.5	N	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 499	675 IAC 14-4.2-19.5				*ERR (28 IR 970)
675 IAC 13-2.4-56.5	N	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 499	675 IAC 14-4.2-20.5				*ERR (28 IR 970)
675 IAC 13-2.4-68		02-115		*ERR (28 IR 1695)	675 IAC 14-4.2-21				*ERR (28 IR 970)
675 IAC 13-2.4-96.5	N	04-216	28 IR 1533	*AROC (29 IR 146)	675 IAC 14-4.2-26.5				*ERR (28 IR 970)
675 IAC 13-2.4-105.6	N	04-216	28 IR 1533	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-29				*ERR (28 IR 970)
675 IAC 13-2.4-107.3	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-30	A	04-8	27 IR 2333	28 IR 562
675 IAC 13-2.4-107.5	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-53.7				*ERR (28 IR 970)
675 IAC 13-2.4-107.6	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-69.5				*ERR (28 IR 970)
675 IAC 13-2.4-118	A	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-69.6				*ERR (28 IR 970)
675 IAC 13-2.4-118.4	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-73.5				*ERR (28 IR 970)
675 IAC 13-2.4-121.5	N	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-81.2				*ERR (28 IR 970)
675 IAC 13-2.4-122	A	04-216	28 IR 1534	*AROC (29 IR 146) 29 IR 500	675 IAC 14-4.2-89.2	A	04-8	27 IR 2333	28 IR 562
675 IAC 13-2.4-122.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.2-89.6				*ERR (28 IR 970)
675 IAC 13-2.4-131		02-115		*ERR (28 IR 1695)	675 IAC 14-4.2-89.8				*ERR (28 IR 970)
675 IAC 13-2.4-132	A	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.2-107				28 IR 3256
675 IAC 13-2.4-132.3	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.3	N	04-194	28 IR 268	
675 IAC 13-2.4-132.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.3-100	A	05-348	29 IR 2043	
675 IAC 13-2.4-133.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.3-136.5	N	04-273	28 IR 1850	29 IR 806
675 IAC 13-2.4-134.5	N	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.3-155.5	N	04-273	28 IR 1850	†† 29 IR 806
675 IAC 13-2.4-143	A	04-216	28 IR 1535	*AROC (29 IR 146) 29 IR 501	675 IAC 14-4.3-213	A	04-273	28 IR 1850	†† 29 IR 815
675 IAC 13-2.4-174		02-115		*ERR (28 IR 1695)	675 IAC 14-4.3-214	R	04-273	28 IR 1859	†† 29 IR 807
675 IAC 13-2.4-180.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-214.5	N	04-273	28 IR 1850	†† 29 IR 807
675 IAC 13-2.4-201.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-215	A	04-273	28 IR 1850	†† 29 IR 807
675 IAC 13-2.4-201.7	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-216	A	04-273	28 IR 1851	†† 29 IR 807
675 IAC 13-2.4-210.3	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-217	R	04-273	28 IR 1859	†† 29 IR 815
675 IAC 13-2.4-210.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-219.6	N	04-273	28 IR 1851	†† 29 IR 807
675 IAC 13-2.4-213.3	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-220.3	N	04-273	28 IR 1851	†† 29 IR 807
675 IAC 13-2.4-213.5	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 502	675 IAC 14-4.3-220.6	N	04-273	28 IR 1851	†† 29 IR 808
675 IAC 13-2.4-213.7	N	04-216	28 IR 1536	*AROC (29 IR 146) 29 IR 503	675 IAC 14-4.3-220.7	N	04-273	28 IR 1851	†† 29 IR 808
675 IAC 13-2.4-214.2	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503	675 IAC 14-4.3-220.8	N	04-273	28 IR 1852	†† 29 IR 808
675 IAC 13-2.4-214.4	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503	675 IAC 14-4.3-226.2	N	04-273	28 IR 1852	†† 29 IR 808
675 IAC 13-2.4-214.6	N	04-216	28 IR 1537	*AROC (29 IR 146) 29 IR 503	675 IAC 14-4.3-227.1	N	04-273	28 IR 1852	†† 29 IR 808
					675 IAC 14-4.3-227.5	N	04-273	28 IR 1852	†† 29 IR 808
					675 IAC 14-4.3-227.6	N	04-273	28 IR 1852	†† 29 IR 808
					675 IAC 14-4.3-228	A	04-273	28 IR 1852	†† 29 IR 808
					675 IAC 14-4.3-229.5	N	04-273	28 IR 1852	†† 29 IR 809
					675 IAC 14-4.3-231	A	04-273	28 IR 1853	†† 29 IR 809
					675 IAC 14-4.3-233	A	04-273	28 IR 1853	†† 29 IR 809
					675 IAC 14-4.3-233.5	N	04-273	28 IR 1853	†† 29 IR 809
					675 IAC 14-4.3-234	A	04-273	28 IR 1853	†† 29 IR 810
					675 IAC 14-4.3-235	A	04-273	28 IR 1854	†† 29 IR 810
					675 IAC 14-4.3-239.5	N	04-273	28 IR 1854	†† 29 IR 810
					675 IAC 14-4.3-241	A	04-273	28 IR 1854	†† 29 IR 810
					675 IAC 14-4.3-241.5	N	04-273	28 IR 1854	†† 29 IR 810
					675 IAC 14-4.3-242	A	04-273	28 IR 1854	†† 29 IR 810
					675 IAC 14-4.3-244.5	N	04-273	28 IR 1854	†† 29 IR 810
					675 IAC 14-4.3-245	R	04-273	28 IR 1859	†† 29 IR 815
					675 IAC 14-4.3-247	A	04-273	28 IR 1855	†† 29 IR 811
					675 IAC 14-4.3-247.5	N	04-273	28 IR 1855	†† 29 IR 811
					675 IAC 14-4.3-248.5	N	04-273	28 IR 1855	†† 29 IR 811
					675 IAC 14-4.3-249.5	N	04-273	28 IR 1855	†† 29 IR 811
					675 IAC 14-4.3-251	R	04-273	28 IR 1859	†† 29 IR 815
					675 IAC 14-4.3-252	R	04-273	28 IR 1859	†† 29 IR 815
					675 IAC 14-4.3-253	R	04-273	28 IR 1859	†† 29 IR 815
					675 IAC 14-4.3-254.5	N	04-273	28 IR 1855	†† 29 IR 811
					675 IAC 14-4.3-254.7	N	04-273	28 IR 1855	†† 29 IR 811
					675 IAC 15-1-1	R	04-227	28 IR 1053	29 IR 29
					675 IAC 15-1-2	R	04-227	28 IR 1053	29 IR 29
					675 IAC 15-1-3	R	04-227	28 IR 1053	29 IR 29
					675 IAC 15-1-5	R	04-227	28 IR 1053	29 IR 29
					675 IAC 15-1-6	R	04-227	28 IR 1054	29 IR 29
					675 IAC 15-1-7	R	04-227	28 IR 1054	29 IR 29

