The “User’s Guide to the -IR- Database” is intended for use by users of the -IR- Database and agency personnel involved in the rulemaking process in order to answer frequently asked questions about the Register site and to provide up-to-date explanations of the various procedures used in the rulemaking process. The “User’s Guide” is intended as a source of information only and will be updated periodically on an “as-needed” basis.
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I. INTRODUCTION

The Legislative Services Agency (LSA) is the official publisher of the Indiana Register (IR) and the Indiana Administrative Code (IAC) under the direction of the Legislative Council.
II. BRIEF HISTORY OF RULEMAKING IN INDIANA

ESTABLISHMENT OF UNIFORM RULEMAKING PROCEDURES

Prior to 1943, uniform rulemaking procedures were nonexistent. Early statutes conferring rulemaking power on state agencies were occasionally designed to ensure public access to rules, but little else. The earliest of these statutes, the 1881 Health Board Act (Acts 1881, Chapter 19), merely required that rules be “promulgated”. Other statutes, such as the law creating the Livestock Commission (Acts 1889, Chapter 212) and the Labor Commission (Acts 1897, Chapter 88), required availability for inspection and, with some exceptions, printing of rules. The most comprehensive of the early efforts applied to the Railroad Commission and its successor, the Public Service Commission. Acts 1905, Chapter 53, required the Railroad Commission to furnish each railway company with copies of rules twenty days before they were to take effect. Rights to notice, hearing, and public participation were added in 1913 (Acts 1913, Chapter 76) when the railroads and other utilities were brought under the control of the Public Service Commission. Rules promulgated in conformity with these statutes were to be admissible as evidence in Indiana courts. However, these statutes were not generally used as models for other rulemaking legislation.1

In this early period, Indiana courts were more concerned with the substance of rules than the procedures for their adoption. See, Fertich v. Michener (1887), 111 Ind. 472, 11 N.E. 605. Procedural matters concerning rulemaking and administrative adjudication were thought to be discretionary, depending upon the exigencies of the situation in which an administrative agency might find itself. It was thought that because the legislature could make rules without special public hearings beyond those constitutionally required for the conduct of legislative business, agencies could, too. See, Vandalia Railroad v. Public Service Commission of Indiana (1916), 242 U.S. 255, 61 L.Ed. 276. As late as 1938, the courts were still holding that administrative rulemaking was merely part of the administrative duties of an agency, and no additional procedural safeguards were necessary beyond those in the existing statutes. See, Financial Aid Corporation v. Wallace (1939), 216 Ind. 114, 23 N.E. 472. In 1943, the Indiana General Assembly took its first step toward establishing uniform rulemaking procedures. Acts 1943, Chapter 213 (“1943 Act”) required that all rules adopted after November 3, 1943, be approved and filed prior to becoming effective. Rules were to be approved by the Attorney General and the Governor and filed with the Secretary of State and the Legislative Bureau. When promulgated in conformity with these procedures, the rule was to be admissible as evidence in any court proceeding after certification by the Secretary of State.

Soon after the passage of the 1943 Act, Governor Gates and Attorney General Emmert authorized a study commission within the Attorney General’s office to examine the entire field of administrative law. Comprehensive revision was found impossible to implement before the 1945 session of the Indiana General Assembly, so the study commission concentrated on administrative rulemaking. Revision of the administrative adjudication process was left to the 1947 session.

In the 1945 session, the Indiana General Assembly enacted Acts 1945, Chapter 120 (“1945 Act”). The 1945 Act reenacted the 1943 Act’s provisions concerning approval and filing and enacted additional uniform procedures similar to those in an early draft of the Model Administrative Procedures Act adopted by the National Commission on Uniform State Laws in 1946. Subsequently, the 1945 Act was codified as IC 4-22-2 and, with significant amendments and additions made in 1985, continues in force today.

The State’s initial effort to publish an official codification of rules was authorized by the 1945 Act. The 1945 Act required the Secretary of State to compile, index, and publish all rules in effect on January 1, 1946. This initial code was to be supplemented each year by a cumulative pocket-part supplement.
The Secretary of State published Indiana’s first official codification of rules on January 1, 1947, under the title *Indiana Rules and Regulations*. In each subsequent year through 1979, that office published a noncumulative supplement under the title *Additions and Revisions to Rules and Regulations*. Ordinarily, rules filed with the Secretary of State in a particular calendar year were published in the following year’s supplement in an uncodified form. In a few cases, lengthy rules were not published at all. Except in 1947, rules were neither indexed nor codified. The Secretary of State published the last noncumulative supplement in 1979. This volume contained rules filed with that office from January 1, 1978, through May 15, 1978.

Between 1977 and 1981, the Indiana General Assembly enacted a series of amendments to IC 4-22-2 that established a new method of publication for state rules. Rules filed with the Secretary of State, proposed rules, emergency rules, and selected other documents, such as official opinions of the Attorney General and executive orders of the Governor, were to be published by the Legislative Council in the *Indiana Register*. In addition, the Legislative Council was to annually compile, computerize, index, and publish Indiana’s rules in an edition of the *Indiana Administrative Code* or a cumulative supplement to the *Indiana Administrative Code*. The Legislative Council began publication of the *Indiana Register* on July 1, 1978, and continued to publish it on a monthly basis through the July 1, 2006, *Indiana Register*. The *Indiana Register* is now published on the Internet only and on a more frequent basis. The Legislative Council published the first *Indiana Administrative Code* in 1979 and supplemented it through 1983 with a soft-bound cumulative supplement.

The 1979 edition of the *Indiana Administrative Code* codified all agency rules in effect on December 31, 1978. With the assistance of the Code Revision Commission, chaired by Senator Leslie Duvall, the Legislative Council compared all rules filed with the Secretary of State after January 1, 1946, against the text of the 1947 Edition of *Indiana Rules and Regulations* to identify all rules in effect. These rules were arranged and numbered in code format and submitted to the agencies having jurisdiction over them for certification. Certified rules were then compiled in the 1979 Edition. IC 4-22-9-3(c) provides that rules “filed with the secretary of state before December 2, 1978, and not compiled in the 1979 edition of the Indiana Administrative Code are void”.

The 1984 edition was the first recompilation of the *Indiana Administrative Code*. It replaced the 1979 edition of the *Indiana Administrative Code* and its 1983 cumulative supplement.

The 1988 edition was the second recompilation of the *Indiana Administrative Code* and replaced the 1984 edition of the *Indiana Administrative Code* and its 1987 cumulative supplement.

The 1992 edition was the third recompilation of the *Indiana Administrative Code* and replaced the 1988 edition of the *Indiana Administrative Code* and its 1991 cumulative supplement.

The 1996 edition was the fourth recompilation of the *Indiana Administrative Code* and replaced the 1992 edition of the *Indiana Administrative Code* and its 1995 cumulative supplement.

The 2001 edition was the fifth recompilation of the *Indiana Administrative Code* and replaced the 1996 edition of the *Indiana Administrative Code* and its 2000 cumulative supplement.

The 2003 edition, published in CD-ROM format, was the sixth recompilation of the *Indiana Administrative Code* and replaced the 2001 edition and its 2002 supplement.

The 2004 edition was the seventh recompilation of the *Indiana Administrative Code* and replaced the 2003 edition.

The 2005 edition, published in CD-ROM format, was the eighth recompilation of the *Indiana Administrative Code* and replaced the 2004 edition.

The 2006 edition, on the Indiana General Assembly’s Website, was the ninth recompilation of the *Indiana Administrative Code* and replaced the 2005 edition.

The 2007 edition, on the Indiana General Assembly’s Website, was the tenth recompilation of the *Indiana Administrative Code* and replaced the 2006 edition.
The 2008 edition, on the Indiana General Assembly’s Website, was the eleventh recompilation of the *Indiana Administrative Code* and replaced the 2007 edition.

The 2009 edition, on the Indiana General Assembly’s Website, was the twelfth recompilation of the *Indiana Administrative Code* and replaced the 2008 edition.

The 2010 edition, on the Indiana General Assembly’s Website, was the thirteenth recompilation of the *Indiana Administrative Code* and replaced the 2009 edition.


The 2012 edition, on the Indiana General Assembly’s Website, was the fifteenth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2011, and replaced the 2011 edition.


The 2014 edition, on the Indiana General Assembly’s Website, was the seventeenth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2013, and replaced the 2013 edition.


Since the posting of the 2015 edition, the *Indiana Administrative Code* has been updated in the “Latest Update” edition on the Indiana General Assembly’s Website as final rules have become effective.

The *Indiana Administrative Code* is the only available publication containing all of Indiana’s current rules. At various times, a private publisher, The Bobbs-Merrill Company, Inc., supplemented the Secretary of State’s efforts with an unofficial compilation of rules. In 1941, Professor Frank E. Horack, Jr. of the Indiana University School of Law made an exhaustive search of state office files and collected the rules he found into a loose-leaf publication under the title *Indiana Administrative Code*. It was supplemented until 1947 and discontinued. In 1967, at the suggestion of the Secretary of State and with his cooperation, Bobbs-Merrill resumed publication of rules under the titles *Burns’ Indiana Administrative Rules and Regulations, Annotated* and *Burns’ Indiana Administrative Rules and Regulations, Code Edition*. This publication was discontinued in 1978.

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A detailed review of Indiana’s experience with administrative rulemaking prior to 1962 is contained in an article published in the Indiana Law Review by P. Allan Dionisopoulos entitled “Procedural Safeguards in Administrative Rule Making in Indiana” (37 Ind. L.J. 423 (1962)). Professor Dionisopoulos’s article was especially helpful in the preparation of this brief history of Indiana rulemaking.
III. USER’S GUIDE TO THE INDIANA ADMINISTRATIVE CODE

A. GENERAL INFORMATION

1. OFFICIAL PUBLICATION STATUS: The Indiana Administrative Code is an official publication. IC 4-22-9-3(b) provides that publication in the Indiana Administrative Code “shall be considered prima facie evidence that the rule was adopted in conformity with IC 4-22-2 and that the text published is the text adopted”.

2. PUBLICATION ARRANGEMENTS: Arrangements for publication of the Indiana Administrative Code were made by the Indiana Legislative Council under IC 4-22-8-11. In making its decisions, the Council relied heavily on the recommendations of the Indiana Code Revision Commission, an advisory body. The Indiana Administrative Code posted on the Indiana General Assembly’s Website includes the text of all unrepealed and unexpired permanent rules that have not been voided by legislative action. Beginning July 2006, the Indiana Administrative Code has been updated weekly as final rules, code emergency rules, and agency corrections have become effective.

3. PUBLICATIONS REPLACED BY THE INDIANA ADMINISTRATIVE CODE POSTED ON THE INDIANA GENERAL ASSEMBLY’S WEBSITE: The 2015 edition of the Indiana Administrative Code is obsolete. Unrepealed, unexpired, and unamended rule text appearing in the 2015 edition of the Indiana Administrative Code has been republished in the “Latest Update” edition of the Indiana Administrative Code posted on the Indiana General Assembly’s Website. To this body of text has been added the latest version of added or amended rule text as final rules, code emergency rules, and agency corrections have become effective. The 2015 edition of the Indiana Administrative Code and all previous publications of the Indiana Register are now of historical interest only.

4. SUPPLEMENTATION: The Indiana Administrative Code is updated by the Indiana Register.

B. EDITORIAL POLICY

1. OFFICIAL RULE TEXT: Rule text is published in the Indiana Administrative Code as adopted, without any intentional deviations. Nonsubstantive style matters, such as the scheme of numbering and capitalization used in some provisions, have been changed to bring them into conformity with the style of the Indiana Administrative Code. Other matters have been referred to the issuing agency for remedial action.

2. ANNOTATIONS: As an aid to the reader, the Indiana Administrative Code contains a series of annotations that are not part of the official text of any adopted rule (see explanation of annotations in Sections III(D) and III(E) of this User’s Guide). IC 4-22-9-4 provides that they “are not part of the official text of any rule, are not intended to affect the meaning, application, or construction of any rule, and may be altered at any time by the Publisher of the Indiana Register or Indiana Administrative Code”.

3. UNPUBLISHED RULE TEXT: The Indiana Administrative Code does not contain the text of noncode temporary rules. Neither does it contain material that is incorporated by reference into a permanent rule. Nonpermanent rules are published only in the Indiana Register. The text of material incorporated by reference is not published in the Indiana Register. However, the Indiana Register contains a notation following the published version of each rule document indicating whether the
full text of incorporated matter is available in the Office of the Secretary of State or, for documents filed after June 30, 2006, the office of the Publisher.

4. **NONCODE RULES:** Noncode rules are not included in the *Indiana Administrative Code* and are not considered part of the general and permanent rule text. If a rule document has general application, but is not permanent by statute, it is considered “temporary” and may be drafted as a noncode rule. Temporary, noncode rules generally include provisions that contain a specific termination date that is not more than five years after the effective date, provide for transitional or implementary matters as an emergency provision to a permanent rule, or terminate by implication when their purpose is fulfilled or ceases to exist. Noncode rules are published only in the *Indiana Register*.

5. **DELETION OF NONCURRENT RULE TEXT:** After rule text is included in the *Indiana Administrative Code*, it is retained until expressly repealed by the action of the issuing agency or voided by the Indiana General Assembly or until it expires under IC 4-22-2.5 or IC 13-14-9.5, which states that an administrative rule adopted under IC 4-22-2 or IC 13-14-9, respectively, expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. When rule text is amended, the later version replaces the text of the former version.

6. **COPYRIGHT:** The -IR- database contains certain materials that are copyrighted by Thomson West under United States law. The section headings and authority and affected lines may not be copied, reproduced, or reprinted without the permission of Thomson West, except as provided under U.S. Copyright law. To obtain permission to copy, reproduce, or reprint copyrighted material described above, contact Thomson West at 610 Opperman Drive, Eagan, Minnesota 55123. Beginning in 2002, with Volume 25 of the *Indiana Register*, the section headings and authority and affected lines for new and amended sections are prepared by the state agencies and reviewed by the Publisher and are not subject to a copyright by Thomson West.

