

Matrix 5-1: Cross-reference of Procedural Framework Laws and Guidance Documents

Programs and Activities	Laws and Guidance Documents	Standards or Criteria	Contact	Applicable to Federal Consistency*
Civil and Criminal Enforcement				
TRADITIONAL CIVIL ENFORCEMENT: The Attorney General is responsible for prosecuting and defending suits that are instituted by or against the State and its officers.	IC 4-6-1-6 IC 4-6-2-1 IC 4-6-3-2 IC 13-30-1	The Attorney General has charge of and directs the prosecution of all civil actions brought in the name of the State. In these civil actions, neither the State nor an agency may be required to file a bond. The Attorney General may also bring an action, for declaratory and equitable relief, in the name of the State for the protection of the environment of Indiana.	Office of Attorney General State House, Rm. 219 Indianapolis, IN 46204 (317) 232-6201	
ENVIRONMENTAL CIVIL ACTIONS: The State or a private person may bring an environmental legal action against a person who caused or contributed to the release of a hazardous substance or petroleum in the surface or subsurface soil or groundwater.	IC 13-30-9-2 IC 13-30-9-3	The State or private person must show the release poses a risk to human health and the environment to recover reasonable costs of a removal or remedial action.	An individual suit may be monitored in the circuit or superior court where the suit is filed.	
TRADITIONAL CRIMINAL ENFORCEMENT: Enforcement of crimes, which include felonies and misdemeanors, are generally the responsibility of each county's prosecuting attorney. Crimes are defined in the criminal code or in particular	IC 35-14-1-14 IC 35-42 through IC 35-46	Criminal provisions are generally categorized as in the criminal code as offenses against: (1) the person; (2) property; (3) public administration; (4) public health,	County Prosecutor	

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statutes.		order, and decency; and, (5) miscellaneous offenses. Examples of particular statutes defining crimes include IC 13-30-6-1 and IC 14-22-38.		
Pre-Permit Hearings				
PRE-PERMIT HEARINGS: Opportunities for public input are made available for activities such as agency permits through hearings.	IC 13-15-3 IC 8-23-2-17 IC 14-11-4 IC 14-21-1-17	Agencies governing permitted activities may have individual standards governing procedures for noticing and conducting public hearings. As an example, statutes are provided which govern a few agencies.	There are numerous of pre-permit hearing mechanisms. These are typically administered through the division within an agency that issues the permits.	
Administrative Adjudication				
AOPA AGENCIES: The AOPA applies to IDEM, DNR, ISDH, and INDOT. IURC is exempted from AOPA and governed by a separate statute.	IC 4-21.5-2-4	The AOPA governs the review of permits, sanctions, and other orders issued by state agencies.	For IDEM reviews: Office of Environmental Adjudication 150 West Market Indianapolis, IN 46204 For DNR reviews: NRC Division of Hearings 402 W. Washington St., Rm. 272 Indianapolis, IN 46204 For other agencies:	

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			Contact the main office of the agency.	
GENERAL APPLICATION: The AOPA applies to any agency action and provides review from permitting and enforcement decisions of the agencies.	IC 4-21.5-1-4	The substantive law under review provides the standards and criteria. The nature of the review is hearing de novo.	See contacts listed immediately above.	
<p>PERMITTING: The AOPA governs the administrative review of permits, provides for public notification and participation during the permit and permit-renewal process, governs the conduct among parties involved in an AOPA proceeding, and creates minimum procedural rights and imposes minimum procedural duties.</p> <p>Permits and permit-renewals that might be of public interest require notice to: (1) the permit applicant); (2) each person to whom another law requires notice to be given; (3) each competitor for a mutually exclusive license; (4) each person who has provided the agency with a written request to be notified of the order, if the request describes the order with reasonable particularity and is delivered to the agency at least seven days before the order is to be issued; (5) each person who has a substantial and direct</p>	IC 4-21.5-1-11 IC 4-21.5-2-1 IC 4-21.5-3-4 IC 4-21.5-3-5	<p>AOPA applies broad noticing requirements and public participation procedures for agency permitting processes. Notice and participation requirements for permits identified in IC 4-21.5-3-4 are identified in the substantive statutes.</p> <p>The substantive law under review provides the standards and criteria. The burden of proving entitlement to a permit is placed on the applicant.</p>	See contacts listed above.	