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675 IAC 15-1-8.1	R	04-227	28 IR 1054	29 IR 29	675 IAC 22-2.2-12	RA	04-19	27 IR 2339	28 IR 324
675 IAC 15-1-10	R	04-227	28 IR 1054	29 IR 29		R	05-104	29 IR 1316	
675 IAC 15-1-11	R	04-227	28 IR 1054	29 IR 29	675 IAC 22-2.2-13	RA	04-19	27 IR 2339	28 IR 324
675 IAC 15-1-12	R	04-227	28 IR 1054	29 IR 29		R	05-104	29 IR 1316	
675 IAC 15-1-13	R	04-227	28 IR 1054	29 IR 29	675 IAC 22-2.2-15	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1-14	R	04-227	28 IR 1054	29 IR 29		R	05-104	29 IR 1316	
675 IAC 15-1-16	R	04-227	28 IR 1054	29 IR 29	675 IAC 22-2.2-16	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1-17	R	04-227	28 IR 1054	29 IR 29		R	05-104	29 IR 1316	
675 IAC 15-1-19	R	04-227	28 IR 1054	29 IR 29	675 IAC 22-2.2-17	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1-20	R	04-227	28 IR 1054	29 IR 29		R	05-104	29 IR 1316	
675 IAC 15-1-21	R	04-227	28 IR 1054	29 IR 29	675 IAC 22-2.2-18	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1-22	R	04-227	28 IR 1054	29 IR 29		R	05-104	29 IR 1316	
675 IAC 15-1.1	N	04-227	28 IR 1037	29 IR 13	675 IAC 22-2.2-21	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1.2	N	04-227	28 IR 1039	29 IR 15		R	05-104	29 IR 1316	
675 IAC 15-1.3	N	04-227	28 IR 1046	29 IR 21	675 IAC 22-2.2-22	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1.4	N	04-227	28 IR 1048	29 IR 23	675 IAC 22-2.2-23	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1.5	N	04-227	28 IR 1049	29 IR 25		R	05-104	29 IR 1316	
675 IAC 15-1.6	N	04-227	28 IR 1051	29 IR 26	675 IAC 22-2.2-24	RA	04-19	27 IR 2340	28 IR 324
675 IAC 15-1.7	N	04-227	28 IR 1052	29 IR 28		R	05-104	29 IR 1316	
675 IAC 16-1.3	RA	05-3	28 IR 3052		675 IAC 22-2.2-25	RA	04-19	27 IR 2340	28 IR 324
	RA	05-217		29 IR 896		R	05-104	29 IR 1316	
675 IAC 16-2	RA	05-3	28 IR 3052		675 IAC 22-2.2-26	N	04-196	28 IR 1029	*CPH (28 IR 1498)
	RA	05-217		29 IR 896					*AROC (28 IR 2461)
675 IAC 17-1.6	R	04-273	28 IR 1859	29 IR 815					*ARR (29 IR 31)
675 IAC 17-1.7	N	04-273	28 IR 1855	29 IR 811					29 IR 487
675 IAC 18-1.4-3		02-116		*ERR (28 IR 1696)	675 IAC 22-2.2-49.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 18-1.4-10.5	N	04-217	28 IR 1309	*AROC (29 IR 146)					28 IR 2374
				29 IR 11	675 IAC 22-2.2-107.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 18-1.4-11.5	N	04-217	28 IR 1309	*AROC (29 IR 146)	675 IAC 22-2.2-134.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
				29 IR 11					28 IR 2374
675 IAC 18-1.4-12		02-116		*ERR (28 IR 1696)	675 IAC 22-2.2-183	RA	04-19	27 IR 2340	28 IR 324
675 IAC 18-1.4-27		02-116		*ERR (28 IR 1696)		R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 18-1.4-32.3	N	04-217	28 IR 1309	*AROC (29 IR 146)					28 IR 2374
				29 IR 11	675 IAC 22-2.2-221.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 18-1.4-32.5	N	04-217	28 IR 1309	*AROC (29 IR 146)					28 IR 2374
				29 IR 11	675 IAC 22-2.2-240.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 18-1.4-49.5	N	04-217	28 IR 1309	*AROC (29 IR 146)	675 IAC 22-2.2-241.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
				29 IR 11	675 IAC 22-2.2-243.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 19-3	R	05-58	29 IR 2042		675 IAC 22-2.2-245.2	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 19-4	N	05-58	29 IR 2014						28 IR 2374
675 IAC 21-1-10	A	05-50	29 IR 2333		675 IAC 22-2.2-245.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 21-3-1	A	05-50	29 IR 2334						28 IR 2374
675 IAC 21-3-2	A	05-50	29 IR 2334		675 IAC 22-2.2-365.2	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 21-4-1	A	05-50	29 IR 2339						28 IR 2374
675 IAC 21-4-2	A	05-50	29 IR 2339		675 IAC 22-2.2-365.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 21-5-1	A	05-50	29 IR 2341						28 IR 2374
675 IAC 21-5-3	A	05-50	29 IR 2341		675 IAC 22-2.2-368.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 21-8-1	A	05-50	29 IR 2342		675 IAC 22-2.2-369.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 21-8-2	A	05-50	29 IR 2342						28 IR 2374
675 IAC 21-9	N	05-50	29 IR 2344		675 IAC 22-2.2-378.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 21-10	N	05-50	29 IR 2344						28 IR 2374
675 IAC 21-11	N	05-50	29 IR 2345		675 IAC 22-2.2-412.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-3	RA	04-19	27 IR 2339	28 IR 324					28 IR 2374
	R	05-104	29 IR 1316		675 IAC 22-2.2-437.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-4	RA	04-19	27 IR 2339	28 IR 324					28 IR 2374
	R	05-104	29 IR 1316		675 IAC 22-2.2-437.7	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-5	RA	04-19	27 IR 2339	28 IR 324					28 IR 2374
	R	05-104	29 IR 1316		675 IAC 22-2.2-443.5	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-6	RA	04-19	27 IR 2339	28 IR 324					28 IR 2374
	R	05-104	29 IR 1316		675 IAC 22-2.2-511.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-7	RA	04-19	27 IR 2339	28 IR 324	675 IAC 22-2.2-515.1	R	04-56	27 IR 2864	*CPH (28 IR 982)
	R	05-104	29 IR 1316		675 IAC 22-2.2-540	R	04-56	27 IR 2864	*CPH (28 IR 982)
675 IAC 22-2.2-8	RA	04-19	27 IR 2339	28 IR 324					28 IR 2374
	R	05-104	29 IR 1316		675 IAC 22-2.3-29.5	N	04-56	27 IR 2860	*CPH (28 IR 982)
675 IAC 22-2.2-9	RA	04-19	27 IR 2339	28 IR 324					28 IR 2369
	R	05-104	29 IR 1316		675 IAC 22-2.3-35.5	N	04-56	27 IR 2860	*CPH (28 IR 982)
675 IAC 22-2.2-10	RA	04-19	27 IR 2339	28 IR 324					28 IR 2370
	R	05-104	29 IR 1316		675 IAC 22-2.3-36	A	04-56	27 IR 2860	*CPH (28 IR 982)
675 IAC 22-2.2-11	RA	04-19	27 IR 2339	28 IR 324					28 IR 2370