**C. ORGANIZATIONAL SCHEME**

1. **ARRANGEMENT:** The *Indiana Administrative Code* contains over 150 groupings of rules called “titles”. Each title contains the rules of one agency. For the purpose of making rules, an “agency” is a governmental body that is given separate authority to issue rules, even if the body is administratively organized as part of another body. Titles are organized into successively smaller units by subject matter. Rule text in a title is arranged into one or more “articles”, rule text within each article is arranged into one or more “rules”, and rule text in each rule is arranged into one or more “sections”. Regardless of when they are issued, related subject matters are grouped together.

2. **CITATIONS:** Citations to the *Indiana Administrative Code* involve the use of a four-part number for each section. The four parts, separated by dashes, designate, in order, the title, article, rule, and section in which the rule text is arranged.

3. **DESIGNATIONS:** The divisions within a section, usually referred to as “designations”, are not part of an *Indiana Administrative Code* citation. The drafting style developed by the Legislative Council allows paragraphs in a section to be grouped and designated as “subsections”. Phrases within a paragraph are vertically listed and designated into successively subordinate units called “subdivisions”, “clauses”, “items”, and “subitems”. A series of tables, pieces of artwork, exhibits,
footnotes, equations, or formulas within a paragraph are consecutively designated as a separate series in each section. However, particularly in text issued on or before December 1, 1978, the publishing deadline for the 1979 edition, other designation schemes may be used within a section.

4. ASSIGNMENT OF CITATIONS AND DESIGNATIONS: Initially, the agency issuing a rule assigns its Indiana Administrative Code citations and designations. Before it is published in the Indiana Register, the Publisher reviews the numbering scheme and reassigns Indiana Administrative Code citation numbers and designations, as necessary, to bring the text into conformity with the style developed by the Legislative Council. Once assigned, an Indiana Administrative Code citation number is permanently associated with the same subject matter. Designations, on the other hand, may change as needed to maintain consecutive series. All amendments to a section are assigned the same Indiana Administrative Code citation. Provisions that supplement the subject of an article or rule are assigned to the same article or rule. When text expires, is voided, or is repealed from the Indiana Administrative Code, its associated citation is retired. Except when rule text is saved and transferred by the Indiana General Assembly, rule text may be renumbered only by expressly repealing it by Indiana Administrative Code citation and readopting it under a different Indiana Administrative Code citation.

5. DECIMAL CITATIONS: When a citation is originally assigned to an added title, article, or rule, only whole numbers are used. As provisions are added to the title, article, or rule by subsequent action, decimal numbers are sometimes used to locate rule text near a previously added provision. For example, Article 9.5 will follow Article 9 and precede Article 10. As an aid to the user, the notation “(Reserved)” has been inserted wherever a whole number citation is unused in a series of whole numbers. However, the notation is not inserted for unused decimal citations.

6. RENUMBERING TRANSFERRED RULES: The rules of an agency are transferred and renumbered as the rules of a successor agency only if the Indiana General Assembly expressly saves and transfers the rules by statute. Rules shown as transferred before August 12, 1987, but not expressly saved and transferred by statute, have been reinserted under their original Indiana Administrative Code citation numbers. Annotations have been inserted to document each renumbering action.

D. ANNOTATIONS: HEADINGS

1. TEXT HEADINGS: Prior to 2002, the rule text in each title, article, rule, and section is preceded by a heading prepared by Thomson West; beginning in 2002, with Volume 25 of the Indiana Register, the headings are prepared by the state agencies and reviewed by the Publisher. Each heading consists of a citation number component and a descriptive component. The citation number component reflects the Indiana Administrative Code citation number assigned by the Publisher to the text. The descriptive component in a title heading is the official name of the agency assigned by statute. The descriptive component in each of the other headings contains a brief subject matter description of the text in the article, rule, or section, as applicable.

2. PROMULGATED HEADINGS: Some rule text, particularly rule text issued before publication of the 1979 edition, contains adopted section headings and subsection headings in addition to the headings added by Thomson West. Beginning January 1, 1983, the Publisher’s policy has been to treat these headings as improperly formatted annotations and to eliminate all promulgated headings as text is added or amended. Under the authority in IC 4-22-8-4, the Publisher may reformat, renumber, or revise rule text before it is published in final form in the Indiana Register.
3. HEADINGS FOR DELETED RULE TEXT: When rule text is deleted from the Indiana Administrative Code, the heading preceding the text is retained with a note explaining the deletion. The following table summarizes the most common heading notes appearing in the Indiana Administrative Code:

<table>
<thead>
<tr>
<th>NOTE</th>
<th>EXPLANATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency Abolished</td>
<td>The Indiana General Assembly has terminated all of the authority of an agency to act and has not saved and transferred the rules of the agency to another agency.</td>
</tr>
<tr>
<td>Expired</td>
<td>Under IC 4-22-2.5 or IC 13-14-9.5, the rule has expired.</td>
</tr>
<tr>
<td>Reinstated</td>
<td>The Indiana General Assembly has reinstated previously repealed rules of an agency.</td>
</tr>
<tr>
<td>Repealed</td>
<td>The agency has expressly repealed the provision by rule.</td>
</tr>
<tr>
<td>Statutory Authority Repealed</td>
<td>The Indiana General Assembly has repealed the authorizing statute.</td>
</tr>
<tr>
<td>Transferred</td>
<td>The Indiana General Assembly has transferred jurisdiction over part or all of the powers and duties of an agency to another agency and has saved the related rules of the prior agency and transferred them to the successor agency related to the subject.</td>
</tr>
<tr>
<td>Voided</td>
<td>The Indiana General Assembly has expressly voided part or all of the rules of an agency.</td>
</tr>
</tbody>
</table>

E. ADDITIONAL SECTION ANNOTATIONS

1. STANDARD SECTION ANNOTATIONS: Each section containing text is accompanied by a section heading, authority and affected lines, a section designation, and a history line.

2. AUTHORITY AND AFFECTED LINES: Related Indiana statutory laws are cross-referenced in authority and affected lines preceding rule text. Citations that delegate rulemaking authority to an agency are arranged in the authority line. Other provisions that are cited within the text of the section or are otherwise closely related to the subject matter of the section are arranged in the affected line.
Changes to Authority and Affected Lines

When it is necessary to change an authority or affected line because of a recodification of an Indiana Code statute or a repeal of an Indiana Code cite, the Publisher will make the necessary changes when there is a clear disposition of the cite. When an authority or affected line cite is repealed in an Indiana Code recodification and there is no clear disposition of the cite, the agency may contact the Publisher with the replacement cites. The Publisher will then make the necessary changes. It is not necessary to amend an IAC section just to change the authority and affected lines, which are not official text and may be altered at any time by the Publisher. (IC 4-22-9-4)

Incorrect Indiana Code cites in the text of IAC sections may be corrected by an agency correction under IC 4-22-2-38(a)(2). NOTE: The Publisher routinely inserts editorial notes after incorrect cites but does not have the statutory authority to change them.

3. History Lines: The history line includes the name of the agency currently having jurisdiction to amend, repeal, or readopt the section; the citation number initially assigned to the section by the agency filing it with the Secretary of State before July 1, 2006, or, for documents filed after June 30, 2006, the Publisher; and filing and publication information for each action that either added, amended, or readopted text in the section. History line information is deleted from the Indiana Administrative Code when a section is repealed or expires under IC 4-22-2.5 or IC 13-14-9.5. The following table explains the history line citations used to summarize a section’s filing and publication history:

<table>
<thead>
<tr>
<th>Example</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>filed Jan 15, 2000, 10:40 a.m.</strong></td>
<td>Date and time a rule document was filed with the Secretary of State or, after June 30, 2006, the Publisher.</td>
</tr>
<tr>
<td><strong>Rules and Regs. 1971, p. 95</strong></td>
<td>Year of publication and page number on which an addition or amendment of the section was printed in the Secretary of State’s publication Indiana Rules and Regulations (1947) or Additions and Revisions to Rules and Regulations. (Applies to rules issued before May 16, 1978.)</td>
</tr>
<tr>
<td><strong>Unpublished</strong></td>
<td>Indicates that an addition or amendment affecting a section was not published in Indiana Rules and Regulations (1947) or Additions and Revisions to Rules and Regulations. (Applies to rules issued before May 16, 1978.)</td>
</tr>
<tr>
<td><strong>25 IR 1266</strong></td>
<td>Volume and page number on which an addition, amendment, agency correction, or readoption of the section was printed in an issue of the Indiana Register. (Applies to rules issued after May 15, 1978, through rules published in the July 1, 2006, Indiana Register.)</td>
</tr>
</tbody>
</table>
• **Document Identification Number**
   See an explanation of the Document Identification Number (DIN) in Section IV of the User’s Guide to the -IR- Database.

• **eff Jul 1, 2003**
   Appears only if a delayed effective date provision was contained in a rule document that added or amended the section. Always follows the reference to the publication in which the affected rule text was published. Statutory effective dates are not referenced.

• **emergency rule**
   Indicates that an addition or amendment affecting the section was issued under special rulemaking procedures that exempt it from part or all of the notice, public hearing, approval, or effective date provisions applying to most rules.

• **errata**
   Indicates an agency correction was filed under IC 4-22-2-38 with the Secretary of State or, after June 30, 2006, the Publisher or that a Publisher’s correction was published under IC 4-22-8-4.

• **readopted**
   Indicates a readoption document was filed with the Secretary of State or, after June 30, 2006, the Publisher.

• **adopted**
   Indicates an agency rulemaking not promulgated under IC 4-22-2.

4. **Publisher’s Notes:** Publisher’s notes may be inserted to expand upon the information contained in an authority or affected line or history line. One or more Publisher’s notes may follow or be included in a history line. However, Publisher’s notes never indicate whether a section is enforceable. Related statutory law and case law must be researched independently to ascertain the force and effect of a section.

5. **Bracketed Internal References and Other Bracketed Notes:** Bracketed internal references usually are inserted in rule text to translate or update obsolete and inaccurate internal references to Indiana statutes or rules. The Publisher routinely inserts bracketed internal references to indicate that the Publisher has renumbered a provision that is cross-referenced in a rule. The Publisher also routinely follows a reference to an Act of the Indiana General Assembly or to an Indiana Code citation that has been renumbered by the Indiana General Assembly with the appropriate current Indiana Code citation. The Publisher does not translate references to federal statutes, federal rules, or case decisions. Other bracketed notes may appear in the text. For example, if an obvious typographical, clerical, or spelling error appears in the adopted version of a rule, the error is retained in the text followed by the notation “[sic]”.

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IV. DOCUMENT IDENTIFICATION NUMBER (DIN)

After July 1, 2006, each document that has been posted on the Indiana Register Website (-IR- Database) has been assigned a unique DIN. The Publisher has created the DINs making consistent use of the following conventions:

This “typical DIN” 20060726-IR-317050065FRA describes:

• a final rule (FR)
• that was posted on the -IR- Database (-IR-) Website
• on July 26, 2006.

This final rule document:

• would add a new rule that amends Title 317 of the Indiana Administrative Code
• was assigned LSA Document #05-65 ( padded with zeroes 050065) (which means it was the sixty-fifth rule document brought to the Publisher by a state agency in 2005)

Since this was the first document posted with respect to this document number on the specified date, the DIN ends with:

• a wild card (A).

Each individual document that is posted on the -IR- Database Website is internally paginated and stored in a “PDF” format. This permits citation to the DIN and any specific page within the document that is being referenced.

The Indiana Supreme Court is considering whether any changes are necessary with respect to the Court's rules for citing documents published in the Indiana Register under its new format.

A. TYPICAL DIN

20060726-IR-317050065FRA

Breakdown of Components in the Above Example:

2006 Year of posting on the Internet
07 Month of posting on the Internet
26 Day of posting on the Internet
-IR- Indiana Register database
317 Entity identifier (either IAC Title number or a 3-letter designation) (A complete list of the 3-letter designations appears in Section IV(B) of the User’s Guide to the -IR- Database.)
050065 A six-digit LSA Document number, the first two digits referencing the
year the number was assigned followed by four digits that are assigned sequentially as documents are submitted to LSA for publishing throughout that calendar year. NOTE: Leading zeros are always included in the year and, when necessary, in the sequential number when referring to the “LSA Document #” in a DIN.

FR  Type of document (Final Rule in the above example) [NOTE: A complete list of the document types is printed below.]

A  Wild card. Most DINs will end in “A”. However, if a second (or subsequent) document with the identical LSA Document # and document type is posted on the -IR- Database Website on the same day as the first document, LSA would proceed through the alphabet to distinguish the second, third, etc., with the wild cards “B”, “C”, etc.