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proprietary interest in the subject of the order; and, (6) each person needed for just adjudication.				
ENFORCEMENT: The AOPA governs the review of agency enforcement actions. In some instances, enforcement actions are effective only where the agency establishes the averments of a “complaint.” In other instances, the agency delivers the enforcement action directly to the recipient, and the recipient must seek request review of the sanction.	IC 4-21.5-3-6 and 8	The substantive law under review provides the standards and criteria. The burden of proving the sanction is placed upon the agency.	See contacts listed above.	
EMERGENCY AND TEMPORARY ORDERS: The AOPA governs emergency and temporary orders established by an agency. AOPA emergency and temporary orders may be used where an emergency exists or a statute authorizes its use. An order cannot be effective for more than 90 days unless extended in the context of a full proceeding on the merits.	IC 4-21.5-4	The substantive law under review provides the standards and criteria. The burden of proving an emergency order is improper is placed on the person seeking to set the order aside.	See contacts listed above.	
PROCEDURES: The AOPA outlines a review process including procedures for preparing for and conducting a hearing. Specific procedures to be used for noticing interested parties and procedures used during pre-hearings and hearings are outlined in the statute. The statutory procedures have been supplemented by	IC 4-21.5-1-15 IC 4-21.5-3-15 through 17 IC 4-21.5-3-25 IC 4-21.5-5 315 IAC 1 (OEA)	The substantive law under review provides the standards and criteria. The mechanisms for consideration of those standards and criteria are set forth in the AOPA (and agency rules to assist in the administration of the AOPA).	See contacts listed above.	

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rule for actions before the Office of Environmental Adjudication and before the NRC Division of Hearings. Final orders following review pursuant to the AOPA are subject to judicial review by a circuit or superior court.	312 IAC 3-1 (NRC Hearings)			
ADMINISTRATIVE PRECEDENTS: Each agency is required by AOPA to index and make all written final orders available to the public.	IC 4-21.5-3-27 IC 4-21.5-3-32	Final orders for decisions issued after 1987 are to be indexed by name and subject. Only final orders properly indexed and made available to the public may be relied upon by the agency as precedents. OEA and NRC Hearings are also required to specifically address, in any final decision, the precedents cited by parties as being applicable to a case.	See contacts listed above.	
IURC: The IURC serves as an impartial fact-finding body for all controversial proceedings within its jurisdiction. The Utility Consumer Counselor may appear for ratepayers, consumers, and the public in these proceedings. Based upon the evidence received during the hearing process, an administrative law judge makes recommendations to the IURC for final disposition. Decisions of the IURC are subject to review by the Court of Appeals of Indiana.	IC 8-1-1 IC 8-1-1.5 170 IAC 1	The substantive law under review provides the standards and criteria. The mechanisms for review are set forth in IC 8-1 and supplemented by rule at 170 IAC 1.	Utility Regulatory Commission 302 W. Washington St., Rm. E306 Indianapolis, IN 46204 Office of Utility Consumer Counselor 100 North Senate Ave., Rm. 501 Indianapolis, IN 46204	

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Informal Dispute Resolution				
CIVIL: For civil actions the Indiana Supreme Court recognizes several alternative dispute resolution methods.	Alternative Dispute Resolution Rules 1.1, 2, and 3	A variety of methods are recognized and standards and procedures are set for many of the methods including mediation and arbitration.	Indiana Supreme Court 313 State House Indianapolis, IN 46204	
ADMINISTRATIVE: The ultimate authority of an agency is authorized to approve mediation as a means for dispute resolution of AOPA proceedings within the agency's jurisdiction.	Ind. P.L. 16-1996 IC 4-21.5-3.5	Standards and procedures are set by statute and an agency may adopt rules to help implement mediation in the administrative context.	See addresses for OEA and NRC Hearings above (or the main office of another agency)	
Rules				
APPLICATION: A rule is a state agency statement, designed to have the effect of law, that implements, interprets, or prescribes either a law or policy or the organization, procedure, or practice requirements of the agency	IC 4-22-2-3	The process of formulating or adopting a rule must comply with IC 4-22-2. An agency action subject to administrative adjudication is excluded from rule making.	The agency authorized by statute to adopt rules to for its administration.	
DRAFTING: Public participation is solicited in rulemaking actions.	IC 4-22-2	(1) An agency must publish a public notice of intent in the INDIANA REGISTER at least 30 days before publishing a proposed rule, and solicit comments. (2) The proposed rule must be published in the INDIANA REGISTER. Additional public notice opportunities may be established by other statutes.	See immediately above.	

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PUBLIC REVIEW: Opportunities are provided for public comment during the rulemaking process.	IC 4-22-2-23(d) IC 4-22-2-24 IC 4-22-2-26 IC 4-22-2-27	(1) When a proposed rule is published in the INDIANA REGISTER it must be accompanied by at least one public hearing. (2) The agency must allow any person attending the hearing an adequate opportunity to comment on the proposed rule. (3) The agency must prepare a written response that contains summary of the comments received during the rulemaking process. (4) The Indiana Economic Development Council may review and comment on any proposed rule and suggest alternatives to reduce the regulatory burden the proposed rule will impose on businesses. (5) The Legislative Services Agency must prepare a fiscal analysis concerning the effect compliance with the proposed rule will have on the State and the entities to be regulated by the rule.	See immediately above. Indiana Economic Development Council, Inc. One North Capitol Avenue Indianapolis, IN 46204	
FINAL ADOPTION: After the public review process, an agency may adopt a rule.	IC 4-22-2-22 IC 4-22-2-31 IC 4-22-2-32 IC 4-22-2-34 through	A rule adopted by an agency is submitted to the Attorney General for approval as to legality. The Attorney General	Indiana Attorney General 219 State House Indianapolis, IN 46204	