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675 IAC 22-2.3-36.3	N	04-56	27 IR 2861	*CPH (28 IR 982) 28 IR 2370	TITLE 750 DEPARTMENT OF FINANCIAL INSTITUTIONS				
675 IAC 22-2.3-36.4	N	04-56	27 IR 2861	*CPH (28 IR 982) 28 IR 2371	750 IAC 1-1-1	A	06-80		*ER (29 IR 2583)
675 IAC 22-2.3-36.6	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2372	TITLE 760 DEPARTMENT OF INSURANCE				
675 IAC 22-2.3-36.8	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-6.2-1	A	05-133	29 IR 1363	
675 IAC 22-2.3-140.5	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-6.2-1.5	N	05-133	29 IR 1363	
675 IAC 22-2.3-147.5	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-6.2-2	A	05-133	29 IR 1364	
675 IAC 22-2.3-147.6	N	04-56	27 IR 2863	*CPH (28 IR 982) 28 IR 2373	760 IAC 1-6.2-3	A	05-133	29 IR 1364	
675 IAC 22-2.3-148	A	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-6.2-4	A	05-133	29 IR 1364	
675 IAC 22-2.3-148.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-6.2-5	A	05-133	29 IR 1364	
675 IAC 22-2.3-227.1	N	05-127	29 IR 1360		760 IAC 1-6.2-6	A	05-133	29 IR 1365	
675 IAC 22-2.3-228.1	N	05-127	29 IR 1360		760 IAC 1-6.2-7	A	05-133	29 IR 1365	
675 IAC 22-2.3-232.1	N	05-127	29 IR 1360		760 IAC 1-6.2-8	A	05-133	29 IR 1365	
675 IAC 22-2.3-232.2	N	05-127	29 IR 1361		760 IAC 1-6.2-9	A	05-133	29 IR 1365	
675 IAC 22-2.3-232.3	N	05-127	29 IR 1361		760 IAC 1-6.2-10	A	05-133	29 IR 1365	
675 IAC 22-2.3-232.4	N	05-127	29 IR 1361		760 IAC 1-6.2-11	N	05-133	29 IR 1366	
675 IAC 22-2.3-232.5	N	05-127	29 IR 1361		760 IAC 1-6.2-12	N	05-133	29 IR 1367	
675 IAC 22-2.3-232.6	N	05-127	29 IR 1361		760 IAC 1-6.2-13	N	05-133	29 IR 1367	
675 IAC 22-2.3-233.1	N	05-127	29 IR 1361		760 IAC 1-6.2-14	N	05-133	29 IR 1367	
675 IAC 22-2.3-233.2	N	05-127	29 IR 1362		760 IAC 1-21-2	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.3-237.1	N	05-127	29 IR 1362		760 IAC 1-21-3	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.3-237.2	N	05-127	29 IR 1362		760 IAC 1-21-4	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.3-237.3	N	05-127	29 IR 1362		760 IAC 1-21-5	A	04-140	28 IR 1311	28 IR 2375
675 IAC 22-2.3-237.4	N	05-127	29 IR 1362		760 IAC 1-21-8	A	04-140	28 IR 1312	28 IR 2376
675 IAC 22-2.3-237.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-21-10	N	04-140	28 IR 1313	28 IR 2376
675 IAC 22-2.3-298.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-21-11	N	04-140	28 IR 1313	28 IR 2376
675 IAC 22-2.3-304.5	N	04-56	27 IR 2864	*CPH (28 IR 982) 28 IR 2374	760 IAC 1-38.1-2	A	05-265	29 IR 2346	
675 IAC 25-1-3		02-118		*ERR (28 IR 1696)	760 IAC 1-38.1-2.5	N	05-265	29 IR 2347	
675 IAC 25-1-7.2	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-3	A	05-265	29 IR 2347	
675 IAC 25-1-7.4	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-4	R	05-265	29 IR 2354	
675 IAC 25-1-7.6	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-4.3	N	05-265	29 IR 2347	
675 IAC 25-1-9.1	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-4.7	N	05-265	29 IR 2347	
675 IAC 25-1-9.3	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-5	A	05-265	29 IR 2347	
675 IAC 25-1-9.5	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-5.2	N	05-265	29 IR 2347	
675 IAC 25-1-9.7	N	04-218	28 IR 1310\	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-5.6	N	05-265	29 IR 2347	
675 IAC 25-1-9.9	N	04-218	28 IR 1310	*AROC (29 IR 147) 29 IR 12	760 IAC 1-38.1-5.8	N	05-265	29 IR 2348	
675 IAC 26	N	04-196	28 IR 1031	*CPH (28 IR 1498) *AROC (28 IR 2461) *ARR (29 IR 31) 29 IR 489	760 IAC 1-38.1-7	A	05-265	29 IR 2348	
675 IAC 27	N	04-275	28 IR 1538	*AROC (29 IR 145) 29 IR 504	760 IAC 1-38.1-7.5	N	05-265	29 IR 2349	
675 IAC 28	N	05-104	29 IR 1274		760 IAC 1-38.1-8	A	05-265	29 IR 2349	
TITLE 685 REGULATED AMUSEMENT DEVICE SAFETY BOARD					760 IAC 1-38.1-9	A	05-265	29 IR 2349	
685 IAC 1	RA	04-124	27 IR 3343	28 IR 1072	760 IAC 1-38.1-10	R	05-265	29 IR 2354	
TITLE 710 SECURITIES DIVISION					760 IAC 1-38.1-11	A	05-265	29 IR 2349	
710 IAC 1-14-6	A	05-46	28 IR 3008	*CPH (28 IR 3322) 29 IR 1923	760 IAC 1-38.1-12	A	05-265	29 IR 2350	
710 IAC 1-22	N	05-81	28 IR 3009	*CPH (28 IR 3322) 29 IR 1924	760 IAC 1-38.1-13	A	05-265	29 IR 2350	
					760 IAC 1-38.1-14	A	05-265	29 IR 2351	
					760 IAC 1-38.1-15	A	05-265	29 IR 2351	
					760 IAC 1-38.1-15.5	N	05-265	29 IR 2352	
					760 IAC 1-38.1-16	A	05-265	29 IR 2352	
					760 IAC 1-38.1-17	A	05-265	29 IR 2352	
					760 IAC 1-38.1-19	A	05-265	29 IR 2353	
					760 IAC 1-38.1-20	A	05-265	29 IR 2353	
					760 IAC 1-38.1-21.2	N	05-265	29 IR 2353	
					760 IAC 1-38.1-21.6	N	05-265	29 IR 2353	
					760 IAC 1-50-3	A	04-139	27 IR 4136	28 IR 1482
					760 IAC 1-50-4	A	04-139	27 IR 4136	28 IR 1482
					760 IAC 1-50-5	A	04-139	27 IR 4137	28 IR 1483
					760 IAC 1-50-6	RA	05-86		29 IR 896
					760 IAC 1-50-9	RA	05-86		29 IR 896
					760 IAC 1-50-10	RA	05-86		29 IR 896
					760 IAC 1-50-11	RA	05-86		29 IR 896
					760 IAC 1-60-1	RA	04-143	27 IR 3706	28 IR 1072
					760 IAC 1-60-2	RA	04-143	27 IR 3706	28 IR 1072
					760 IAC 1-60-4	RA	04-143	27 IR 3706	28 IR 1072
					760 IAC 1-60-5	A	05-266	29 IR 2354	
					760 IAC 1-61	RA	05-86		29 IR 896
					760 IAC 1-64	RA	05-86		29 IR 896
					760 IAC 1-68-1	A	05-75	29 IR 129	29 IR 2186
					760 IAC 1-68-2	A	05-75	29 IR 130	29 IR 2187
					760 IAC 1-68-4	A	05-75	29 IR 132	29 IR 2189