B. LIST OF LETTER-DESIGNATED ENTITIES IN A DIN

Letters, instead of numbers, are assigned when an entity, without rulemaking authority under IC 4-22-2 or IC 13-14-9, publishes a document under IC 4-22-7-7. For entities, or divisions of entities, with rulemaking authority publishing a document under IC 4-22-7-7, the title number for that entity or umbrella entity will be used instead of letter characters. For instance, the Indiana Recount Commission is a division of the Secretary of State (Title 75 IAC), so LSA would assign 075 for the Indiana Recount Commission. The list that follows consists of entities that have published an “Other Notice” or “Nonrule Policy Document” in the Indiana Register since October 1999. Entities that have an umbrella entity with an IAC title number are not listed below.

| ERC | Indiana Emergency Response Commission |
| GOV | Governor (Executive Orders) |
| IPA | Indiana Protection and Advocacy Services Commission |
| LRC | Indiana Lobby Registration Commission |
| LSA | Legislative Services Agency |
| SBC | Office of the State Building Commissioner |
| SRF | Drinking Water State Revolving Fund Loan Program |

C. LIST OF DOCUMENT TYPE SUFFIXES IN A DIN (ALPHABETICAL)

[36 types of documents have been identified]

<p>| AC | Agency Correction |
| AF | Publisher’s Receipt for Filed Document |
| AO | Attorney General’s Opinions |
| AR | AROC/IC 4-22-2-19 and IC 4-22-2-25 Notices |
| AT | Request for Additional Time (Governor) |
| BF | IDEM Final Readoption |
| BN | IDEM Notice of Readoption |
| BP | IDEM Proposed Readoption |
| CH | Change in Notice of Public Hearing |
| DA | Disapproval by Attorney General |</p>
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DG</td>
<td>Disapproval by Governor</td>
</tr>
<tr>
<td>EI</td>
<td>Economic Impact Statement</td>
</tr>
<tr>
<td>EO</td>
<td>Executive Orders</td>
</tr>
<tr>
<td>ER</td>
<td>Emergency Rule</td>
</tr>
<tr>
<td>FC</td>
<td>IDEM Continuation of First Notice</td>
</tr>
<tr>
<td>FD</td>
<td>IDEM Findings and Determinations</td>
</tr>
<tr>
<td>FI</td>
<td>IDEM Fiscal Impact Statement</td>
</tr>
<tr>
<td>FN</td>
<td>IDEM First Notice</td>
</tr>
<tr>
<td>FR</td>
<td>Final Rule</td>
</tr>
<tr>
<td>NA</td>
<td>Notice of Rule Adoption</td>
</tr>
<tr>
<td>ND</td>
<td>Rule Activity Notice</td>
</tr>
<tr>
<td>NI</td>
<td>Notice of Intent to Adopt a Rule</td>
</tr>
<tr>
<td>NR</td>
<td>Nonrule Policy Document</td>
</tr>
<tr>
<td>OA</td>
<td>Objection to Errata (Attorney General)</td>
</tr>
<tr>
<td>OG</td>
<td>Objection to Errata (Governor)</td>
</tr>
<tr>
<td>ON</td>
<td>Other Notice</td>
</tr>
<tr>
<td>PC</td>
<td>Publisher’s Correction</td>
</tr>
<tr>
<td>PH</td>
<td>Notice of Public Hearing</td>
</tr>
<tr>
<td>PR</td>
<td>Proposed Rule</td>
</tr>
<tr>
<td>RC</td>
<td>Notice of Recall</td>
</tr>
<tr>
<td>RF</td>
<td>Readopted Final Rule</td>
</tr>
<tr>
<td>RN</td>
<td>Notice of Intent to Readopt</td>
</tr>
<tr>
<td>RP</td>
<td>Readopt Proposed Rule</td>
</tr>
<tr>
<td>SC</td>
<td>IDEM Continuation of Second Notice</td>
</tr>
<tr>
<td>SN</td>
<td>IDEM Second Notice</td>
</tr>
<tr>
<td>WD</td>
<td>Notice of Withdrawal</td>
</tr>
</tbody>
</table>
V. RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The *Indiana Register* is an official 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 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*. 

———

— USER’S GUIDE TO THE -IR- DATABASE (1/28/15) —

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VI. ORGANIZATION OF SITE

The Indiana Administrative Code’s main page has a list of IAC titles in title number order. Clicking on a title number will open a page with links to the articles within that title. The IAC will be updated as final rules become effective and will be archived each calendar year.

The Indiana Register’s main page has links chronologically ordered with the most recently posted at the top of the page. The links are grouped as follows:

DAILY COLLECTIONS: Links for the current day and the previous six (6) days.

WEEKLY COLLECTIONS: Links for the current week and the previous three (3) weeks.

MONTHLY COLLECTIONS: Links for the current month and the previous eleven (11) months.

Each link has a counter indicating the number of documents in that subcollection. A zero (0) in the current day’s counter indicates only that no documents have been posted at the time of viewing. Documents are posted at 3:00 p.m. on Wednesdays. “Publisher’s Receipts for Filed Documents” and “Rule Activity Notices” are posted at 5:00 p.m. daily.

Clicking on one (1) of the chronological links will open a “Contents” page with links to the various types of documents posted on the -IR- Database Website.

The first link, “All Documents”, opens a page with links to all the documents, regardless of document type, that were posted during that particular time period. The documents are ordered by IAC Title number and by LSA Document number within each individual IAC Title.

Each document type link, below the “All Documents” link, has a counter indicating the number of documents that particular subcollection contains. The links are grouped as follows:

ALL DOCUMENTS
All documents posted during that time period in title number order.

NOTICES:
Recalls
Withdrawals
Rule Adoptions (Family and Social Services)
Notices of Public Hearing
Changes in Notices of Public Hearing
Notices of Intent to Adopt a Rule (and Readoptions)
IC 4-22-2-19 and IC 4-22-2-25 Notices
Indiana Department of Environmental Management Notices
   First Notices and Continuations
   Second Notices and Continuations
   Findings and Determinations
   Notices of Readoption
   Fiscal Impact
Other Notices

RULES:
Proposed Rules (and Readoptions)
A. ORDER OF DOCUMENT LISTINGS

Within each chronological listing is a list of document types. Within each document type, documents are listed by IAC Title number, and the documents of a specific Title are listed in chronological order of posting with the most recently posted documents appearing at the top of the list. When two or more documents are posted by the same agency on the same day, the documents are listed in LSA Document number order. When two or more documents with the same LSA Document number are posted on the same day, such as is the case with Proposed Rules, Economic Impact Statements, and Notices of Public Hearing, the documents are listed alphabetically by the suffix appearing in the Document Identification Number.

B. ARCHIVES

The Indiana Register is archived back to Volume 24, October 1, 2000, and will now be archived at the end of each calendar year.

The Indiana Administrative Code is archived back to the 2003 edition and will now be archived at the end of each calendar year.
VII. RELATED DOCUMENTS LINK

On all lists of documents, each document has, in addition to links to an HTML formatted version and a PDF formatted version, a “Related Documents” link. Clicking this “Related Documents” link gathers and displays the entire family of documents, of whatever types, associated with that particular LSA Document number. Only documents posted after July 1, 2006, will be gathered through the “Related Documents” link. Documents published in the *Indiana Register* before July 2, 2006, will not appear in this list.

The list of related documents generated will be in reverse chronological order with the most recently posted documents appearing at the top of the list. Within the same posting date, the documents are listed in alphabetical order by the document type suffix located in the Document Identification Number (DIN).

Typing an LSA Document in the "LSA Document #" search box on the front page of the Register site will also generate a list of "Related Documents".
VIII. JUDICIAL NOTICE AND CITATION FORM

(See also Parts 7-3 through 7-7 of the Administrative Rule Drafting Manual.)

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 document 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. 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 “shall be construed to include all amendments as of the date the reference is written, unless accompanied by a reference to a specific edition or supplement of the Indiana Administrative Code”.

The Indiana Supreme Court is considering whether any changes are necessary with respect to the Court's rules for citing documents posted on the -IR- Database Website.

AFFIDAVITS AND CERTIFICATES OF AUTHENTICITY

Accompanying each archived edition of the Indiana Administrative Code is a corresponding “Affidavit of Authenticity” (filed with the Secretary of State under IC 4-22-8-8 (before its repeal)) or a “Certificate of Authenticity” certifying that the text is correct and complete. A “Certificate of Authenticity” is also posted for the “Latest Update” edition of the IAC.

At the bottom of each Affidavit or Certificate is a link to the previous edition’s Affidavit or Certificate, as appropriate.
IX. PRINTING STYLE

This style type (bold) is used to indicate that substantive text is being inserted by amendment into a rule, and this style type (canceled) 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.

STYLE NOTES FOR AGENCY RULE WRITERS

Bold text must ALWAYS follow canceled text. For instance:

dog cat NOT cat dog

ADDITION OR DELETING PUNCTUATION

When amending text, it is NOT necessary to show punctuation as canceled when it follows a word that is not being canceled. In these cases, the punctuation may be deleted. For instance, do NOT show punctuation like this:

The following apply:“ in all cases:)” [The canceled punctuation should have just been deleted.]
The following apply in all cases:)” [The end punctuation should have been bold.]

This should read: The following apply in all cases:”

However, punctuation following canceled text must be shown as canceled:

The following apply: applies:

When adding punctuation after roman text (existing text), it is NOT necessary to show the punctuation as bold. Do NOT show punctuation like this:

The following apply: [The colon should NOT be bold]

This should read: The following apply:

Therefore:

• Punctuation may be added or deleted after ROMAN (existing) text without showing the punctuation as bold or canceled.
• Punctuation following canceled text must be shown as canceled.
• Punctuation following bold text must be shown as bold.
CHANGING THE CASE OF A WORD

It is NOT necessary to cancel a word and insert the word in bold in order to change the case of the word’s initial letter. A word may be made capitalized or lowercased by simply changing it.

Do NOT show the change like this: may May
Do NOT show the change like this: mMay

MAKING A WORD PLURAL OR SINGULAR

A word may NOT be made singular or plural by simply canceling the “s” or adding an “s” in bold. The entire word must be canceled and reinserted in bold.

Do NOT pluralize like this: dogs
Pluralize like this: dog dogs

Do NOT make a word singular like this: dogs
Make a word singular like this: dogs dog

CHANGING SECTION HEADINGS AND AUTHORITY AND AFFECTED LINES

(See Part 3-4 of the Administrative Rules Drafting Manual.)

__________________________________________________________
X. POSTING SCHEDULE

Other than "Publisher's Receipts for Filed Documents" and "Rule Activity Notices" (posted daily when necessary), the Legislative Services Agency (LSA) publishes documents on the Indiana General Assembly’s Website Wednesdays at 3:00 p.m. If no documents have been submitted to the Publisher for which the editorial review has been completed, the only document that will be posted is a “Rule Activity Notice” (see below).

At a future date, LSA may determine it advisable to post rule documents on a more frequent basis. In that event, LSA will provide appropriate notice to users of the -IR- Database Website.

A. PUBLISHER’S RECEIPTS FOR FILED DOCUMENTS

“Publisher’s Receipts for Filed Documents” are posted within three (3) business days of the delivery of Final Rules to the Publisher from the Governor’s Office and are posted on an “as filed” basis daily at 5:00 p.m. (IC 4-22-2-39(c))

In addition, a “Publisher’s Receipt for Filed Document” is posted when an Emergency Rule, Agency Correction, or Final Readoption is filed in the Register office.

NOTE TO STATE AGENCIES:

If you want to find out if a final rule has been filed in the Register office, search for the LSA Document number on the -IR- Database Website.

If the final rule has been received in the Register office, one of the search "hits" will be for a Publisher's Receipt (or "AF") document.

The Publisher's Receipt will also appear on "Related Documents" lists.

B. RULE ACTIVITY NOTICES

Each day at 5:00 p.m., if no other document has been posted on the -IR- Database Website that day, a “Rule Activity Notice” is generated and posted on the site in order to inform users that no documents have been or will be posted on that particular day.

C. OFFICE HOURS

Documents will be accepted for filing in the Indiana Register office (Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana) on any business day from 8:00 a.m. to 4:30 p.m. or, except for Final Rules, Emergency Rules, Final Readoptions, and Agency Corrections, by e-mail at register@iga.in.gov. CD-ROMs may also be sent by United States mail to:

Legislative Services Agency
200 West Washington Street
Suite 301
Indianapolis, IN 46204
Attn.: Becky Walker

NOTE: Documents are filed upon receipt in the Indiana Register office, not by the date a letter is
NOTE: Under IC 4-22-2-39(c), the Publisher has three (3) business days to file a Final Rule, Emergency Rule, Final Readoption, or Agency Correction. Because of various automated processes involved in the posting of documents on the -IR- Database Website, a Final Rule, Emergency Rule, Final Readoption, or Agency Correction received in the Register office after 4:00 p.m. may not be filed on the day it is received in the Register office.

D. REGISTER STAFF CONTACT INFORMATION

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NOTE TO STATE AGENCIES (PHONE NUMBERS):

To contact the Indiana Register staff (and other employees of the Legislative Services Agency), it is necessary to dial ALL SEVEN NUMBERS of the telephone number (NOT just the last five numbers like most other state agencies).

NOTE TO STATE AGENCIES (E-MAIL SUBMISSIONS):

The e-mail address for all electronic submissions to the Indiana Register for publishing on the -IR- Database Website is:

register@iga.in.gov

This is a “shared” mailbox that each Register staff member can access.
XI. DOCUMENTS PUBLISHED IN THE INDIANA REGISTER

**NOTE TO STATE AGENCIES:**

The e-mail address for all electronic submissions to the Indiana Register for publishing on the -IR- Database Website is:

register@iga.in.gov

This is a “shared” mailbox that each Register staff member can access.

• **IC 4-22-2-19 AND IC 4-22-2-25 NOTICES (FORMERLY "AROC NOTICES")**  
  (See also Memo from Office of Attorney General (May 16, 2014))  
  IC 4-22-2-19 (60-Day Notice)  
  IC 4-22-2-25 (One-Year Notice)  

IC 4-22-2-19 (60-day notice) and IC 4-22-2-25 (one-year notice) require an agency to provide an electronic copy of the notice to the Publisher.

• **NOTICES OF INTENT TO ADOPT A RULE**  
  (See also Part 4-1 of the Administrative Rules Drafting Manual.)  
  IC 4-22-2-23; IC 4-22-2-28.1

*(SEE NEXT PAGE FOR 2014 AMENDMENT TO IC 4-22-2-28.1(e))*)
NOTE: IC 4-22-2-28.1(e) was amended by P.L.187-2014 to read:

(e) For each rulemaking action and rule finally adopted as a result of a rulemaking action by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f):

(1) in the case of a proposed rule, the notice of intent to adopt the rule published under section 23 of this chapter; or
(2) in the case of a rule proposed by the department of environmental management or the board (as defined in IC 13-13-8-1), the notice published under IC 13-14-9-3 or the findings published under IC 13-14-9-8(b)(1), whichever applies; must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule, the name, address, telephone number, and electronic mail address of the small business ombudsman designated under IC 4-4-35-8, and a statement of the resources available to regulated entities through the small business ombudsman designated under IC 4-4-35-8. Subject to subsection (f), in the case of a rule finally adopted, the final rule, as published in the Indiana Register, must include the name, address, telephone number, and electronic mail address of the coordinator.

• PROPOSED RULES  (Example)
  (See also Part 4-2 of the Administrative Rules Drafting Manual.)
• ECONOMIC IMPACT STATEMENTS
  (Economic Impact Statement with requirements or costs)  (Example)
  (Economic Impact Statement with no requirements or costs)  (Example)

(SEE NEXT PAGE FOR 2010 AMENDMENT TO IC 4-22-2-28.1(d))
NOTE: P.L.110-2010, SECTION 3, amended the definition of "small business" in IC 4-22-2-28.1(d) to read:

(d) As used in this section, "small business" has the meaning set forth in IC 5-28-2-6.

IC 5-28-2-6 reads:

Sec. 6. For purposes of IC 5-28-17, "small business" means a business entity that satisfies the following requirements:
(1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
(2) The majority of the employees of the business entity work in Indiana.
As added by P.L.56-2009, SEC.1.