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	36	has 45 days to complete the review process. The rule is forwarded to the Governor for review. The review period is 15 days. When the rule is approved, or the review period lapses without action, the rule is filed with the Secretary of State. After 30 days, the rule is effective.	Governor of Indiana 206 State House Indianapolis, IN 46204	
EMERGENCY OR TEMPORARY RULES: Several agencies have authority to adopt emergency rules.	IC 4-22-2-37.1	An emergency rule is generally effective when filed by the agency with the Secretary of State. Emergency rules are typically only effective for 90 days.	See immediately above.	
Nonrule Policy Documents				
NONRULE POLICY DOCUMENTS: Written statements developed by agencies, not formulated and adopted as a rule, are submitted for publication in the INDIANA REGISTER.	IC 4-22-7-7(a)	There are two categories of nonrule policy documents. (1) A statement that (A) interprets, supplements, or implements a statute or rule; (B) has not been adopted as a rule; (C) is not intended by the agency to have the effect of law; and, (D) may be used in conducting the agency's external affairs. (2) A statement specifying a policy the	The agency adopting the nonrule policy document	

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		agency relies upon to: (A) enforce a statute or rule; (B) conduct an audit or investigation to determine compliance with a statute or rule; (c) impose a sanction for violation of a statute or rule. Included within these categories are information bulletins and other agency guidelines. Each agency that adopts a nonrule policy document is required to maintain a list of those used for its external affairs.		
Ordinances				
ADOPTION AND IMPLEMENTATION OF LOCAL ORDINANCES: Local ordinances are governed by the “home rule” statutes. Counties, municipalities, and townships are granted all the powers they need for the effective governing of local affairs.	IC 36-1	(1) Local governments do not have the power to regulate conduct that is regulated by a state agency unless granted by statute. (2) Joint state and local regulation may be structured by state law. (3) When a state law and a local ordinance govern the same activity, the ordinance yields to state law.	The local unit of government adopting the ordinance.	
Public Access to Agency Records and Meetings				
AGENCY RECORDS: All persons are entitled to complete information regarding the affairs of the government	IC 5-14-3	Generally, a person may inspect and copy the public records of any public agency during the	The state agency in possession of the public record	

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and the official acts of those who represent them as public officials.		regular business hours of the agency. The burden of proof for the nondisclosure of public records is placed on the agency that denies access to the record. Limited discretion to protect some internally generated documents is provided to the agency.		
AGENCY MEETINGS: The “Open Door Law” governs public access to agency meetings.	IC 5-14-1.5	Official actions of public agencies must be conducted openly unless expressly provided by statute. Members of the public are permitted to observe and record the meetings. Secret ballot votes are prohibited. Public notice of any meeting must be provided at least 48 hours in advance.	The state agency conducting the meeting	
Other Environmental Review Procedures				
IEPA: The State is directed to improve and coordinate state plans, functions, programs, and resources.	IC 13-12-4	All state agencies must: (1) “Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making that may have an impact on the environment.” (2) “Identify and	The state agency administering a program	

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		develop methods and procedures that will ensure that unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations.” (3) Include in every recommendation or report on proposals for legislation and other major state actions significantly affecting the quality of the human environment a detailed statement of (A) the environmental impact of the proposal; (B) any adverse impacts that cannot be avoided if the proposal is implemented; (C) alternatives to the proposed action; (D) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and, (D) any irrevocable and irretrievable commitments of resources that would be involved if the proposed action should be implemented. (4) Articulate appropriate alternatives to		

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		recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. (5) Recognize the long-range character of environmental problems and, where consistent with state policy, “lend appropriate support to initiatives, resolutions, and programs designed to maximize state cooperation in anticipating and preventing a decline in the quality of the environment.” (6) “Make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment.” (7) “Initiate and use ecological information in the planning and development of resource oriented projects.”		
ENVIRONMENTAL CITIZEN SUIT ACT: A person may seek relief in the name of the State of Indiana against anyone to protect the environment from significant pollution, impairment, or destruction.	IC 13-30-1	The claimant must provide notice of intent to IDEM, DNR, and the Attorney General. The action may be pursued within 90 days if an agency does not take up the issue.	IDEM 100 North Senate Ave., Rm. N1301 Indianapolis, IN 46204 DNR	

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*Federal consistency is sought for substantive laws. Because this section is directed to procedural rather than substantive laws, reference is not made here to federal consistency. A substantive law being applied or considered in the context of these procedures may, however, warrant application of principles of federal consistency