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760 IAC 1-68-6	A	05-75	29 IR 133	29 IR 2191	760 IAC 3-5-1	A	05-5	28 IR 2427	
760 IAC 1-68-8	A	05-75	29 IR 134	29 IR 2191				28 IR 3014	29 IR 518
760 IAC 1-68-9	A	05-75	29 IR 134	29 IR 2191	760 IAC 3-6-1	A	05-5	28 IR 2428	
760 IAC 1-68-10	A	05-75	29 IR 134	29 IR 2192				28 IR 3016	29 IR 519
760 IAC 1-70	N	04-39	27 IR 2560		760 IAC 3-7-1	A	05-5	28 IR 2432	
			28 IR 314	28 IR 1480				28 IR 3019	29 IR 523
760 IAC 1-71	N	05-26	28 IR 2456	*AROC (28 IR 2814)	760 IAC 3-8-1	A	05-5	28 IR 2434	
			28 IR 3044	29 IR 547				28 IR 3021	29 IR 525
760 IAC 1-72	N	05-134	29 IR 649	29 IR 2192	760 IAC 3-9-1	A	05-5	28 IR 2437	
760 IAC 2-1-1	A	03-303	27 IR 3306	28 IR 563				28 IR 3024	29 IR 528
760 IAC 2-2-1.5	N	03-303	27 IR 3306	28 IR 563	760 IAC 3-9-2	A	05-5	28 IR 2437	
760 IAC 2-2-3.1	N	03-303	27 IR 3307	28 IR 563				28 IR 3024	29 IR 528
760 IAC 2-2-3.2	N	03-303	27 IR 3307	28 IR 563	760 IAC 3-11-1	A	05-5	28 IR 2439	
760 IAC 2-2-3.3	N	03-303	27 IR 3307	28 IR 564				28 IR 3026	29 IR 530
760 IAC 2-2-3.4	N	03-303	27 IR 3307	28 IR 564					*ERR (29 IR 548)
760 IAC 2-2-3.5	N	03-303	27 IR 3307	28 IR 564	760 IAC 3-12-1	A	05-5	28 IR 2444	
760 IAC 2-2-3.6	N	03-303	27 IR 3307	28 IR 564				28 IR 3031	29 IR 534
760 IAC 2-2-3.7	N	03-303	27 IR 3307	28 IR 564	760 IAC 3-14-1	A	05-5	28 IR 2445	
760 IAC 2-2-3.8	N	03-303	27 IR 3308	28 IR 565				28 IR 3032	29 IR 535
760 IAC 2-2-8	A	03-303	27 IR 3308	28 IR 565	760 IAC 3-15-1	A	05-5	28 IR 2453	
760 IAC 2-3-1	A	03-303	27 IR 3308	28 IR 565				28 IR 3040	29 IR 544
760 IAC 2-3-2	A	03-303	27 IR 3308	28 IR 565	760 IAC 3-18-1	A	05-5	28 IR 2455	
760 IAC 2-3-4	A	03-303	27 IR 3309	28 IR 566				28 IR 3043	29 IR 546
760 IAC 2-3-6	A	03-303	27 IR 3310	28 IR 567					*ERR (29 IR 548)
760 IAC 2-3-7	N	03-303	27 IR 3310	28 IR 567					
760 IAC 2-3-8	N	03-303	27 IR 3311	28 IR 567	TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS				
760 IAC 2-4-1	A	03-303	27 IR 3311	28 IR 568	804 IAC 1.1-1-1	A	04-156	28 IR 1054	28 IR 2377
760 IAC 2-4-2	N	03-303	27 IR 3312	28 IR 569	804 IAC 1.1-8	N	04-156	28 IR 1055	28 IR 2378
				*ERR (28 IR 609)	TITLE 808 STATE BOXING COMMISSION				
760 IAC 2-7-1	A	03-303	27 IR 3313	28 IR 570	808 IAC 1-3-6	A	03-226	27 IR 2563	28 IR 198
760 IAC 2-8-1	A	03-303	27 IR 3314	28 IR 570	808 IAC 1-5-1	A	03-226	27 IR 2563	28 IR 198
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 812 INDIANA AUCTIONEER COMMISSION				
760 IAC 2-20-42	A	03-303	27 IR 3335	28 IR 591	812 IAC 1-1-2	A	05-37	29 IR 2044	*AROC (29 IR 2056)
760 IAC 3-1-1	A	05-5	28 IR 2426		812 IAC 1-1-3	A	05-37	29 IR 2044	*AROC (29 IR 2056)
			28 IR 3013	29 IR 517	812 IAC 1-1-5	R	05-37	29 IR 2047	*AROC (29 IR 2056)
760 IAC 3-2-2.5	A	05-5	28 IR 2426		812 IAC 1-1-6	R	05-37	29 IR 2047	*AROC (29 IR 2056)
			28 IR 3013	29 IR 517	812 IAC 1-1-35	A	05-37	29 IR 2044	*AROC (29 IR 2056)
760 IAC 3-2-6.1	A	05-5	28 IR 2426		812 IAC 1-1-36	R	05-37	29 IR 2047	*AROC (29 IR 2056)
			28 IR 3013	29 IR 517	812 IAC 1-1-41	A	05-37	29 IR 2045	*AROC (29 IR 2056)
760 IAC 3-2-6.2	A	05-5	28 IR 2426		812 IAC 1-1-42	A	05-37	29 IR 2045	*AROC (29 IR 2056)
			28 IR 3013	29 IR 517	812 IAC 1-1-43	A	05-37	29 IR 2045	*AROC (29 IR 2056)
760 IAC 3-2-7	A	05-5	28 IR 2426		812 IAC 3-1-1	A	05-37	29 IR 2045	*AROC (29 IR 2056)
			28 IR 3014	29 IR 517	812 IAC 3-1-1.1	A	05-37	29 IR 2046	*AROC (29 IR 2056)
760 IAC 3-4-1	A	05-5	28 IR 2427						
			28 IR 3014	29 IR 518					