• NOTICES OF PUBLIC HEARINGS
  (With a justification of requirements and costs) (Example)
  (With no requirements or costs) (Example)
  (See also Part 4-3 of the Administrative Rules Drafting Manual.)
• CHANGES IN NOTICES OF PUBLIC HEARINGS (Example)
  (See also Part 4-5 of the Administrative Rules Drafting Manual.)
  IC 4-22-2-24; IC 4-22-2.1-5

NOTE: The four types of documents referenced above are posted as individual documents. Within each Proposed Rule, there are links to the respective “Economic Impact Statement” and “Notice of Public Hearing” for that Proposed Rule. Clicking on these links retrieves the list of “Related Documents”. If there have been any “Changes in Notice of Public Hearing”, they will appear on the list as well.

• DISAPPROVALS BY THE ATTORNEY GENERAL (Example)
  IC 4-22-2-32; IC 4-22-7-7

• DISAPPROVALS BY THE GOVERNOR (Example)
• REQUESTS FOR ADDITIONAL TIME (Example)
  IC 4-22-2-34; IC 4-22-7-7

• PUBLISHER’S RECEIPTS FOR FILED DOCUMENTS (Example)
  IC 4-22-2-35; IC 4-22-2-37.1; IC 4-22-2-38

• EMERGENCY RULES (Example)
  (See also Parts 3-5, 3-6, and 4-13 of the Administrative Rules Drafting Manual.)
  IC 4-22-2-37.1
  NOTE: To cite to a particular SECTION of a noncode temporary emergency rule:
SECTION X of LSA Document #11-XXX(E), posted at [DIN].

Click HERE to view and/or print a list of agencies with emergency rulemaking authority.

• **AGENCY CORRECTIONS**  (Example)
  (See also Parts 4-7 and 6-16 of the Administrative Rules Drafting Manual.)

```
EXAMPLE OF AN AGENCY CORRECTION
WHEN REDESIGNATING BLOCKS OF TEXT IS NECESSARY:

TITLE 444 SAFETY DIVISION

Agency Correction
LSA Document #10-_______ (AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in the Indiana Administrative Code:
(1) In 444 IAC 1-1-5, delete "felds" and insert "fields".
(2) In 444 IAC 1-1-10, after subsection (c), insert "(d) Power shall be supplied to the electric pump by a reliable source." and redesignate the remaining subsections accordingly.
```

• **OBJECTIONS TO ERRATA**  (No recent example available)
  IC 4-22-2-38

• **NOTICES OF RECALL**  (Example)
  (See also Part 4-8 of the Administrative Rules Drafting Manual.)
  IC 4-22-2-40

• **NOTICES OF WITHDRAWAL**  (Example)
  (See also Part 4-9 of the Administrative Rules Drafting Manual.)
  IC 4-22-2-41

• **NOTICES OF INTENT TO READOPT A RULE**  (Example)
• **PROPOSED READOPTIONS**  (No recent example available)
• **FINAL READOPTIONS**  (Example)
  (See also Part 4-10 of the Administrative Rules Drafting Manual.)
  IC 4-22-2.5

• **FINAL RULES**  (Example)
  (See also Part 4-6 of the Administrative Rules Drafting Manual.)
  IC 4-22-7-5

• **EXECUTIVE ORDERS**  (Example)
• **ATTORNEY GENERAL’S OPINIONS**  (Example)
• **OTHER NOTICES**  (Example)
• **NONRULE POLICY DOCUMENTS**  (Example)
  (See also Part 4-14 of the Administrative Rules Drafting Manual.)
  IC 4-22-7-7
NOTE TO STATE AGENCIES CONCERNING NONRULE POLICY DOCUMENTS:

Nonrule Policy Documents (NPD) are posted with the agency heading under which they are submitted, and the Document Identification Number (DIN) will reflect that heading’s entity identifier. For example, the DIN for an NPD submitted under “Indiana Department of Environmental Management” will show 318 for the entity identifier, even if the subheading is “Office of Water Quality”. Therefore, if the agency wants the DIN’s entity identifier to be 327, the heading of the NPD should read “Water Pollution Control Board”.

• PUBLISHER’S CORRECTIONS  (No recent example available)
  IC 4-22-8-6

• NOTICES OF RULE ADOPTIONS  (Example)
  IC 12-8-3-4.4 [Repealed by P.L.229-2011, SECTION 271, effective May 10, 2011.]

• IDEM FIRST NOTICES  (Example)
  IC 13-14-9-3

• IDEM CONTINUATIONS OF FIRST NOTICES  (Example)
  IC 13-14-9-3

• IDEM SECOND NOTICES  (Example)
  IC 13-14-9-4

• IDEM CONTINUATIONS OF SECOND NOTICES  (Example)
  IC 13-14-9-4

• IDEM FISCAL IMPACT STATEMENTS  (Example)
  IC 13-14-9-4.2

• IDEM FINDINGS AND DETERMINATIONS  (Example)
  IC 13-14-9-7

• IDEM NOTICES OF READOPTION  (Example)

• IDEM PROPOSED READOPTIONS  (No recent example available)

• IDEM FINAL READOPTIONS  (Example)
  IC 13-14-9.5

• RULE ACTIVITY NOTICES  (Example)
  Each day at 5:00 p.m., if no other document has been posted on the -IR- Database Website that day, a “Rule Activity Notice” will be generated and posted on the site in order to inform users that no documents have been or will be posted on that particular day.
XII. OTHER CITES RELEVANT TO THE RULEMAKING PROCESS

DELEGATION OF RULEMAKING ACTIONS
IC 4-22-2-15

PUBLIC ACCESS TO RULES AND PROPOSED RULES
IC 4-22-2-17

JOINT PROMULGATIONS
(See also Part 4-12 of the Administrative Rules Drafting Manual.)
IC 4-22-2-18

ELECTRONIC SUBMISSIONS TO PUBLISHER AND FORMAT OF DOCUMENTS
IC 4-22-2-20

INCORPORATIONS BY REFERENCE
(See also Part 8-7 of the Administrative Rules Drafting Manual.)
IC 4-22-2-21

ATTORNEY GENERAL AS LEGAL ADVISOR FOR AGENCIES
IC 4-22-2-22

SOLICITATION OF COMMENTS
IC 4-22-2-23.1

PUBLIC HEARINGS
IC 4-22-2-26

CONSIDERATION OF COMMENTS RECEIVED AT PUBLIC HEARINGS
IC 4-22-2-27

REVIEW BY INDIANA ECONOMIC DEVELOPMENT CORPORATION
IC 4-22-2-28

ADOPTION OF RULES
IC 4-22-2-29
SUBMISSION OF RULES TO ATTORNEY GENERAL FOR APPROVAL
IC 4-22-2-31

REVIEW OF RULE BY ATTORNEY GENERAL; APPROVAL OR DISAPPROVAL
IC 4-22-2-32

SUBMISSION OF RULES TO GOVERNOR FOR APPROVAL
IC 4-22-2-33

APPROVAL OR DISAPPROVAL OF RULE BY GOVERNOR
IC 4-22-2-34

SUBMISSION OF RULE TO PUBLISHER FOR FILING
IC 4-22-2-35

EFFECTIVE DATE OF RULES
(See also Part 6-9 of the Administrative Rules Drafting Manual.)
IC 4-22-2-36

ACCEPTANCE OF RULE FOR FILING BY PUBLISHER
IC 4-22-2-39

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 to Adopt a Rule is published. The final rule must then be filed with the Publisher. (See also IC 4-22-2-25.)

BUDGET APPROVAL
Executive Order 2-89
Financial Management Circular #2010-4

RULEMAKINGS OUTSIDE OF IC 4-22-2
The Indiana Code provides that some agencies have the authority to adopt rules without going through the IC 4-22-2 rulemaking process. For example:

IC 5-10.3-3-8
Sec. 8. (a) The board may do any of the following:
(1) Establish and amend rules and regulations:
   (A) for the administration and regulation of the fund and the
   board's affairs; and
   (B) to effectuate the powers and purposes of the board;
   without adopting a rule under IC 4-22-2....

These rulemakings are posted on the -IR- Database Website only when the promulgating
agency voluntarily submits a copy of the adopted rule to the Publisher.
FOR: REQUIRING THAT STATE AGENCIES CALCULATE THE FISCAL IMPACT OF PROPOSED RULES AND SUBMIT SUCH RULES TO THE STATE BUDGET AGENCY FOR APPROVAL.

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, promulgation of rules is essential for the implementation of legislation and other mandates for agencies of State government; and

WHEREAS, the Governor of the State of Indiana is required by I.C. 4-22-2-34 to approve or disapprove rules implementing legislative and other mandates for agencies of State government; and

WHEREAS, rules promulgated can have substantial fiscal impact on the budget of the State; and

WHEREAS, the Indiana State Budget Agency is responsible for administering the budget of the State and is responsible for ensuring that the expenditures of the State do not exceed available resources;

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of Indiana, IT IS HEREBY ORDERED:

Section 1. The Governor of the State of Indiana will not approve any rule pursuant to I.C. 4-22-2-34 unless the director of the Budget Agency either approves the proposed rule pursuant to Section 2 of this Executive Order or waives in writing the requirements set forth in Section 2 of this Executive Order.

Section 2. Prior to submission of any rule to the Revisor of Rules of the Code Revision Division of the Legislative Services Agency for publication in the Indiana Register, each State Agency (as defined in I.C. 4-22-3-3(a)) shall submit the proposed rule to the Indiana State Budget Agency, together with a written statement setting forth such State Agency’s calculation of the estimated fiscal impact of such rule on State and local government in sufficient detail to permit the director of the Budget Agency to evaluate the accuracy of the calculation and the appropriateness of the methodology used in making such calculation. The director of the Budget Agency must approve such proposed rule prior to submission for publication under I.C. 4-22-2. If the Budget Agency does not approve the issuing agency’s estimate of fiscal impact, the Budget Agency may either request a revised estimate from the issuing agency, or prepare its own estimate of the fiscal impact, or both. If such rule is amended or modified subsequent to Budget Agency approval pursuant to the preceding sentence or reapproval pursuant to this sentence, such amended or modified rule, together with a revised statement of its fiscal impact meeting the requirements of the first sentence of this Section 2 shall be resubmitted to the Budget Agency for approval.

Section 3. Any rule approved by the Governor in accordance with I.C. 4-22-2-34 shall be deemed to comply with the requirements of this Executive Order. The director of the Budget Agency may delegate his authority to approve or disapprove rules under this Executive Order.

Section 4. This Executive Order shall take effect January 18, 1989, and applies to any proposed rule which will appear in the March 1989 issue of the Indiana Register and all proposed
rules thereafter.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the great seal of the State of Indiana, at the Capitol, in the City of Indianapolis, this 17th of January, 1989.

Evan Bayh, Governor of Indiana

SEAL
Joseph H. Hogsett, Secretary of State
XIV. FINANCIAL MANAGEMENT CIRCULARS

A. FINANCIAL MANAGEMENT CIRCULAR #2010-4

Financial Management Circular: #2010-4
Effective Date: November 1, 2010
General Subject: Administrative Rulemaking
Specific Subject: Required Documents for Budget Agency Approval
Authority: IC 4-3-22-13; IC 4-12-1-13; Executive Order 2-89
Application: This Circular applies to all rules adopted by any state agency as defined in IC 4-22-2 and IC 13-14-9.

WHEREAS, pursuant to Executive Order 2-89, prior to the adoption of a rule by a state agency, the proposed rule or an amendment or modification to an existing rule must be approved by the Director of the State Budget Agency;

WHEREAS, IC 4-3-22-13 (as adopted in HEA 1001-2005, Section 38) requires a cost-benefit analysis to be performed on the promulgation of new rules and requires the Office Management and Budget (OMB) to provide an assessment of the impact on Indiana businesses of new rules to the Governor;

WHEREAS, prior to approval by the Director of the State Budget Agency, the agency proposing to promulgate the new rule or an amendment to an existing rule shall prepare a fiscal impact analysis and a cost benefit analysis;

WHEREAS, in the adoption of a rule or amendment, an agency shall determine the least intrusive and most efficient regulatory choice for the rule or amendment. A sound regulatory analysis is designed to inform the agency conducting the analysis and the public of the effects of regulatory actions.

This Financial Management Circular (FMC) is intended to establish the procedure that the State Budget Agency will use for its review and approval of the promulgation of new rules or amendments or modifications to existing rules. Beginning November 1, 2010, this Circular applies to all rules and amendments or modifications to existing rules adopted by any state agency under Indiana Code § 4-22-2 et. seq. and § 13-14-9 et. seq. In certain cases, the analyses required by this FMC will demonstrate that the proposed rules may not be necessary. In other situations, the analyses will validate that the rules are reasonable, necessary, and warranted.

In order to receive Budget Director approval under Executive Order 2-89 of a proposed rule or an amendment or modification to an existing rule, the agency must submit to the Budget Agency the following information:

1) Fiscal Impact Analysis. Prior to State Budget Agency approval of a rule under Executive Order 2-89, the agency proposing the adoption of a new rule or the adoption of an amendment to an existing rule must complete and submit to the Budget Agency a fiscal impact analysis on state and local government. At a minimum, the fiscal impact analysis shall contain the following:
   a. A calculation of the estimated fiscal impact on state and local government;
   b. The anticipated effective date of the rule;
   c. Identification of any sources of revenue affected by the rule, the estimated increase or decrease in revenues or expenditures of state and local government that would result from the implementation of the rule, including the costs necessary to enforce
the rule, and the related citation to the rule provision(s);
d. Identification of any appropriation, distribution, or other expenditures of revenue affected by the rule and the related citations to the rule provision(s);
e. Identification of the administrative impact to state and local governments, and the related citations to the rule provision(s);
f. A determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision; and
g. If the proposed rule is readopting an expiring rule, the agency shall also include the fiscal analysis relied upon at the time of its last adoption as well as a current review of the accuracy of that analysis.

