

**From:** [Shultz, Nikki](#)  
**To:** [Poon, DeAnna](#)  
**Subject:** Procedural Rule Written Comments  
**Date:** Thursday, February 20, 2020 2:52:48 PM

---

**\*\*\*\* This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*\***

---

Dear Ms. Poon:

I understand that under Ind. Code. §4-22-2-22.5(d)(5), changes from the Proposed Rule to the Final Rule must be a “logical outgrowth” of the Proposed Rule, supported by written comments. Historically, the Indiana Office of the Attorney General, which approves rules for form and legality, has interpreted “logical outgrowth” to mean any changes must be verbatim from the comments. Per your request, I am submitting the proposed language below for your consideration. Language proposed to be added to the Proposed Rule is in **bold** and language proposed for removal is in ~~strike through~~. As always, please do not hesitate to let me know if you have questions or if it would be helpful to further discuss. Best regards, -Nikki Shultz

170 IAC 1-1.1-3(c) through (f)

~~(c) If technological problems occur in the commission’s system~~ **When filing through the electronic filing system is prevented by technical problems, the filer shall do the following:**

**(1) Bring the circumstances to the attention of the presiding officers and:**

**(A) file as outlined in subdivision (2) if the filer can still file timely; or**

**(B) request relief within one (1) business day to extend the time within which to file.**

**(2) File a the communication, paper, or pleading may be filed through the United States mail or in person as follows:**

~~(A)~~ Filings made by mail are considered filed on the date received by the commission. ~~All~~ Filings shall be addressed to the secretary of the commission.

~~(B)~~ Filings made in person are considered filed on the date received by the commission. Unless authorized by a presiding officer, a filing may not be accepted outside of the regular business hours of the commission on the date due.

**(C) For confidential filed documents, filings shall follow the requirements in subsection 4(i).**

~~(d) When filing through the electronic filing system is prevented by technical problems caused by the commission’s system, the filer may bring the circumstances to the attention of the presiding officers and:~~

~~(1) file in person or by mail if the filer can still file timely; or~~

~~(2) request relief to enlarge the time within which to file.~~

~~Filings that are unable to be made through the electronic filing system must~~

(3) Include a declaration that the party was unable to file electronically in a timely manner due to technical problems.

~~(e) A party that makes a filing under subsections (c) or (d) must do the following:~~

~~(1) For non-confidential filed documents, email a copy to the assigned administrative law judge and commissioners concurrently.~~

~~(2) For confidential filed documents, deliver a copy by hand or overnight mail to the assigned administrative law judge only.~~

(fd) A presiding officer at a hearing may permit appropriate pleadings or other papers to be filed with the presiding officer at the hearing.

(ge) Unless otherwise provided by this rule, the petitioner or other party shall file pleadings through the electronic filing system. A presiding officer or the commission may require that hard copies be provided as well.

(1) Hard copy filing is permitted when electronic filing is not possible due to:

(i) technical problems;

(ii) files that are too large to upload to the electronic filing system; or

(iii) an exhibit that exists only in physical form and cannot be changed to an electronic format.

(2) Filings other than:

(i) territorial maps;

(ii) engineering drawings;

(iii) accounting schedules;

(iv) certain oversize filings approved by the presiding officers; or

(v) other visual aids

shall be formatted for eight and one-half (8½) inch by eleven (11) inch paper unless otherwise authorized by the presiding officer.

(3) Filings made by hard copy shall be unbound and printed on only one (1) side of the page. Additional copies shall be stapled or permanently bound and printed on both sides of the page.

(hf) Time periods within which to make filings with the commission are given in calendar days unless otherwise stated. In computing a period of time prescribed or allowed by this rule, by order of the commission or the presiding officer, or by an applicable statute that does not contain a provision regarding computation of time, the day of the act, event, or default from which the designated period of time begins to run shall not be included.

(1) The last day of the period so computed is to be included unless it is a:

(A) Saturday;

(B) Sunday;

(C) legal holiday as defined by state statute; or

(D) day that the office in which the act is to be done is closed during regular business hours.

(2) The period runs until the end of the next day that is not a:

(A) Saturday;

(B) Sunday;

(C) legal holiday as defined by state statute; or

(D) day on which the commission is closed during regular business hours.

(3) Saturdays, Sundays, legal holidays as defined by state statute, and days on which the commission office is closed during regular business hours shall be excluded from the computations when the period of time allowed is less than seven (7) days.

**Nikki Gray Shultz**

**Bose McKinney & Evans LLP**

111 Monument Circle | Suite 2700 | Indianapolis, Indiana 46204

[NShultz@boselaw.com](mailto:NShultz@boselaw.com) | P 317-684-5242 | F 317-223-0242

Assistant Contact | *Lisa A. Bood* | [LBood@boselaw.com](mailto:LBood@boselaw.com) | P 317-684-5176 | F 317-223-0176

*Bose McKinney & Evans LLP is a member of [Mackrell International](#), a network of independent law firms from more than sixty countries and thirty states.*

This message and any attachments may contain legally privileged or confidential information, and are intended only for the individual or entity identified above as the addressee. If you are not the addressee, or if this message has been addressed to you in error, you are not authorized to read, copy, or distribute this message and any attachments, and we ask that you please delete this message and attachments (including all copies) and notify the sender. Delivery of this message and any attachments to any person other than the intended recipient(s) is not intended in any way to waive confidentiality or a privilege. All personal messages express views only of the individual sender, and may not be copied or distributed without this statement.