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812 IAC 3-1-6	A	05-37	29 IR 2046	*AROC (29 IR 2056)	TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS				
812 IAC 3-1-10	A	05-37	29 IR 2046	*AROC (29 IR 2056)	840 IAC 1-1-6	A	05-270	29 IR 2051	
812 IAC 3-1-11	A	05-37	29 IR 2046	*AROC (29 IR 2056)	840 IAC 2-1	RA	05-12	28 IR 2459	28 IR 3353
812 IAC 3-1-13	A	05-37	29 IR 2047	*AROC (29 IR 2056)					
TITLE 816 BOARD OF BARBER EXAMINERS					TITLE 844 MEDICAL LICENSING BOARD OF INDIANA				
816 IAC 1-2-11	A	05-146	29 IR 893		844 IAC 5-5	N	05-91	28 IR 3344	*ARR (29 IR 549)
816 IAC 1-2-18	A	05-323	29 IR 1756		844 IAC 6-1-2	A	03-262	27 IR 1284	28 IR 209
816 IAC 1-3-1	R	05-146	29 IR 895		844 IAC 6-1-4	A	03-261	27 IR 1635	*CPH (27 IR 2300)
816 IAC 1-3-4	A	05-146	29 IR 894						28 IR 203
816 IAC 1-3-6	A	05-146	29 IR 894		844 IAC 6-3-1	A	03-261	27 IR 1636	*CPH (27 IR 2300)
816 IAC 1-4-1	A	05-146	29 IR 894						28 IR 203
816 IAC 1-5	N	05-146	29 IR 895		844 IAC 6-3-2	A	03-261	27 IR 1636	*CPH (27 IR 2300)
TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS									28 IR 204
820 IAC 2-2-2	R	05-137	29 IR 656		844 IAC 6-3-4	A	03-261	27 IR 1637	*CPH (27 IR 2300)
820 IAC 4-1-7	A	05-68	28 IR 3045	*AWR (28 IR 3584)					28 IR 204
820 IAC 4-1-9	A	05-68	28 IR 3045	*AWR (28 IR 3584)	844 IAC 6-3-5	A	03-261	27 IR 1637	*CPH (27 IR 2300)
820 IAC 4-1-11	A	05-68	28 IR 3045	*AWR (28 IR 3584)					28 IR 205
820 IAC 4-1-12	A	05-68	28 IR 3045	*AWR (28 IR 3584)	844 IAC 6-3-6	N	03-261	27 IR 1638	*CPH (27 IR 2300)
820 IAC 4-3-1	A	04-254	28 IR 1059	28 IR 2382	844 IAC 6-4-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
820 IAC 4-4-8	A	05-68	28 IR 3046	*AWR (28 IR 3584)					28 IR 206
820 IAC 4-4-8.1	N	05-68	28 IR 3046	*AWR (28 IR 3584)	844 IAC 6-6-1	R	03-261	27 IR 1642	*CPH (27 IR 2300)
820 IAC 5-1-20	A	05-137	29 IR 654						28 IR 209
820 IAC 6-1-2	A	05-137	29 IR 654		844 IAC 6-6-2	R	03-261	27 IR 1642	*CPH (27 IR 2300)
820 IAC 6-1-5	A	05-137	29 IR 655						28 IR 209
820 IAC 7	N	05-137	29 IR 655	29 IR 2195	844 IAC 6-6-3	A	03-261	27 IR 1638	*CPH (27 IR 2300)
TITLE 828 STATE BOARD OF DENTISTRY									28 IR 206
828 IAC 0.5-2-3	A	04-233	28 IR 670	*AROC (28 IR 1073)	844 IAC 6-6-4	A	03-261	27 IR 1639	*CPH (27 IR 2300)
				28 IR 2713					28 IR 206
	A	05-226	29 IR 1371	29 IR 2538	844 IAC 6-7-2	A	03-261	27 IR 1639	*CPH (27 IR 2300)
828 IAC 0.5-2-4	A	05-226	29 IR 1371	29 IR 2539					28 IR 207
828 IAC 1-1-1	A	05-226	29 IR 1371	29 IR 2539	844 IAC 10-4-1	A	03-329	27 IR 2568	28 IR 211
828 IAC 1-1-2	A	05-226	29 IR 1372	29 IR 2540	844 IAC 10-4-3	A	06-13	29 IR 2355	
828 IAC 1-1-3	A	05-226	29 IR 1372	29 IR 2540	844 IAC 12-5-4	A	04-17	28 IR 316	28 IR 1693
828 IAC 1-1-6	A	05-226	29 IR 1373	29 IR 2541	TITLE 845 BOARD OF PODIATRIC MEDICINE				
828 IAC 1-1-7	A	05-226	29 IR 1373	29 IR 2541	845 IAC 1-5-3	A	04-134	28 IR 317	28 IR 2716
828 IAC 1-1-8	R	05-226	29 IR 1377	29 IR 2545	TITLE 848 INDIANA STATE BOARD OF NURSING				
828 IAC 1-1-12	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-1-6	A	04-97	28 IR 674	28 IR 2383
828 IAC 1-1-21	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-1-7	A	04-97	28 IR 675	28 IR 2384
828 IAC 1-2-1	A	05-226	29 IR 1373	29 IR 2541	848 IAC 1-1-2.1	A	04-65	27 IR 2865	28 IR 593
828 IAC 1-2-2	A	05-226	29 IR 1374	29 IR 2542	848 IAC 1-2-1	A	04-65	27 IR 2866	28 IR 594
828 IAC 1-2-3	A	05-226	29 IR 1374	29 IR 2542	848 IAC 1-2-5	A	04-65	27 IR 2866	28 IR 594
828 IAC 1-2-6	A	05-226	29 IR 1375	29 IR 2543	848 IAC 1-2-6	A	04-65	27 IR 2867	28 IR 595
828 IAC 1-2-7	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-2-7	A	04-65	27 IR 2868	28 IR 596
828 IAC 1-2-8	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-2-8	A	04-65	27 IR 2868	28 IR 596
828 IAC 1-2-9	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-2-8.5	N	04-65	27 IR 2868	28 IR 596
828 IAC 1-2-12	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-2-9	A	04-65	27 IR 2869	28 IR 597
828 IAC 1-2-14	R	05-226	29 IR 1377	29 IR 2545	848 IAC 1-2-10	A	04-65	27 IR 2869	28 IR 597
828 IAC 1-3-1.1	A	05-226	29 IR 1375	29 IR 2543	848 IAC 1-2-12	A	04-65	27 IR 2870	28 IR 598
828 IAC 1-3-1.5	A	05-226	29 IR 1376	29 IR 2544	848 IAC 1-2-13	A	04-65	27 IR 2870	28 IR 598
828 IAC 1-3-2	A	05-226	29 IR 1377	29 IR 2545	848 IAC 1-2-14	A	04-65	27 IR 2870	28 IR 599
828 IAC 1-5-6	N	04-189	28 IR 669	28 IR 2383	848 IAC 1-2-16	A	04-65	27 IR 2871	28 IR 599
828 IAC 5	N	04-233	28 IR 671	*AROC (28 IR 1073)	848 IAC 1-2-17	A	04-65	27 IR 2872	28 IR 600
				28 IR 2713	848 IAC 1-2-18	A	04-65	27 IR 2872	28 IR 600
TITLE 830 INDIANA DIETITIANS CERTIFICATION BOARD					848 IAC 1-2-19	A	04-65	27 IR 2873	28 IR 601
830 IAC 1-1	RA	04-6	27 IR 2340	28 IR 325	848 IAC 1-2-20	A	04-65	27 IR 2873	28 IR 601
830 IAC 1-2-6	RA	05-11	28 IR 2813	28 IR 3662	848 IAC 1-2-21	A	04-65	27 IR 2873	28 IR 602
TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD					848 IAC 1-2-22	A	04-65	27 IR 2874	28 IR 602
839 IAC 1-6-1	A	05-223	29 IR 2048		848 IAC 1-2-23	A	04-65	27 IR 2874	28 IR 602
839 IAC 1-6-2	A	05-223	29 IR 2048		848 IAC 1-2-24	A	04-65	27 IR 2874	28 IR 603
839 IAC 1-6-3	A	05-223	29 IR 2050		848 IAC 6	R	04-97	28 IR 675	28 IR 2385
					848 IAC 7	N	05-2	29 IR 135	29 IR 1927
TITLE 852 INDIANA OPTOMETRY BOARD					TITLE 852 INDIANA OPTOMETRY BOARD				
					852 IAC 1-12-1	A	05-184	29 IR 657	*AWR (29 IR 2549)
					852 IAC 1-16-1	A	05-325	29 IR 1757	