2) **Cost-Benefit Analysis.** Prior to State Budget Agency approval of a rule under Executive Order 2-89, the agency proposing the adoption of a new rule or the adoption of an amendment to an existing rule must complete and submit to the Budget Agency a cost-benefit analysis of the proposed rule or amendment. All cost-benefit analyses will be reviewed by the agency’s budget analyst and the Office of Management and Budget pursuant to IC 4-3-22-13 and IC 4-22-2-28. This cost-benefit analysis shall replace and be used for all purposes under IC 4-22-2 in lieu of the fiscal analysis previously performed by the Legislative Services Agency under IC 4-22-2. At a minimum, the cost-benefit analysis shall contain the following:

   a. **Statement of Need,** including:
      i. An explanation as to whether the rule is intended 1) to address a federal or state statutory requirement; 2) to address an alleged market failure; and/or 3) to serve a public need, such as improving government processes or promoting public safety or health.
      ii. An estimate of the number of individuals and businesses affected by the rule.
      iii. An evaluation of the policy rationale or goal behind the proposed rule, including an analysis of the following:
         1. An identification of the conduct and its frequency of occurrence that the rule is designed to change;
         2. The harm resulting from the conduct that the rule is designed to change and the likelihood the conduct will continue to occur absent a rule change; and
         3. Whether and how the agency has involved regulated entities in the development of the rule.
      iv. A detailed description of the agency’s methodology used in making the above determinations.

   b. **Evaluation of Costs and Benefits.** The agency shall provide a comprehensive enumeration of the costs and benefits of the rule, including tangible and intangible costs and benefits. If costs and benefits cannot be monetized or quantified, the agency should explain why and include a thorough description of the non-quantifiable costs and benefits as well as a determination whether such costs and benefits will be significant. **The cost-benefit analysis should conclude with the agency’s determination whether the benefits are likely to exceed the costs.** In reaching that determination, the agency should include the following factors in its analysis, or an explanation of why each factor is not applicable:
      i. An estimate of the primary and direct benefits of the rule, including the impact on consumer protection, worker safety, the environment, and business
competitiveness;
ii. An estimate of the secondary or indirect benefits of the rule and an explanation of how the conduct regulated by the rule is linked to the primary and secondary benefits;
iii. An estimate of the compliance costs for regulated entities (including but not limited to individuals and businesses), including but not limited to the costs of fees, new equipment or supplies, increased labor and training, education, supervisory costs, and any other compliance cost imposed by the requirements of the rule;
iv. An estimate of the administrative expenses, including but not limited to any legal, consulting, reporting, accounting or other administrative expenses imposed by the requirements of the rule; and
v. An estimate of any cost savings to regulated entities (including but not limited to individuals and businesses) as a result of the proposed rule, however, the agency shall note whether such savings are from a change in an existing requirement or the imposition of a new requirement.

To aid in identifying costs and benefits, the agency should consult economic theory, previous academic or internal agency research, scenarios developed while defining the statement of need and policy rationale for the proposed rule; collaborate with colleagues within and outside the agency and consult with the public and regulated entities; and provide sufficient justification for the agency’s methodology in making the above determinations.

c. Examination of Alternatives. The agency should include in its analysis an evaluation of alternatives to achieve the objectives of the proposed rule or amendment. The following list of additional alternatives shall also be considered:

i. Alternatives defined by statute. Is the rule consistent with the specific statutory requirement and clearly within the agency’s statutory discretion?
ii. The feasibility of market oriented approaches, including a determination whether the market could eventually remedy the alleged harm the rule is intended to regulate, rather than direct controls;
iii. Measures to improve the availability of information, as an alternative to regulation;
iv. If applicable, various enforcement methods, such as inspections, periodic reporting, and non-compliance penalties;
v. Performance standards rather than design standards. Performance standards express requirements in terms of desired outcomes. Design standards express requirements in terms of the specific means that must be satisfied without choice or discretion;
vi. Different requirements for different sized regulated entities. A variation of benefits and costs may exist depending on the mix of entities being regulated;
vii. Establish a baseline. It is often helpful to establish a baseline for the cost-benefit analysis as a source of comparison. Consider how the world would look without the proposed rule. Issues to consider when forming a baseline include evolution of the market, changes in external factors affecting expected costs and benefits, existing rules by the agency and other government entities, and the degree of compliance by regulated entities with other rules. Note that such an analysis cannot assume that the rule will be
adopted;
viii. Different compliance dates; and
ix. Redundancy. Per IC 4-22-2-19.5, consider whether the proposed rule duplicates standards already found in state or federal law.
d. A determination as to whether the proposed rule will have a total estimated impact greater than $500,000 on all regulated persons (IC 4-22-2-28). The agency shall describe here the data used and assumptions made in making that determination.
e. Independent verification or studies to support the policy rationale and types and quantifications of the costs and benefits.
f. The sources relied upon in determining and calculating the costs and benefits.

3) The Notice of Intent. When the agency files its Notice of Intent with the Legislative Services Agency under IC 4-22-2-23 (or any notice under IC 13-14-9-3; IC 13-14-9-7; or IC 13-14-9-8, if applicable), the agency shall simultaneously provide the State Budget Agency with a copy of the Notice.

4) Small Business Economic Impact Statement under IC 4-22-2.1; and

5) The proposed or draft rule.

In addition to the documents listed above, the agency may also submit a request that SBA conduct an expedited review of the proposed rule. Such request may be granted under limited circumstances, including, but not limited to, adoptions or incorporation by reference of federal law, regulations or rules that are applicable to Indiana and contain no amendments that have a substantive effect on the scope or intended application of the federal law or rule; technical amendments with no substantive effect on an existing Indiana rule; or if the proposed rule has no fiscal impact to the state and local governments. The decision to expedite the review of a proposed rule shall be within the discretion of the SBA.

Following review and analysis of the agency’s proposed fiscal impact statement and cost-benefit analysis, the OMB may accept the analyses for purposes of IC 4-3-22-13 and IC 4-22-2-28, suggest revisions to the analyses or reject the analyses.

If the agency amends or modifies the proposed rule subsequent to Budget Agency approval and the fiscal impact is altered, pursuant to Executive Order 2-89, the agency must resubmit the proposed rule with the revised fiscal impact statement to the Budget Director through the agency’s budget analyst. Reapproval is required before the agency may continue with the rulemaking process.

This Circular does not alter the deadlines established for submission of proposed rules (or amendments or modifications to existing rules) to the Legislative Services Agency, for public hearings, or for submission to the Indiana Attorney General, the Indiana Register, and the Governor. If an agency provides information to the Legislative Services Agency or Indiana Economic Development Corporation concerning the fiscal impact of a proposed rule or an amendment or modification to an existing rule, the agency shall provide copies of such information to the State Budget Agency.

This Circular rescinds FMC #2006-1 and #2006-2.

Adam M. Horst, Director, State Budget Agency
### B. STATE BUDGET AGENCY RULE PROMULGATION SUBMISSION FORM

**State Budget Agency Rule Promulgation Submission Form**

1. Notice of Intent File Date: 

2. LSA Document Number: 

3. Primary Point of Contact: 
   - Name: 
   - Agency: 
   - Phone: 
   - Email: 

4. Statutory Authority for Rule Promulgation: 

5. Agency requests an expedited review of the proposed rule. See page 5 of FMC 2010-4 for more information regarding the expedited review process. 
   - Yes 
   - No  

   Explain reason(s) an expedited review is necessary, including any relevant dates associated with external deadlines: 

6. Submit to SBA/OMB via SBARules@sba.in.gov. Please include supporting materials listed below 

**Submission Checklist:**

- SBA Rule Promulgation Submission Form (this form)
- Cover letter
- Proposed or Draft Rule
- Fiscal Impact Analysis on State and Local Government (FMC 2010-4)
- Cost Benefit Analysis (IC 4-3-22-13, IC 4-22-2-28, FMC 2010-4)
- The Notice of Intent (IC 4-22-2-23) or, if applicable, the relevant notice from IC 13-14
- Small Business Economic Impact Statement (IC 4-22-2.1-1)
The purpose of the *Administrative Rules Drafting Manual* is to provide a uniform and consistent format and style for rules published in the *Indiana Register* and the *Indiana Administrative Code*. The *Administrative Rules Drafting Manual* implements IC 4-22-2-42, which reads:

“Sec. 42. The publisher, with the assistance of the code revision commission, shall establish a format, a numbering system, standards, and techniques for agencies to use whenever they draft and prepare rules under this chapter. *As added by P.L.31-1985, SEC.31”*. 

IC 4-22-2-20 states:

“Sec. 20. (a) Whenever an agency submits a rule to the publisher, the attorney general, or the governor under this chapter, the agency shall submit the rule in the form of a written document that:

1. is clear, concise, and easy to interpret and to apply; and
2. uses the format, numbering system, standards, and techniques established under section 42 of this chapter.


A revised *Administrative Rules Drafting Manual* was approved by the Legislative Council on May 22, 2008, and is available at:

[http://www.in.gov/legislative/iac/IACDrftMan.pdf](http://www.in.gov/legislative/iac/IACDrftMan.pdf)
XVI. CHECKLIST FOR ADOPTION OF ADMINISTRATIVE RULES

NOTE: This checklist is intended as a guideline only and should not be considered a definitive explanation of the rulemaking process. The Attorney General is the legal advisor to all agencies in the drafting and preparation of rules. (IC 4-22-2-22)

SEE ALSO:
- Executive Order #13-03: Moratorium on Regulations
- Executive Order #13-05: Creation of Family Impact Statements in Certain Indiana State Departments and Agencies
- Financial Management Circular #2013-01: Regulatory Moratorium
- Attorney General's Memo (October 8, 2013): Legislation Impacting Administrative Rulemaking Activities
- Attorney General's Memo (May 16, 2014): Legislation Abolishing the Administrative Rules Oversight Committee and Transferring Small Business Ombudsman to Office of Lieutenant Governor

STEP 1:

Publish a “Notice of Intent to Adopt a Rule” at least twenty-eight (28) days before publication of the Proposed Rule. The Notice of Intent to Adopt a Rule must include the statutory authority for the rulemaking and the Small Business Regulatory Coordinator and Small Business Ombudsman information required under IC 4-22-2-28.1. The Legislative Services Agency (LSA) will assign the document an LSA Document number upon receipt. (IC 4-22-2-19; IC 4-22-2-23)

NOTE: For a rulemaking required by new legislation, the Notice of Intent to Adopt a Rule must be published not later than sixty (60) days after the effective date of the statute authorizing the rule. (IC 4-22-2-19(c))

NOTE: When an agency files its Notice of Intent to Adopt a Rule with LSA, the agency shall simultaneously provide the Budget Agency with a copy of the Notice of Intent to Adopt a Rule. (Financial Management Circular #2010-4)

NOTE: See also IC 4-22-2-22.5 for requirements concerning a Rulemaking Docket.

STEP 2:

Obtain approval from the Budget Agency (Executive Order 2-89).

STEP 3:

Submit the Proposed Rule, including the small business Economic Impact Statement (IC 4-22-2.1-5) and any matters incorporated by reference under IC 4-22-2-21, to LSA to obtain an intended date of publication. When the intended date is received, send LSA the Notice of Public Hearing based on this intended date of publication.
(1) Submit the hearing notice, including justification language for requirements and costs, and one (1) electronic or paper copy of the matters incorporated by reference to LSA.
(2) LSA will send a written or electronic “Authorization to Proceed” with the rulemaking.
(3) Upon receiving the “Authorization to Proceed”, contract with and publish a Notice of Public Hearing in a Marion County newspaper. The public hearing must be at least twenty-one (21) days after the posting of the Proposed Rule on the -IR- Database Website.
(4) Make at least one (1) copy of the Proposed Rule, including the full text of any matters incorporated by reference, available for public inspection.

(IC 4-22-2-20; IC 4-22-2-21; IC 4-22-2-24; IC 4-22-2.1-5)

NOTE: The agency must deliver a copy of the Economic Impact Statement, along with the Proposed Rule, to the Indiana Economic Development Corporation (IEDC) not later than the posting date on the -IR- Database Website. (IC 4-22-2.1-5(c)(2))

STEP 4:

Determine the estimated economic impact that compliance with the Proposed Rule will have on all regulated entities. If the estimated economic impact is more than five hundred thousand dollars ($500,000), submit the Proposed Rule, not later than fifty (50) days before the public hearing, with all supporting data or information, to the Office of Management and Budget. (IC 4-3-22-13; IC 4-22-2-28; IC 4-22-2.1-5)

STEP 5:

IC 4-22-2.1-6 requires that the IEDC submit written comments on the Proposed Rule and the Economic Impact Statement to the agency not later than seven (7) days before the date of the public hearing. Upon receipt of the IEDC’s comments, the agency shall make the comments available:

(1) for public inspection and copying at the offices of the agency under IC 5-14-3;
(2) electronically through the electronic gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology; and
(3) for distribution at the public hearing required by IC 4-22-2-26.

STEP 6:

Hold public hearing. (IC 4-22-2-26)

STEP 7:

Before the 250th day after publication of the Notice of Intent to Adopt a Rule, determine whether the Proposed Rule can be adopted and approved or deemed approved by the Governor not later than one (1) year after publication of the Notice of Intent to Adopt a Rule. (IC 4-22-2-25)

STEP 8:
If the rule cannot be adopted and approved or deemed approved by the Governor within one (1) year after publication of the Notice of Intent to Adopt a Rule, before the 250th day after publication of the Notice of Intent to Adopt a Rule, send written notice to the Publisher in accordance with IC 4-22-2-25.

**STEP 9:**

Under IC 4-22-2-28(b), an agency must respond in writing to the IEDC’s comments before finally adopting a rule under IC 4-22-2-29.

**STEP 10:**

Adopt the Final Rule, including any revisions. (IC 4-22-2-27 through IC 4-22-2-29)

**STEP 11:**

Prepare and submit the following to the Attorney General for approval:

1. The Final Rule on a clearly labeled CD-ROM placed in a three-hole punched plastic sleeve with a signature page on top of the supporting documentation in a three-ring binder.
2. One (1) copy of any matters incorporated by reference, if applicable, including a notice briefly describing the incorporated matters.
3. One (1) copy of supporting documentation, clearly labeled with a divider after the signature. Supporting documentation includes the following:
   - Newspaper proof of publication (publisher’s affidavit).
   - A transcript or summary of the public hearing.
   - The written “Authorization to Proceed” from LSA.
   - Other miscellaneous matters made a part of the rule package, if applicable, such as the following:
     - Transmittal letter.
     - List of all text changes made after publication of the Proposed Rule in the Indiana Register.
     - List of all matters incorporated by reference that have been previously filed with the Publisher, including a citation to the document with which the matter was filed and indicating the date and time the matter was filed.
4. Executive summary (required by Governor but may be submitted at this time).
5. Budget Agency approval letter (see STEP 2).

