



**REQUEST TO DELEGATE AUTHORITY
FOR ADMINISTRATIVE REVIEW QUALIFICATION DETERMINATIONS**

Request

The IDHS Office of General Counsel requests the Fire Prevention and Building Safety Commission (Commission) delegate authority to staff to make determinations concerning whether petitions for administrative review submitted under Ind. Code § 4-21.5-3-7 qualify for review.

Current Process

Currently, staff is authorized to issue determinations granting administrative review. However, for petitions that are found to not qualify for review under Ind. Code § 4-21.5-3-7, staff must notify the petitioner that the matter is being placed on the Commission's agenda for a determination. The matter then is considered by the Commission at its next meeting for a determination whether the matter should be set for an administrative review hearing before an administrative law judge.

Why Delegation is Necessary and Appropriate

This request is necessary and appropriate for the following reasons:

1. IDHS staff supports numerous boards and commissions who process requests for administrative review. All other boards and commissions supported by the IDHS have delegated the authority to both grant and deny requests for administrative review. Utilizing two different approaches to process requests for administrative review creates confusion and inefficiencies for staff.
2. By authorizing staff to make the determinations, decisions can be made more timely and will not be delayed until the next monthly meeting of the Commission. The ability to make quicker decisions is important as it permits proceedings to be heard by a third party neutral sooner. In many instances, delays in this process can create significant impact on the parties. Additionally, by delegating this authority to staff, this does not remove the Commission from the process. The determination to deny a request for review itself is an appealable order and if a party wishes to dispute that determination, the matter then can be set for review before an administrative law judge and ultimately the Commission.
3. Determinations on whether a petition for review qualifies for review under Ind. Code 4-21.5-3-7 are procedural in nature and generally are clear whether review should be granted. Staff review will be limited to whether the matter is an order within the Commission's jurisdiction, whether it was filed within the appropriate time period, and whether the petitioner has standing.