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852 IAC 1-16-2	A	05-325	29 IR 1757		TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS				
852 IAC 1-16-3	A	05-325	29 IR 1757		865 IAC 1-1-1	A	05-82	29 IR 660	*CPH (29 IR 1244)
852 IAC 1-16-6	A	05-325	29 IR 1758						*AROC (29 IR 1383)
852 IAC 1-16-7	N	05-325	29 IR 1758		865 IAC 1-1-2	A	05-82	29 IR 661	*CPH (29 IR 1244)
852 IAC 1-16-8	N	05-325	29 IR 1758						*AROC (29 IR 1383)
					865 IAC 1-2-1	A	05-82	29 IR 661	*CPH (29 IR 1244)
TITLE 856 INDIANA BOARD OF PHARMACY									*AROC (29 IR 1383)
856 IAC 1-30-2	A	04-173	28 IR 317	28 IR 2385	865 IAC 1-2-2	A	05-82	29 IR 663	*CPH (29 IR 1244)
856 IAC 1-30-3	A	04-173	28 IR 318	28 IR 2385					*AROC (29 IR 1383)
856 IAC 1-30-4.1	N	04-173	28 IR 318	28 IR 2385	865 IAC 1-3-2	A	05-82	29 IR 663	*CPH (29 IR 1244)
856 IAC 1-30-4.2	N	04-173	28 IR 318	28 IR 2386					*AROC (29 IR 1383)
856 IAC 1-30-4.3	N	04-173	28 IR 318	28 IR 2386	865 IAC 1-4-3	A	05-82	29 IR 663	*CPH (29 IR 1244)
856 IAC 1-30-4.4	N	04-173	28 IR 318	28 IR 2386					*AROC (29 IR 1383)
856 IAC 1-30-4.5	N	04-173	28 IR 318	28 IR 2386	865 IAC 1-4-6	A	05-82	29 IR 664	*CPH (29 IR 1244)
856 IAC 1-30-4.6	N	04-173	28 IR 318	28 IR 2386					*AROC (29 IR 1383)
856 IAC 1-30-6	A	04-173	28 IR 319	28 IR 2386	865 IAC 1-4-7	A	05-82	29 IR 664	*CPH (29 IR 1244)
856 IAC 1-30-7	A	04-173	28 IR 319	28 IR 2386					*AROC (29 IR 1383)
856 IAC 1-30-8	A	04-173	28 IR 319	28 IR 2387	865 IAC 1-4-8	A	05-82	29 IR 664	*CPH (29 IR 1244)
856 IAC 1-30-9	A	04-173	28 IR 320	28 IR 2388					*AROC (29 IR 1383)
856 IAC 1-30-14	A	04-173	28 IR 320	28 IR 2388	865 IAC 1-4-9	R	05-82	29 IR 687	*CPH (29 IR 1244)
856 IAC 1-30-17	A	04-173	28 IR 321	28 IR 2389					*AROC (29 IR 1383)
856 IAC 1-30-18	A	04-173	28 IR 321	28 IR 2389	865 IAC 1-5-1	A	05-82	29 IR 665	*CPH (29 IR 1244)
856 IAC 1-33-1	A	03-326	27 IR 2073	27 IR 3073					*AROC (29 IR 1383)
856 IAC 1-37	N	05-42	28 IR 3047	29 IR 815	865 IAC 1-5-2	A	05-82	29 IR 665	*CPH (29 IR 1244)
856 IAC 1-38	N	05-138	29 IR 659	*ARR (29 IR 2548)					*AROC (29 IR 1383)
856 IAC 1-39	N	05-139	29 IR 139		865 IAC 1-7-1	A	05-82	29 IR 665	*CPH (29 IR 1244)
856 IAC 1-40	N	05-140	29 IR 142	29 IR 1930					*AROC (29 IR 1383)
856 IAC 3-1-2	N	05-102	28 IR 3346	*ARR (29 IR 820)	865 IAC 1-7-2	A	05-82	29 IR 666	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-1-3	N	05-102	28 IR 3346	*ARR (29 IR 820)	865 IAC 1-7-3	A	05-82	29 IR 666	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-2-1	R	05-102	28 IR 3348	*ARR (29 IR 820)	865 IAC 1-7-4	N	05-82	29 IR 667	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-2-3	A	05-102	28 IR 3346	*ARR (29 IR 820)	865 IAC 1-8-1	A	05-82	29 IR 667	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-2-7	R	05-102	28 IR 3348	*ARR (29 IR 820)	865 IAC 1-9-1	A	05-82	29 IR 668	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-2-8	R	05-102	28 IR 3348	*ARR (29 IR 820)	865 IAC 1-10-11	R	05-82	29 IR 687	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-3	N	05-102	28 IR 3346	*ARR (29 IR 820)	865 IAC 1-10-12	A	05-82	29 IR 668	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-4	N	05-102	28 IR 3347	*ARR (29 IR 820)	865 IAC 1-10-25	N	05-82	29 IR 668	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
856 IAC 3-5	N	05-102	28 IR 3347	*ARR (29 IR 820)	865 IAC 1-11-1	A	03-300	27 IR 2570	28 IR 605
856 IAC 3-6	N	05-102	28 IR 3347	*ARR (29 IR 820)		A	04-175	28 IR 1059	28 IR 2390
					865 IAC 1-12-2	A	05-82	29 IR 668	*CPH (29 IR 1244)
856 IAC 3-7	N	05-102	28 IR 3348	*ARR (29 IR 820)					*AROC (29 IR 1383)
					865 IAC 1-12-3	A	05-82	29 IR 669	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE					865 IAC 1-12-4	A	05-82	29 IR 670	*CPH (29 IR 1244)
857 IAC 1-2-3	A	05-43	28 IR 3048	29 IR 816					*AROC (29 IR 1383)
857 IAC 1-3-2	A	05-43	28 IR 3049	29 IR 817	865 IAC 1-12-5	A	05-82	29 IR 670	*CPH (29 IR 1244)
857 IAC 1-3-3	A	05-43	28 IR 3049	29 IR 817					*AROC (29 IR 1383)
					865 IAC 1-12-7	A	05-82	29 IR 671	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS					865 IAC 1-12-8	R	05-82	29 IR 687	*CPH (29 IR 1244)
864 IAC 1.1-2-4	A	03-301	27 IR 2569	28 IR 603					*AROC (29 IR 1383)
864 IAC 1.1-4.1-7	A	05-222	29 IR 1378	*AWR (29 IR 2205)	865 IAC 1-12-9	A	05-82	29 IR 672	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
					865 IAC 1-12-10	A	05-82	29 IR 672	*CPH (29 IR 1244)
864 IAC 1.1-4.1-8	A	05-222	29 IR 1378	*AWR (29 IR 2205)					*AROC (29 IR 1383)
					865 IAC 1-12-12	A	05-82	29 IR 672	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
864 IAC 1.1-4.1-9	A	03-301		28 IR 603	865 IAC 1-12-13	A	05-82	29 IR 674	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
					865 IAC 1-12-14	A	05-82	29 IR 675	*CPH (29 IR 1244)
									*AROC (29 IR 1383)
864 IAC 1.1-12-1	A	03-301	27 IR 2569	28 IR 604	865 IAC 1-12-15	R	05-82	29 IR 687	*CPH (29 IR 1244)
864 IAC 1.1-12-2	N	03-301	27 IR 2570	28 IR 604					*AROC (29 IR 1383)

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865 IAC 1-12-16	R	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	876 IAC 3-2-7	A	03-255	27 IR 2574	28 IR 212
865 IAC 1-12-17	R	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	876 IAC 3-6-2	A	04-225	28 IR 1547	28 IR 2717
865 IAC 1-12-18	A	05-82	29 IR 676	*CPH (29 IR 1244) *AROC (29 IR 1383)	876 IAC 3-6-3	A	04-225	28 IR 1548	28 IR 2717
865 IAC 1-12-19	R	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	876 IAC 4-1-6	A	05-49	28 IR 2808	*CPH (28 IR 3609) *ARR (29 IR 1940) 29 IR 2198
865 IAC 1-12-20	A	05-82	29 IR 677	*CPH (29 IR 1244) *AROC (29 IR 1383)	876 IAC 4-2-1	A	05-49	28 IR 2809	*ERR (29 IR 2203) *CPH (28 IR 3609) *ARR (29 IR 1940) 29 IR 2198
865 IAC 1-12-21	A	05-82	29 IR 677	*CPH (29 IR 1244) *AROC (29 IR 1383)	876 IAC 4-3	N	05-49	28 IR 2809	*ERR (29 IR 2203) *CPH (28 IR 3609) *ARR (29 IR 1940) 29 IR 2199
865 IAC 1-12-22	A	05-82	29 IR 678	*CPH (29 IR 1244) *AROC (29 IR 1383)	TITLE 878 HOME INSPECTORS LICENSING BOARD				
865 IAC 1-12-23	A	05-82	29 IR 679	*CPH (29 IR 1244) *AROC (29 IR 1383)	878 IAC	N	04-191	28 IR 1060	*CPH (28 IR 1197) *AROC (28 IR 1560) 28 IR 2718
865 IAC 1-12-24	A	05-82	29 IR 679	*CPH (29 IR 1244) *AROC (29 IR 1383)	TITLE 879 MANUFACTURED HOME INSTALLER LICENSING BOARD				
865 IAC 1-12-25	A	05-82	29 IR 680	*CPH (29 IR 1244) *AROC (29 IR 1383)	879 IAC	N	04-272	28 IR 1549	28 IR 2981
865 IAC 1-12-26	R	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD				
865 IAC 1-12-27	A	05-82	29 IR 681	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-1	A	05-224	29 IR 2359	
865 IAC 1-12-28	A	05-82	29 IR 681	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-1.5	N	05-224	29 IR 2359	
865 IAC 1-12-29	A	05-82	29 IR 682	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-2	A	05-224	29 IR 2359	
865 IAC 1-12-30	N	05-82	29 IR 682	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-2.5	N	05-224	29 IR 2360	
865 IAC 1-13-2	A	05-82	29 IR 684	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-3.1	A	05-224	29 IR 2361	
865 IAC 1-13-5	A	05-82	29 IR 684	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-5	A	05-224	29 IR 2362	
865 IAC 1-13-7	A	05-82	29 IR 685	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-1-6	A	05-224	29 IR 2362	
865 IAC 1-13-8	A	05-82	29 IR 685	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-1	A	05-224	29 IR 2363	
865 IAC 1-13-10	A	05-82	29 IR 685	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-2	A	05-224	29 IR 2363	
865 IAC 1-13-11	A	05-82	29 IR 686	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-3	A	05-224	29 IR 2363	
865 IAC 1-13-19	A	05-82	29 IR 686	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-3.1	N	05-224	29 IR 2364	
865 IAC 1-14-2	A	05-82	29 IR 686	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-4	A	05-224	29 IR 2364	
865 IAC 1-14-13	A	05-82	29 IR 686	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-4.1	N	05-224	29 IR 2365	
865 IAC 1-14-14	A	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-6	A	05-224	29 IR 2365	
865 IAC 1-14-15	A	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-7	A	05-224	29 IR 2365	
865 IAC 1-14-16	A	05-82	29 IR 687	*CPH (29 IR 1244) *AROC (29 IR 1383)	880 IAC 1-2.1-8	A	05-224	29 IR 2366	
TITLE 872 INDIANA BOARD OF ACCOUNTANCY					880 IAC 1-2.1-9	A	05-224	29 IR 2366	
872 IAC 1-1-6.1	A	04-41	27 IR 2574	28 IR 212	880 IAC 1-2.1-10	A	05-224	29 IR 2368	
	A	04-171	27 IR 4138	28 IR 1182	880 IAC 1-3.1-1	A	05-224	29 IR 2368	
872 IAC 1-2-1	A	04-290	28 IR 3349	29 IR 1214	880 IAC 1-3.1-3	A	05-224	29 IR 2368	
872 IAC 1-3-3.3	A	04-98	27 IR 3336	28 IR 605	TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS				
872 IAC 1-3-16	A	04-5	27 IR 2335	28 IR 211	888 IAC 1.1-5-3	N	05-185	29 IR 688	29 IR 2201
872 IAC 1-6	N	03-270	27 IR 2571	*AROC (27 IR 4141) 28 IR 966	888 IAC 1.1-6-1	A	04-74	27 IR 2875	28 IR 606
TITLE 876 INDIANA REAL ESTATE COMMISSION						A	04-137	27 IR 3704	28 IR 607
876 IAC 1-1-23	A	05-47	28 IR 2807	*CPH (28 IR 3609) 29 IR 1931	888 IAC 1.1-8-3	A	04-295	28 IR 1859	28 IR 3581
876 IAC 1-4-2	A	05-101	28 IR 3658	29 IR 1932	TITLE 898 INDIANA ATHLETIC TRAINERS BOARD				
876 IAC 2-18	N	03-256	27 IR 2575	28 IR 213	898 IAC 1-1-2.4	RA	05-13	28 IR 2460	29 IR 144
					898 IAC 1-1-4.5	RA	05-13	28 IR 2460	29 IR 144
					898 IAC 1-1-10	RA	05-13	28 IR 2460	29 IR 144
					TITLE 905 ALCOHOL AND TOBACCO COMMISSION				
					905 IAC 1-5.2-9.2	A	04-111	27 IR 3337	*AROC (28 IR 1561)
					905 IAC 1-15.2-3	A	04-110	27 IR 3337	*AWR (28 IR 1486)
					905 IAC 1-26-3	N	04-112	27 IR 3338	*AROC (28 IR 1562)
					905 IAC 1-42	RA	05-180		29 IR 1382
					905 IAC 1-43	RA	04-14	27 IR 2579	*CPH (27 IR 3096) 28 IR 1316
					905 IAC 1-44	RA	04-109	27 IR 3343	28 IR 1316