The Attorney General may request other documents to be submitted. (IC 4-22-2-31; IC 4-22-2-33; IC 4-22-2-35)

**STEP 12:**

Upon the Attorney General’s approval, the Attorney General will forward the rule, as a courtesy, to the Governor for approval. If after forty-five (45) days the Attorney General has not approved or disapproved the rule, the rule is deemed to be approved and may be submitted to the Governor for approval. (IC 4-22-2-31; IC 4-22-2-32)

(See IC 4-22-2-40 or IC 4-22-2-41 for special circumstances to recall or withdraw a rule.)
STEP 13:
If the Governor approves the rule, the Governor, as a courtesy, will forward the rule to the Publisher. If after fifteen (15) days the Governor has not approved or disapproved the rule, the Governor may request an additional fifteen (15) days to approve or disapprove the rule. If the Governor neither approves nor disapproves the rule, the rule is deemed approved and may be submitted to the Publisher. (IC 4-22-2-33; IC 4-22-2-34)

STEP 14:
Upon acceptance for filing by the Publisher, a “Publisher’s Receipt for Documents Filed” will be posted on the Internet. This posting begins the 30-day period until the rule becomes effective. Subsequently, the rule will be posted on the Internet. (IC 4-22-2-35; IC 4-22-2-39; IC 4-22-7-5)

Indiana Register Publishing Assistance:
Legislative Services Agency
Indiana Government Center North
100 North Senate Avenue, Room N201
(317) 232-9557 or 232-9554

Legal and Drafting Assistance:
Office of the Attorney General
Indiana Government Center South
402 West Washington Street, Fifth Floor
(317) 232-6240
XVII. PROCEDURES FOR SUBMITTING DOCUMENTS FOR PUBLICATION IN THE INDIANA REGISTER

A. NOTICES OF INTENT TO ADOPT A RULE

Submit a Notice of Intent to Adopt a Rule (NOI) to the *Indiana Register* office electronically (in Word or WordPerfect format or another format acceptable to the Publisher) as an e-mail attachment to register@iga.in.gov. An LSA Document number will be assigned by the *Indiana Register* staff once the document is processed.

The NOI must include the following:

1. The statutory authority for the rulemaking.
2. The:
   - (A) name;
   - (B) address;
   - (C) telephone number; and
   - (D) e-mail address;
   of the agency’s designated Small Business Regulatory Coordinator under IC 4-22-2-28.1.
3. The:
   - (A) name;
   - (B) address;
   - (C) telephone number; and
   - (D) e-mail address;
   of the Small Business Ombudsman designated under IC 4-4-35-8.
4. A statement of the resources available to regulated entities through the small business ombudsman designated under IC 4-4-35-8. (See IC 4-22-2-28.1(e).)

The solicitation of questions or comments is discretionary under IC 4-22-2-23.

Typically, an NOI will be posted Wednesday of the following week after receipt of the document. An agency must wait at least 28 days after the NOI has been posted before submitting the Proposed Rule to the *Indiana Register* for publication. NOTE: The agency must have received approval from the Budget Agency before submitting the Proposed Rule for publication (see Executive Order 2-89).

B. PROPOSED RULES AND NOTICES OF PUBLIC HEARING

June 9, 2006, was the cut-off date for the July 1, 2006, *Indiana Register*, which was the last monthly publication of the *Indiana Register*. Since July 1, 2006, rules have been posted on the Internet on Wednesdays at 3:00 p.m. The first weekly posting was on July 5, 2006. Therefore, it is imperative that Proposed Rules now be submitted for publication to LSA as follows:

1. Submit the Proposed Rule with its corresponding Economic Impact Statement (EIS) [IC 4-22-2.1-5] as a separate attachment (but NOT the Notice of Public Hearing) electronically to register@iga.in.gov. All Proposed Rules must be sent individually. LSA will not accept e-mails with multiple attachments except for a Proposed Rule with its corresponding EIS. Two (2) or more proposed rules may not be sent as attachments to the same e-mail. Please make sure the LSA Document number is included either in the file name of the attachments or as part of the text of the documents themselves. NOTE: The prohibition of multiple e-mail attachments applies ONLY to Proposed Rules (and IC 13-
14-9 IDEM notices that are posted with Notices of Public Hearing).

(2) Upon receipt of the Proposed Rule and its corresponding EIS, LSA will review the rule and reply with an Intended Date of Publication (IDP) [see below for an example]. This IDP will be a Wednesday and is contingent on LSA’s receiving the Notice of Public Hearing information by the preceding Friday.

(3) When the agency receives, via e-mail, the IDP, the agency may then schedule the public hearing based on this IDP. The public hearing must be at least twenty-one (21) days after the date of publication of the Proposed Rule, EIS, and Notice of Public Hearing.

(4) The agency must then send ONLY the Notice of Public Hearing (NOT the Proposed Rule or EIS again) to register@iga.in.gov. The Notice of Public Hearing must include the date, time, location, justification of requirements or costs under IC 4-22-2-24(d)(3) [except for IDEM boards], reference to the subject matter, and a declaration that a copy of the Proposed Rule is on file and may be examined in the office of the agency proposing the rule. As referenced in (1) above, Notices of Public Hearing must be sent individually. LSA will not accept multiple attachments with e-mails except for a Proposed Rule and its corresponding EIS. Also, make sure the Notice of Public Hearing references the LSA Document number, either as part of the file name or as part of the text document. NOTE: If the Notice of Public Hearing information is not received by the Friday before the following Wednesday’s postings, the Proposed Rule will not be posted on the contingent intended date that was previously given to the agency. In these cases, a new IDP will be sent to the agency who must then schedule a public hearing and send the information to LSA within the time frame referenced in (2) above.

(5) Upon receipt of the Notice of Public Hearing, LSA will reply to the e-mail with an Authorization to Proceed (AP) [see below for an example] with the public hearing. Upon receipt of this AP, the agency may contract with a newspaper of general circulation in Marion County to publish the Notice of Public Hearing in the newspaper. In addition, the AP must be included in the final packet that is submitted to the Attorney General’s office for approval.

If you have any questions about the above procedure, contact Becky Walker at 232-9557 or becky.walker@iga.in.gov.

**EXAMPLE OF AN “INTENDED DATE OF PUBLICATION” E-MAIL:**

The intended date of posting for LSA Document #XX-XX is [Wednesday posting date]. This date is contingent on our receiving your Notice of Public Hearing by [the Friday before the intended date].

If the NPH information is not received by [the Friday before the intended date], a new intended date of posting will be sent to your agency.

*(See next page for an example of an "Authorization to Proceed")*
EXAMPLE OF AN “AUTHORIZATION TO PROCEED”:

**AUTHORIZATION TO PROCEED**

This document is the authorization to proceed as required under IC 4-22-2-24(g).

The intended date for publication of LSA Document #XX-XXX is August 9, 2006. Please include this authorization to proceed with the documents submitted to the Attorney General under IC 4-22-2-31.

C. CHANGES IN NOTICES OF PUBLIC HEARING

Because the procedure for submitting Changes in Notices of Public Hearing is different from “normal” Notices of Public Hearing, which, under IC 4-22-2-24, require an “Authorization to Proceed”, a procedure has been implemented to ensure that the Indiana Register office does not receive a Change in Notice of Public Hearing with a date that does not allow enough time for the Indiana Register staff to process and post the document.

Therefore, when an agency wishes to post a Change in Notice of Public Hearing, please contact Becky Walker at becky.walker@iga.in.gov to find out when a Change in Notice of Public Hearing can be posted on the -IR- Database Website. When the date of posting has been determined, a Change in Notice of Public Hearing may be sent to the register@iga.in.gov mailbox with the date of the hearing based on this informal “intended date of publication”.

Only the changed public hearing notice will be posted on the -IR- Database Website. The new date, time, or location of the public hearing must be shown in boldface text.

D. READOPTS

[NOTE: See also IC 4-22-2.5-3.1 for readoptions imposing requirements or costs on small businesses.]

(1) Submit a Notice of Intent to Readopt to the Indiana Register office electronically (in Word or WordPerfect format or another format acceptable to the Publisher) as an e-mail attachment to register@iga.in.gov. The majority of the document is standard language. The agency should substitute the appropriate information, such as the cites listing, names, etc. NOTE: The headings should match the level of the cite being readopted, i.e., all capital letters for articles, initial capital letters for rules, and first word only capitalized for sections. An Example of a Notice of Intent to Readopt that is already posted on the -IR- Database Website.

(2) Once the Notice of Intent to Readopt has posted on the -IR- Database Website (the agency contact person will receive a notification by e-mail after the posting), wait thirty (30) days for requests to separate a portion of the document out (see IC 4-22-2.5-4(b)) plus five (5) extra days for letters postmarked within the thirty (30) day period that are received after the thirty (30) day waiting period has elapsed.
If no requests are received, create a Readopted Final Rule. Again, the document is predominantly standard language. An Example of a Readopted Final Rule that is already posted on the -IR- Database Website.

Burn the Final Readopted Rule on a CD-ROM (in Word or WordPerfect format or another format acceptable to the Publisher). Have the authorizing person sign a paper signature page and bring the CD-ROM and the paper signature page in a binder or folder to the Indiana Register office (Indiana Government Center North, Room N201). (NOTE: the Readopted Final Rule must be adopted by the individual or group of individuals with the statutory authority to adopt rules for the agency.) LSA will affix a time-stamped label indicating that the document has been filed. You may also send the document via U.S. mail, a courier, or interoffice mail, time permitting.

The Readopted Final Rule must be filed with the Indiana Register office by December 2 in order to be effective by the succeeding January 1. (See IC 4-22-2.5-5 concerning the power of the Governor to postpone the expiration of an administrative rule.)

**E. IC 13-14-9 NOTICES**

**COMMENT PERIOD DEADLINE (TITLES 326 IAC, 327 IAC, 328 IAC, AND 329 IAC)**

When an IC 13-14-9 Notice is submitted to the Indiana Register for posting on the -IR- Database Website, the rulewriter must insert “[publication date plus xx days]” in the place where the Comment Period Deadline date appears (when applicable). When the Indiana Register staff reviews the document, the editor will determine when the document can be posted, calculate the comment period deadline, and send the date to the rulewriter for confirmation. The rulewriter must reply to the editor confirming the date. NOTE: This is a separate procedure from the normal “Intended Date of Posting” involved in the Notice of Public Hearing procedure.

**F. NOTICES OF RECALL AND NOTICES OF WITHDRAWAL**

When an agency finds it necessary to recall or withdraw an LSA Document, the agency may send an e-mail with the LSA Document number and a request to recall or withdraw the document to register@iga.in.gov. It is not necessary for the agency to generate the actual Notice of Recall or Notice of Withdrawal.

**NOTE TO AGENCIES - REGISTER SUBMISSIONS VIA E-MAIL:**

All electronic submissions to the Indiana Register for publishing on the -IR- Database Website should be sent to:

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register@iga.in.gov
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This is a “shared” mailbox that each Register staff member can access.
XVIII. PROCEDURE FOR SUBMITTING FINAL RULES, EMERGENCY RULES, AGENCY CORRECTIONS, AND FINAL READOPTIONS

ADVISORY MEMORANDUM FROM THE OFFICE OF THE GOVERNOR

TO: Agency Counsel and Rulemaking Authorities
FROM: Legal Counsel, Office of the Governor; Legislative Services Agency; and Office of the Attorney General
DATE: Friday June 30, 2006
RE: 2006 New Rulemaking Procedures

Purpose:
This memorandum is intended to provide information on the new requirements for submission of administrative rules after June 30, 2006. It is our goal to streamline the process of rule submission and reduce the volume of paperwork that previously was submitted with each rule. As much as realistically possible we would like each agency to follow the procedures established by the Office of the Governor, the Office of Attorney General, and Legislative Services Agency that are set forth herein. We realize in advance that several issues may arise over the next several months as these changes are implemented. All of our offices are here to assist your agency, but in turn we must ask your patience as well. We will be dealing with all State government agencies at once (both large and small; those who submit dozens of rules a year and those who submit very few) and there may be complications along the way.

Background:
As many of you are already aware, during the last two sessions the General Assembly has passed bills that have made changes to the ministerial procedures used by agencies when promulgating rules. These changes include everything from format of rule submission, actual numbers of copies submitted, to who performs what duties in the final filing procedure. While much of this is ministerial, I think we all appreciate the significance of procedure and how rules can later be legally challenged by litigants for failure to comply with mandated procedures. As such, particularly for regulatory agencies that produce dozens of rules a year, it is important to ensure that your in-house procedures and policies reflect what the General Assembly requires. It is also important internally that everyone is on the same page with respect to procedures so that deadlines are respected, and important rules do not slip through the cracks or reach stages where they need to be rushed through in a short period of time. (This applies to both final and proposed rules.)
The General Assembly has also required that the Indiana Register now be published exclusively online. This change was both a reflection of the need to achieve a meaningful cost savings to the State and to provide a more efficient and effective way of continually updating the Register, making it available to the public at large, and making it more user friendly to search and use as a research/tracking tool.

Thanks to technology, the Register will be accessible for free online. For LSA, and any of us who maintain copies of the Register, this will free up substantial storage space while at the same time eventually allowing us to install a more comprehensive rule tracking system (similar to the contracts tracking system many of your agencies currently utilize).
Another major change, and perhaps the most notable change, will be that agencies will no longer submit rules to the Secretary of State for final filing. Traditionally, rules have always been delivered to the Secretary of State, who later sent them to the Legislative Services Agency for publication. Now, rules will be submitted directly to the Legislative Services Agency and published in the Register. The Register is also planning to provide updates on a more regular basis, improving the ability of the public to know what is going on in State Government.

Other changes in the last two sessions include: the requirement of the IEDC Small Business Impact Statement, fiscal impacts being evaluated by OMB, and transition from paper submission to electronic submission of rules. The last change (electronic submission) is the primary reason for this memo, and we have outlined rules and procedures to follow to ensure your rule gets processed correctly.

**Materials Needed:**

Each agency that promulgates rules needs to have the following items in stock. Order your office supplies accordingly based on the number of rules you plan to generate each year. Overall, this should represent a minor administrative cost savings in both time and materials due to the fact that you will no longer be required to submit anything in triplicate. (Only one copy of everything is now required for final submission.)