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905 IAC 1-45-2	A	03-319	27 IR 2576	*CPH (27 IR 3096) *AROC (28 IR 1317) 28 IR 1484	N	05-9	*ETR (28 IR 1704)
905 IAC 1-45-3	A	03-319	27 IR 2576	*CPH (27 IR 3096) *AROC (28 IR 1317) 28 IR 1484	N	05-10	*ETR (28 IR 1704)
905 IAC 1-46	N	03-279	27 IR 1291	*ARR (27 IR 4024) *AROC (27 IR 4141) 28 IR 969	N	05-16	*ETR (28 IR 1708)
905 IAC 1-48	N	04-115	27 IR 3339	*AROC (28 IR 1562)	N	05-17	*ETR (28 IR 1709)
TITLE 910 CIVIL RIGHTS COMMISSION					N	05-29	*ETR (28 IR 2143)
910 IAC 3	RA	05-153		29 IR 897	N	05-30	*ETR (28 IR 2144)
NONCODE RULES					N	05-31	*ETR (28 IR 2145)
Amusement Device Safety Board, Regulated					N	05-33	*ETR (28 IR 2150)
	N	06-106		*ETR (29 IR 2569)	N	05-34	*ETR (28 IR 2152)
Boiler and Pressure Vessel Rules Board					N	05-61	*ETR (28 IR 2395)
	R	04-37		*ETR (29 IR 1578)	N	05-62	*ETR (28 IR 2397)
	A	06-6		*ETR (29 IR 1578)	N	05-63	*ETR (28 IR 2398)
Family and Social Services, Office of the Secretary of					N	05-64	*ETR (28 IR 2399)
	A	04-246		*ETR (28 IR 230)	N	05-65	*ETR (28 IR 2401)
	A	05-283		*ETR (29 IR 573)	N	05-96	*ETR (28 IR 2740)
	N	05-337		*ETR (29 IR 1224)	N	05-97	*ETR (28 IR 2742)
	N	05-361		*ETR (29 IR 1577)	N	05-98	*ETR (28 IR 2743)
	N	05-362		*ETR (29 IR 1578)	N	05-158	*ETR (28 IR 3311)
	N	06-50		*ETR (29 IR 2228)	N	05-160	*ETR (28 IR 3315)
	N	06-81		*ETR (29 IR 2568)	N	05-169	*ETR (28 IR 3316)
	N	06-84		*ETR (29 IR 2568)	N	05-170	*ETR (28 IR 3318)
Gaming Commission, Indiana					N	05-186	*ETR (28 IR 3589)
	N	05-84		*ETR (28 IR 2744)	N	05-187	*ETR (28 IR 3590)
	N	05-202		*ETR (28 IR 3599)	N	05-204	*ETR (28 IR 3590)
Health, Indiana State Department of					N	05-205	*ETR (28 IR 3592)
	N	05-326		*ETR (29 IR 1235)	N	05-206	*ETR (28 IR 3594)
	N	05-327		*ETR (29 IR 1238)	N	05-207	*ETR (28 IR 3595)
	N	06-20		*ETR (29 IR 1959)	N	05-208	*ETR (28 IR 3596)
	N	06-73		*ETR (29 IR 2237)	N	05-238	*ETR (29 IR 33)
	N	06-74		*ETR (29 IR 2240)	N	05-239	*ETR (29 IR 34)
Local Government Finance, Department of					N	05-240	*ETR (29 IR 34)
	N	06-89		*ETR (29 IR 2550)	N	05-241	*ETR (29 IR 37)
Lottery Commission, State					N	05-242	*ETR (29 IR 38)
	N	04-238		*ETR (28 IR 217)	N	05-243	*ETR (29 IR 40)
	N	04-239		*ETR (28 IR 218)	N	05-278	*ETR (29 IR 557)
	N	04-240		*ETR (28 IR 219)	N	05-279	*ETR (29 IR 558)
	N	04-242		*ETR (28 IR 223)	N	05-280	*ETR (29 IR 559)
	N	04-243		*ETR (28 IR 224)	N	05-281	*ETR (29 IR 561)
	N	04-244		*ETR (28 IR 226)	N	05-282	*ETR (29 IR 562)
	R	04-249		*ETR (28 IR 227)	N	05-292	*ETR (29 IR 563)
	N	04-250		*ETR (28 IR 227)	N	05-298	*ETR (29 IR 565)
	N	04-251		*ETR (28 IR 228)	N	05-299	*ETR (29 IR 566)
	N	04-265		*ETR (28 IR 613)	N	05-301	*ETR (29 IR 568)
	N	04-266		*ETR (28 IR 614)	N	05-302	*ETR (29 IR 569)
	N	04-280		*ETR (28 IR 972)	N	05-303	*ETR (29 IR 569)
	N	04-281		*ETR (28 IR 973)	N	05-304	*ETR (29 IR 570)
	N	04-282		*ETR (28 IR 974)	N	05-305	*ETR (29 IR 571)
	N	04-301		*ETR (28 IR 1186)	N	05-306	*ETR (29 IR 822)
	N	04-302		*ETR (28 IR 1187)	N	05-309	*ETR (29 IR 823)
	N	04-303		*ETR (28 IR 1188)	N	05-310	*ETR (29 IR 824)
	N	04-304		*ETR (28 IR 1189)	N	05-333	*ETR (29 IR 1218)
	N	04-305		*ETR (28 IR 1191)	N	05-334	*ETR (29 IR 1219)
	N	04-306		*ETR (28 IR 1192)	N	05-335	*ETR (29 IR 1220)
	N	04-326		*ETR (28 IR 1488)	N	05-336	*ETR (29 IR 1221)
	N	04-327		*ETR (28 IR 1489)	N	05-342	*ETR (29 IR 1222)
	N	04-328		*ETR (28 IR 1491)	N	05-343	*ETR (29 IR 1223)
	N	04-331		*ETR (28 IR 1495)	N	05-353	*ETR (29 IR 1563)
	N	04-332		*ETR (28 IR 1496)	N	05-354	*ETR (29 IR 1565)
	N	05-6		*ETR (28 IR 1698)	N	05-355	*ETR (29 IR 1566)
	N	05-7		*ETR (28 IR 1701)	N	05-356	*ETR (29 IR 1568)
	N	05-8		*ETR (28 IR 1702)	N	05-357	*ETR (29 IR 1570)
					N	05-358	*ETR (29 IR 1570)
					N	05-364	*ETR (29 IR 1571)
					N	06-2	*ETR (29 IR 1574)
					N	06-3	*ETR (29 IR 1575)
					N	06-15	*ETR (29 IR 1942)
					N	06-16	*ETR (29 IR 1943)
					N	06-21	*ETR (29 IR 1946)
					N	06-22	*ETR (29 IR 1946)

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	N 06-26	*ETR (29 IR 1947)	Tax Review, Indiana Board of	
	N 06-27	*ETR (29 IR 1948)		N 04-261 *ETR (28 IR 612)
	N 06-28	*ETR (29 IR 1950)		N 04-330 *ETR (28 IR 1487)
	N 06-61	*ETR (29 IR 1952)		N 05-54 *ETR (28 IR 2394)
	N 06-62	*ETR (29 IR 1953)		N 05-172 *ETR (28 IR 3310)
	N 06-52	*ETR (29 IR 2206)		N 05-277 *ETR (29 IR 555)
	N 06-53	*ETR (29 IR 2206)		
	N 06-82	*ETR (29 IR 2553)	*Key:	
	N 06-83	*ETR (29 IR 2554)	A:	Amended Text
	N 06-85	*ETR (29 IR 2556)	AGA:	Attorney General's Action
	N 06-86	*ETR (29 IR 2557)	AROC:	Administrative Rules Oversight Committee Notice
	N 06-87	*ETR (29 IR 2558)	ARR:	Agency Recalls Rule
	N 06-90	*ETR (29 IR 2560)	AWR:	Agency Withdrew Rule
	N 06-101	*ETR (29 IR 2563)	CPH:	Change in Public Hearing
	N 06-102	*ETR (29 IR 2564)	DAG:	Disapproved by Attorney General
	N 06-103	*ETR (29 IR 2565)	DG:	Disapproved by Governor
	N 06-104	*ETR (29 IR 2566)	ER:	Emergency Rule
Natural Resources Commission			ERR:	Errata
	R 03-341	*ETR (28 IR 615)	ETR:	Emergency Temporary Rule
	R 04-153	*ETR (28 IR 230)	ETS:	Emergency Temporary Standard
	R 04-183	*ETR (28 IR 230)	GRAT:	Governor Requires Additional Time
	N 04-205	*ERR (28 IR 214)	N:	New Text
	R 04-245	*ETR (28 IR 230)	NRA:	Notice of Rule Adoption
		*ERR (28 IR 214)	OAC:	Objection to Errata
	R 04-247	*ETR (28 IR 230)	ON:	Other Notices of Administrative Action
	R 04-257	*ETR (28 IR 615)	R:	Repealed Text
	N 04-258	*ETR (28 IR 615)	RA:	Readopted Rule
	N 04-259	*ETR (28 IR 615)	SAC:	Solicitation of Advance Comment
	N 04-260	*ETR (28 IR 616)	SPE:	Statutory Period for Promulgation Expired
	N 04-262	*ETR (28 IR 616)	SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
	N 04-264	*ETR (28 IR 616)	††:	Renumbered or Added in Final Rule
	N 04-285	*ETR (28 IR 981)		
	N 04-307	*ETR (28 IR 1192)		
	N 04-308	*ETR (28 IR 1194)		
	N 04-314	*ETR (28 IR 1194)		
	N 04-315	*ETR (28 IR 1195)		
	N 05-44	*ETR (28 IR 2402)		
	N 05-52	*ETR (28 IR 2402)		
	N 05-53	*ETR (28 IR 2403)		
	N 05-56	*ETR (28 IR 2403)		
	N 05-59	*ETR (28 IR 2405)		
	N 05-131	*ETR (28 IR 2994)		
	N 05-132	*ETR (28 IR 2994)		
	N 05-135	*ETR (28 IR 2994)		
	N 05-148	*ETR (28 IR 2994)		
	N 05-173	*ETR (28 IR 3319)		
	N 05-176	*ETR (28 IR 3601)		
	N 05-203	*ETR (28 IR 3604)		
	N 05-210	*ETR (28 IR 3605)		
	N 05-211	*ETR (28 IR 3606)		
	N 05-212	*ETR (28 IR 3608)		
		*ERR (28 IR 3582)		
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345 IAC 8-2-1.6 28 IR 1824
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345 IAC 8-2-4 28 IR 1826
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345 IAC 1-3-7 27 IR 4120
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345 IAC 1-3-17 29 IR 852
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345 IAC 7-5-15.1 27 IR 2797
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345 IAC 7-5-12 27 IR 4135
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345 IAC 7-5-22 27 IR 2798
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29 IR 504

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675 IAC 13-2.4-180.5 28 IR 1536
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675 IAC 13-2.4-210.3 28 IR 1536
29 IR 502

Table 2304.9.1; fastening schedule

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29 IR 502

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675 IAC 13-2.4-213.7 28 IR 1536
29 IR 503

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675 IAC 13-2.4-214.4 28 IR 1537
29 IR 503

Table 2308.9.5; header and girder spans for exterior walls (maximum header span for Douglas fir-larch, hem-fir, southern pine, and spruce-pine-fir and required jack studs)

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29 IR 503

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675 IAC 17-1.7 28 IR 1855
29 IR 811

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675 IAC 19-4 29 IR 2014

FIRE PREVENTION CODES

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675 IAC 22-2.2-26 28 IR 1029
29 IR 487

Indiana Fire Code, 2003 Edition

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675 IAC 22-2.3-35.5 27 IR 2860
28 IR 2370

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675 IAC 22-2.3-36 27 IR 2860
28 IR 2370

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675 IAC 22-2.3-36.3 27 IR 2860
28 IR 2370

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675 IAC 22-2.3-36.4 27 IR 2861
28 IR 2371

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675 IAC 22-2.3-36.6 27 IR 2863
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675 IAC 22-2.3-140.5 27 IR 2863
28 IR 2373

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675 IAC 22-2.3-147.6	27 IR 2863	675 IAC 25-1-9.7	28 IR 1310	675 IAC 14-4.3	28 IR 268
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Equine Health; Medication Rules

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71 IAC 8-1-5 **29 IR 2218**

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Human Substance Abuse Testing

Applicant and licensee subject to testing
71 IAC 8-10-2 **29 IR 2222**

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Postmortem; disposal of a dead horse
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71 IAC 8-5-11 **29 IR 2220**

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Veterinarian’s list
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328 IAC 1-6-1 27 IR 2796
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28 IR 607

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888 IAC 1.1-5-3 29 IR 688

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327 IAC 1-1-2 27 IR 3608

28 IR 2046

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**INDUSTRIAL WASTEWATER PRETREAT-
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327 IAC 5-4-3 29 IR 1982

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327 IAC 8-2.1-8 28 IR 1255

28 IR 3233

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327 IAC 8-2.5-7 29 IR 2620

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327 IAC 8-2.5-6 29 IR 2617

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327 IAC 8-2.5-8 29 IR 2622

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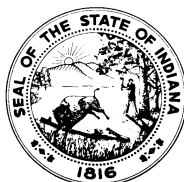
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