- A CD Burner (For those agencies that do not have access to a burner, the Register has agreed to assist in burning CDs. However, for convenience sake each agency should probably have one or attempt to get access to one (we can consult IOT if necessary for help on this issue).)
- Blank CDs on which to copy the rule in electronic (read-only) format
- Microsoft Word or Word Perfect (PDF format will NOT be accepted on final (or any other submission) because LSA still needs to be able to manipulate and format the document for final publication)
- Single solid colored binders or folders in which 3 hole punched items can be placed (depending on the size of the rule and supporting documentation being transmitted)
- 3 hole punched plastic sleeves in which a CD can be placed along with the Rule Signature Page
- Dividers to separate the rule CD, supporting documentation, and materials incorporated by reference
- Labels (written or typed) to place on the front of the binder and/or folder to signify the rule number and adopting agency
  - We would also request that each CD is itself individually labeled, on the appropriate side, with a sharpie marker (or other available pen that writes on CDs) to signify the filename and rule saved on that CD
  - In general files should always be saved under the title of whatever document number is being submitted, for example: LSA #07-111.
- (we realize that not all rules are numbered in this fashion and we will make exceptions where appropriate)

**New Procedures:**

We are asking that all agencies adhere and follow the procedures laid out herein. While we recognize early on that each agency is different and many agencies have different rules they must follow when enacting administrative rules, we also realize that logistically speaking it is better to have one set of procedures (where feasible) as opposed to a dozen different standards.
2006 Rulemaking SOPs:

1. Agencies will continue (as before) to publish a notice of intent and be assigned an LSA document number by the Indiana Register staff. Agencies will proceed to submit their proposed rule to the Office of Management and Budget and IEDC (for those required to do so – please consult the code for more information on the requirements for your agency) for preliminary approval (OMB) and consideration (IEDC) of the fiscal impact statements.
   a. This documentation, along with the EDS sheet, will continue to be a part of the supporting documentation that is submitted with a copy of the final rule.
   b. **ALSO**, please consult the most recent OMB Financial Management Circular for more information regarding OMB requirements and procedures for fiscal impact statements. Certain changes have been made to promote efficiency in the publication of rules.

2. Following adoption of the rule (when the rule is ready for final submission), each agency will burn a copy of the rule onto a blank CD for electronic submission.
   a. They will want to take special care to label the CD accordingly, and for the time being maintain a copy of the final rule in some fashion (on the hard drive, etc.)
   b. Upon final adoption, the Office of Attorney General and the Office of the Governor are **not** accepting final rules via email submission (however, the Register will still continue to accept notices and proposed rules, etc. via direct email submission as they have been doing).
      i. In explanation, we won’t be using email at this point because too many of the people responsible for final approval of rules receive over a hundred emails a day. One more email, with a special rule attached, could easily be overlooked and/or lost, creating havoc on statutory deadlines. We need a more definite way to track rules at the final approval stage.

3. The agency will then compile the following materials into one solid colored folder and/or binder: the one rule CD contained in a 3 hole-punched plastic sleeve, followed by a divider, then one copy of all the supporting documentation, followed by another divider, and then finally a copy of any materials incorporated by reference.
   a. We’d ask that for consistency purposes each agency pick one solid color for their use for all rules. At the administrative level, this helps the agencies tasked with approval and final compilation and organization.
   b. Use of a binder as opposed to a cheaper folder will merely depend on the size of the rule, any accompanying supporting documentation, and/or the incorporated materials. (In some cases, particularly IDEM, we understand that more than one binder may be necessary if the materials incorporated by reference are not available in electronic format. In that case, please be sure to label supplementary binders appropriately and attach them to the actual rule.)

4. The last item to be added to the rule folder will be a Rule Signature Page, which will be inserted into the plastic sleeve along with the Rule CD and signed by the appropriate authority and/or Body.

5. At the time the rule is ready to be submitted to the Office of Attorney General, everything should be contained in one folder and/or binder. CDs should not be
submitted independently because of their size and the possibility of loss or separation from the rest of the included materials.

a. Under the new rules, only one copy of the actual rule, supporting documentation, and materials incorporated by reference are required to be submitted to the OAG upon final adoption.

b. Also, where the materials incorporated by reference are available in electronic format, they may also be submitted on a separate CD (contained in a plastic sleeve within the same folder) to save space, time, and paper.

6. Following approval via the OAG, the rule will then proceed to the Governor’s Office for final approval (as a courtesy to the agencies it will continue to be delivered directly to the Governor’s General Counsel).

7. From the Governor’s Office the rule will be delivered directly to the Indiana Register. Here again, we will continue to provide the courtesy of delivering it directly to the Register.

a. Agencies should take note that according to statute, the Register has three days to review, accept, and officially file the rule. This may impact certain statutory deadlines for certain rules, and if that is the case the agency needs to ensure that deadlines are appropriately communicated to the Register. In 99% of cases, the rule will be filed the day it is delivered and accepted (unless it is delivered at 4:30 or 5:00 in the afternoon the day it is due).

8. SPECIAL NOTE: Emergency Rules, Agency Corrections, and Final Readoptions obviously do not go through the same approval process as do normal rules. However, to the extent feasible, we would like agencies to follow the same procedures for packaging of rules that are discussed in this memorandum. Statute still requires these rules to be submitted electronically (and for us this means on CD), and it makes the most sense for them to be delivered in a similar format as normal rules. The only notable differences will be the size of the rule, the lack of signatures on the Rule Signature Page, and the speed with which the rule moves through the process.

**Rule Signature Page:** (see example)
Previously, all rules were accompanied by a signature page on the last page of each submission. This page indicated and tracked not only the actual approval of the relevant authority, but also the dates on which rules were physically approved. However, due to the nature of electronic submission, signature sheets will no longer be possible in the same format. They will not be attached directly to the individual rules themselves. The statute does not specify any specific method for approval or acknowledgment. As such, in agreement with the Office of Attorney General and the Legislative Services Agency, the Office of the Governor is requiring all agencies to submit in the binder a Rule Signature Page (as referenced above) to track the progress of rules and ensure that each agency complies with the statutory time periods. A suggested sample is attached for use by your agency. **Please make sure to adjust the titles to reflect the individual(s) or body that has the relevant authority to promulgate and adopt a rule.** The subject line need merely state the general topic(s) on what the rule concerns.

**Implementation Schedule:**
According to statute, the changes will take effect on July 1, 2006. Obviously, some rules may already have been adopted and in the final process. Where final rule packages have already been completed, but may be merely waiting on a final letter, etc., we will not require agencies to start afresh and recall their rules. But in general, all rules initially promulgated following July 1, 2006
will be required to adhere to the procedures established herein. (If possible, please inform the Office of the Governor and OAG as soon as possible of rules that currently may warrant an exemption.)

We will strictly adhere to this policy, and agencies that do not submit rules in the proper format will be rejected (unless otherwise exempted by the Office of the Governor, the Indiana Register, and Office of the Attorney General). To this end, we want agency heads and counsel to understand that this may impact their ability to get certain work completed on the required timelines. As continued notification of this requirement, when an Agency requests assignment of an LSA number and publishes notice of intent to promulgate a rule, LSA, as a courtesy, will send this memorandum as a reminder of the new procedural requirements for rulemaking.

**Links to Additional Information, Statutory Changes, and Contact #’s:**

Senate Enrolled Act 379  
http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2006&session=1&request=getBill&docno=0379&doctype=SB

House Enrolled Act 1135  

House Enrolled Act 1265  
http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2005&session=1&request=getBill&docno=1265&doctype=HB

Indiana Code Title 4 Article 22  
http://www.in.gov/legislative/ic/code/title4/ar22/

Contacts:  
Office of the Governor – Phil Wickizer, 232-4564  
Jean Marie Leisher, 233-6530
XIX. ATTORNEY GENERAL REVIEW OF ADMINISTRATIVE RULES

MEMORANDUM

To: Agency Heads, Counsel, and other Rulemaking Authorities

From: Susan Gard, Chief Counsel and Deputy Attorney General

Date: September 27, 2007

Re: Attorney General Review of Administrative Rules

Supporting Documentation Required (Non-IDEM rulemakings)

The purpose of this memorandum is to clarify what must be included when a rule is submitted to the Office of Attorney General for review. It is a supplement to the June 30, 2006 Advisory Memorandum issued jointly by the Governor, LSA and this office regarding 2006 changes to rulemaking procedures. A copy of that Memorandum is also provided.

For a detailed explanation of rulemaking requirements and procedures, refer to IC 4-22-2, IC 4-22-2.1, and the USER’S GUIDE TO THE -IR- DATABASE:


IC 4-22-2-31 provides:

After an agency has complied with section 29 of this chapter, or with IC 13-14-9-9(1) or IC 13-14-9-9(2), as applicable, the agency shall submit its rule to the attorney general for approval. The agency shall submit the following to the attorney general:

1. The rule in the form required by section 20 of this chapter.
2. The documents required by section 21 of this chapter.
3. Written authorization to proceed issued by the publisher under section 24(g) of this chapter.
4. Any other documents specified by the attorney general.

The attorney general may require the agency to submit any supporting documentation that the attorney general considers necessary for the attorney general's review under section 32 of this chapter. The agency may submit any additional supporting documentation the agency considers necessary.

A rule should be submitted to the Office of Attorney General for review in a folder or binder.

The rule folder must include the documents listed below. The agency may choose to submit additional documents that would facilitate review of the rule.

✔ Signature page (see below)

✔ A CD with the final rule in Word or WordPerfect. A CD is preferred, but a DVD is acceptable. PDF format is not acceptable.

✔ Supporting documents:
Printed from the Indiana Register:

- Notice of Intent
- Proposed rule
- Economic impact statement
- Notice of public hearing

Authorization to proceed from Legislative Services Agency

Publisher’s affidavit and a copy of the public hearing notice published in the Indianapolis Star (and any other newspapers if applicable)

State Budget Agency approval letter (Executive Order 2-89; FMC 2006-1 and 2006-2)

If rule imposes costs or requirements on small businesses as defined in IC 4-22-2.1-4; see also IC 4-22-2.1-6; IC 4-22-2-28(b):

- Cover letter or other documentation showing that the economic impact statement was submitted to the Indiana Economic Development Corporation (IEDC)
- The IEDC’s comments (these must also be available on the agency’s website and at the public hearing)
- Printout of the web page with IEDC’s comments
- Agency’s response to IEDC’s comments

If the rule will have a total estimated economic impact greater than $500,000 on all regulated persons/entities in the first twelve month period after the rule is fully implemented (IC 4-22-2-28(d)):

- Economic impact analysis submitted to OMB
- Fiscal impact statement prepared by OMB, or OMB statement that it is adopting the agency’s analysis.
- If the rule will not have a $500,000 impact, a statement to that effect should be included in the documentation.

Public comments, including any written comments and a transcript or minutes of the hearing. If no members of the public appeared at the hearing, a statement of the hearing officer is sufficient.

Agency’s response to public comments.

If the final rule is not identical to the proposed rule, a description of the changes

Record of action by any board, commission, or other body that must adopt or approve the rule. The record should include minutes, transcript, or a statement signed by chair or other authorized representative.

If the rule will not be signed by the Governor within one year of publication of the notice of intent, a notice to the administrative rules oversight committee
pursuant to IC 4-22-2-25 (this should be printed from the Indiana Register), which must have been filed “before the two hundred fiftieth day following the publication of the notice of intent”.

- Any other notices or documents published in the Indiana Register (e.g. changes in public hearing notice)
- Any matters incorporated by reference (electronic or hard copy)

Although it is not required, the agency may include a summary of the rule and background information. An index to the supporting documentation is helpful if there are many documents.

*(See following pages for sample signature pages.)*
Rule Signature Page

Rule #: LSA Document #07-111(F)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority)
Subject: i.e. – Regulations re: Widget use in Indiana

ADOPTED:

By: _______________________________ Date: _____________
    Jane Doe
    Title or Position w/Agency, Board, and/or Commission
    XYZ Agency

APPROVED AS TO FORM AND LEGALITY:

By: _______________________________ Date: _____________
    Gregory F. Zoeller
    Attorney General, State of Indiana

APPROVED:

By: _______________________________ Date: _____________
    Mitchell E. Daniels, Jr.
    Governor, State of Indiana

ACCEPTED FOR FILING:

By: _______________________________ Date: _____________
    Indiana Register
    Legislative Services Agency
Rule Signature Page

Rule #: LSA Document #08-________________________(E)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority)
Subject: i.e. – Emergency regulations re: Widget use in Indiana

ADOPTED:

By: ________________________________ Date: ____________
    Jane Doe
    Title or Position w/Agency, Board, and/or Commission
    XYZ Agency

ACCEPTED FOR FILING:

By: ________________________________ Date: ____________
    Indiana Register
    Legislative Services Agency
Rule Signature Page

Rule #: LSA Document #08-111(F)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority)
Subject: Final Readoption

ADOPTED:

By: _____________________________ Date: ____________
    Jane Doe
    Title or Position w/Agency, Board, and/or Commission
    XYZ Agency

ACCEPTED FOR FILING:

By: _____________________________ Date: ____________
    Indiana Register
    Legislative Services Agency
SAMPLE (FOR USE WITH AGENCY CORRECTIONS):

Rule Signature Page

Rule #: LSA Document #08-111(AC)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority)
Subject: Agency Correction

ADOPTED:

By: __________________________________ Date: ____________
Jane Doe
Title or Position w/Agency, Board, and/or Commission
XYZ Agency

ACCEPTED FOR FILING:

By: __________________________________ Date: ____________
Indiana Register
Legislative Services Agency

NOTE: For Agency Corrections to the Indiana Administrative Code, the LSA Document number will be assigned when the document is filed in the Register office.
## XX. STATE AGENCIES

### A. ALPHABETICAL LISTING OF STATE AGENCIES

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†15 State Election Board
†16 Office of the Lieutenant Governor
17 Office of Community and Rural Affairs
†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 Indiana Public Retirement System
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 Indiana Economic Development Corporation
†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
†100 Department of Transportation
105 Indiana Department of Transportation
†110 Aeronautics Commission of Indiana
†120 Department of Highways
130 Ports of Indiana
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
201 Sexual Assault Victim Advocate Standards and Certification Board
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
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
313 Indiana State Museum and Historic Sites Corporation
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 Division
327 Water Pollution Control Division
328 Underground Storage Tank Financial Assurance Board
329 Solid Waste Management Division
†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 Indiana State Department of Agriculture
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
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455 Division of Aging
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</thead>
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<td>Division of Family Resources</td>
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<tr>
<td>480</td>
<td>Violent Crime Compensation Division</td>
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<tr>
<td>490</td>
<td>Interdepartmental Board for the Coordination of Human Service Programs</td>
</tr>
<tr>
<td>500</td>
<td>Commission for Higher Education of the State of Indiana</td>
</tr>
<tr>
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<td>Commission on General Education</td>
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<tr>
<td>511</td>
<td>Indiana State Board of Education</td>
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<td>512</td>
<td>Department of Education</td>
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<td>513</td>
<td>Commission on Seclusion and Restraint in Schools</td>
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<td>Indiana School for the Deaf Board</td>
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<tr>
<td>515</td>
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<td>520</td>
<td>Commission on Textbook Adoptions</td>
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<td>530</td>
<td>Commission on Teacher Training and Licensing</td>
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<tr>
<td>540</td>
<td>Indiana Education Savings Authority</td>
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<tr>
<td>550</td>
<td>Board of Trustees of the Indiana State Teachers' Retirement Fund</td>
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<tr>
<td>560</td>
<td>Indiana Education Employment Relations Board</td>
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<td>570</td>
<td>Indiana Commission on Proprietary Education</td>
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<td>Indiana Commission on Vocational and Technical Education</td>
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<td>State School Bus Committee</td>
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<tr>
<td>580</td>
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<tr>
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<td>State Student Assistance Commission</td>
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<tr>
<td>590</td>
<td>Indiana Library and Historical Board</td>
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<td>595</td>
<td>Library Certification Board</td>
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<tr>
<td>620</td>
<td>Occupational Safety Standards Commission</td>
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<tr>
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<td>Industrial Board of Indiana</td>
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<td>631</td>
<td>Worker's Compensation Board of Indiana</td>
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<td>Indiana Unemployment Insurance Board</td>
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<td>Department of Employment and Training Services</td>
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<td>646</td>
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<td>State Fire Marshal</td>
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<tr>
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<td>Board of Firefighting Personnel Standards and Education</td>
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<td>675</td>
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<tr>
<td>680</td>
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<td>Regulated Amusement Device Safety Board</td>
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<td>710</td>
<td>Securities Division</td>
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<td>760</td>
<td>Department of Insurance</td>
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<td>762</td>
<td>Indiana Political Subdivision Risk Management Commission</td>
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<td>Board of Registration for Architects and Landscape Architects</td>
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<td>Indiana State Board of Health Facility Administrators</td>
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<td>856</td>
<td>Indiana Board of Pharmacy</td>
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<td>†857</td>
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<td>†858</td>
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<td>Private Investigator and Security Guard Licensing Board</td>
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<td>Indiana Real Estate Commission</td>
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<td>Manufactured Home Installer Licensing Board</td>
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<td>880</td>
<td>Speech-Language Pathology and Audiology Board</td>
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<tr>
<td>†884</td>
<td>Board of Television and Radio Service Examiners</td>
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<tr>
<td>888</td>
<td>Indiana Board of Veterinary Medical Examiners</td>
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<td>†892</td>
<td>Indiana State Board of Examiners in Watch Repairing</td>
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<tr>
<td>896</td>
<td>Board of Environmental Health Specialists</td>
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<td>898</td>
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<td>905</td>
<td>Alcohol and Tobacco Commission</td>
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<td>910</td>
<td>Civil Rights Commission</td>
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<td>915</td>
<td>Indiana Veterans' Affairs Commission</td>
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<tr>
<td>920</td>
<td>Indiana War Memorials Commission</td>
</tr>
<tr>
<td>925</td>
<td>Meridian Street Preservation Commission</td>
</tr>
<tr>
<td>930</td>
<td>Indiana Housing and Community Development Authority</td>
</tr>
</tbody>
</table>

† = Agency's rules are expired, repealed, transferred, or otherwise voided.
XXI. DOCUMENT FORMATS

Indiana Register documents have links to both a PDF version and an HTML version. The “Latest Update” edition of the Indiana Administrative Code (IAC) has links to a PDF version and a WordPerfect version. The PDF version of both the Indiana Register and the IAC has been designated the official version. For Indiana Register documents, the PDF document and its internal pagination should be used for citation purposes. For IAC sections, see Section VIII of the User’s Guide to the -IR- Database Website.

DOWNLOADING THE IAC IN MICROSOFT WORD FORMAT:

Each article in the "Latest Update" edition of the IAC has links to the PDF version and the WordPerfect version of that article. To download an IAC article in Microsoft Word format:

1. Go to the "Latest Update" edition of the IAC at: http://www.in.gov/legislative/iac/iac_title
   (NOTE: It might be helpful to print out these instructions before clicking the link above.)

2. Click on the IAC Title link that contains the article. A list of articles in that title will appear on your screen.

3. RIGHT click on the WordPerfect link to the article you wish to download.

4. Select "Save Target As".

5. A "Save As" dialog box will appear with the existing file name highlighted.

6. Navigate (browse) to the folder to which you wish to save the file.

7. Rename the file as you choose, BUT BE SURE TO ADD .doc AS THE EXTENSION FOR THE FILE NAME.

8. Click "Save" to download the file in whichever folder you have chosen.

9. (A) If a "Download Complete" dialog box appears, click "Open". The "saved" article will open in Microsoft Word.

   (B) If a "Download Complete" dialog box does not appear, go to the folder in which the document was saved and open the document from that folder.

Disclaimer: The WordPerfect version of the IAC is NOT the official version, and older text, particularly equations, tables, artwork, and special characters, should be checked for accuracy against the PDF version of the IAC when converting from WordPerfect to Microsoft Word or other formats.

HYPERLINKS:

CITATIONS IN THE TEXT OF INDIANA REGISTER DOCUMENTS:

Indiana Code cites are hyperlinked in the text of Indiana Register documents. The hyperlink will direct you to the text of the referenced Indiana Code cite on the General Assembly’s website. NOTE: If an agency uses the section symbol (§) or spells out Indiana Code instead of using the abbreviation “IC” (without periods), the cite will not be hyperlinked.

IAC cites appearing in Indiana Register documents are hyperlinked to the -IR- Database Website’s “Latest Update” to the IAC.

Document Identification Numbers (DINs) appearing in Indiana Register documents are hyperlinked. The hyperlink will direct you to the text of the referenced Indiana Register document.
NOTE: Hyperlinks that are generated dynamically by external software, such as Adobe Acrobat and Adobe Reader, on the User's computer when documents are viewed are not verified or maintained by the Register staff. Typically, these links are NOT underlined.

**ADDITIONAL HYPERLINKS IN PROPOSED RULES:**

When applicable, a link to the Economic Impact Statement for a Proposed Rule appears immediately following that rule’s DIGEST.

A link to the Notice of Public Hearing for the Proposed Rule appears at the end of each Proposed Rule.
XXII. SEARCHING THE -IR- DATABASE WEBSITE

NOTE: Once a document has been posted on the -IR- Database Website, it must be indexed by the General Assembly Google Appliance search engine before becoming searchable. Newly posted documents, therefore, will not appear in search results immediately after posting.

A. SEARCH METHODS:

SINGULAR AND PLURAL FORMS

If a user wants to find both the singular and plural forms of keywords, type, for instance:
hand hands

to find both the singular and plural forms of the word. Typing “hand” alone will not find “hands” and vice versa.

QUOTATION MARKS

Enclose phrases in quotation marks to find the entire phrase instead of the individual words in the phrase. For instance:
“police officer”

will find only the term “police officer”. It will not find individual instances of “police” or “officer”.

-IR- DATABASE WEBSITE SEARCH AND RETRIEVAL BOXES

Along the left side of -IR- Database Website pages is a group of search and retrieval boxes where one may search for specific terms in the IAC or the Indiana Register, retrieve documents by document identification number (DIN) or LSA document number, or retrieve IAC and Indiana Code cites.

(See the following page for an explanation of the search and retrieval boxes.)
Directs the user to the “Law & Administrative Rules” page of the General Assembly website.

Link to the Administrative Rules Drafting Manual

The “Current IR” link directs the user to a listing of Register documents posted within the last 12 months, organized chronologically. The “Archive” link directs the user to the Register archive page.

The “Latest Update” link directs the user to a list of titles in the “Latest Update” edition of the *Indiana Administrative Code*. The “Archive” link directs the user to the IAC archives page.

Entering a term in the “IR and IAC Search” box generates a list of documents containing the term. The default search scope is all Registers and all editions of the IAC posted on the site. Checkmarking either the “All Registers” box or the “Latest Update IAC” box will limit the search to whichever box is checked. If the “Search” button is pressed without any information in the above boxes (or by clicking the “Advanced Search” link), the user will be directed to the “Advanced Search” page.

Entering (or pasting) a DIN into the “Register DIN” box retrieves the identified document. The “Go” button initiates the retrieval.

Entering an LSA document number in these boxes generates a list of documents associated with that LSA document number ("Related Documents"). This includes only those documents posted since July 2, 2006.

Entering an IAC title number and article number retrieves that IAC article. Entering an IAC title number retrieves a listing of article headings in that title.

Entering a complete Indiana Code citation retrieves the IC chapter. (Entering an IC title, article, and chapter also retrieves the chapter.) Entering an IC title and article retrieves a listing of chapters in that article. Entering an IC title retrieves a listing of articles in that title.
B. ADVANCED SEARCH PAGE:

In addition to the search and retrieval functions on each -IR- Database Website page is a group of search boxes that appears at the top of “hit” lists from searches or that is accessible by clicking the “Advanced Search” link in the “IR and IAC Search” box.

At the top of this Advanced Search page is the following brief explanation of the timetable and contents of the archives and method of using the search functions on the page:

<table>
<thead>
<tr>
<th>When are documents archived?</th>
<th>How far back does the archive go?</th>
<th>How do I search the archive?</th>
</tr>
</thead>
<tbody>
<tr>
<td>IR: Annually</td>
<td>IR: October 2000, Volume 24</td>
<td>(2) Checkmark the “IR Volumes”.</td>
</tr>
</tbody>
</table>

Next is a search box where one can search for terms, etc., within the IR and the IAC. NOTE: The default search for this search box is the “Latest Update” edition only of the IAC and all Indiana Register publications, both current and archived.

Search for [Search]

The next group of boxes enable the user to search within one or any combination of current and archived IAC editions by placing a checkmark in the desired edition(s).

The next group of boxes enable the user to search within one or any combination of current and archived Indiana Register publications by placing a checkmark in the desired volume(s). NOTE: The “Current IR” box enables the user to search within all Indiana Register documents posted in the current and previous 11 calendar months. The “Recent IR” box narrows the search down to Indiana Register documents posted in the last 84 calendar days.
The “Advanced Search” boxes allow the user to search within the documents (posted since July 2, 2006) associated with a specific LSA Document number or by IAC Title number in Indiana Register documents posted since July 2, 2006.

When using the “Advanced Search” boxes above, the following Alerts appear with the list of “hits” to remind the user that they are searching only in documents posted since July 2, 2006. These Alerts also appear if a user types in an incorrect IAC Title number or an LSA Document number or IAC Title number that has not appeared in the Indiana Register since July 2, 2006.

Alert: Title option functions only for Register documents posted since July 2, 2006.

Alert: LSA Document Number option functions only for Register documents posted since July 2, 2006.

If the user enters an incorrectly formatted LSA Document number, the following Alert appears:

Alert: LSA Document Number option requires both a year and a document number. This option functions only for Register documents posted since July 2, 2006.

At the bottom is information regarding the number of matches and the time required to complete the search.
XXIII. INTERNATIONAL STANDARD SERIAL NUMBER (ISSN)

The ISSN is a unique, internationally used identification number for serial publications. It is both a national (ANSI Z39.9) and an international (ISO 3297) standard. It can be thought of as the social security number of the serials world, distinguishing serials with the same or similar titles from each other and providing a numerical identifier which can be used to retrieve and match information about serials in databases of any size.

(From “ISSN is for Serials”, Library of Congress, National Serials Data Program, September 2006)

The ISSN for the Indiana Register is ISSN 1934-7049.
XXIV. INDEX (TO THE “USER’S GUIDE TO THE -IR- DATABASE”)

NOTE: The blue boxes are hyperlinks to the listed subject matter in the User’s Guide.

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  ☐ Opinions
    ☐ List
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  ☐ Executive Order No. 2-89
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### APPENDIX A:
INDEX FOR THE “ADMINISTRATIVE RULES DRAFTING MANUAL”

*NOTE: This index was prepared for use with the “Administrative Rules Drafting Manual” at: [http://www.in.gov/legislative/iac/IACDrftMan.pdf](http://www.in.gov/legislative/iac/IACDrftMan.pdf)*

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APPENDIX B:
ATTORNEY GENERAL’S OPINIONS (LIST)

[NOTE: Attorney General’s Opinions preceding #78-7 were not published in the Indiana Register.]

To facilitate the updating and/or printing of the “User’s Guide to the -IR- Database” and the list of Attorney General’s Opinions, each document is posted as an individual document. Click HERE to view and/or print the list of Attorney General’s Opinions.
APPENDIX C:
EXECUTIVE ORDERS (LIST)

[NOTE: Executive Orders preceding #78-16 were not published in the Indiana Register.]

To facilitate the updating and/or printing of the “User’s Guide to the -IR- Database” and the list of Executive Orders, each document is posted as an individual document. Click HERE to view and/or print the list of Executive Orders.
TO: Agency Heads, Counsel, and Rulemaking Authorities  
FROM: Matt Light  
   Chief Counsel, Advisory Division, Office of Attorney General  
DATE: October 8, 2013  
RE: Legislation impacting administrative rulemaking activities  

This memo provides information and guidance regarding two bills involving administrative rulemaking that were enacted during the 2013 legislative session. Each of these bills was effective July 1st, 2013 so they may have already impacted your agency’s rulemaking efforts. Pursuant to the Office of Attorney General’s role under Ind. Code § 4-22-2-22 as legal advisor for agencies in drafting and preparation of rules, we’re sending this memo as a reference guide to promote understanding of and compliance with new and existing requirements.

House Enrolled Act 1583 (Public 110-2013)  
Notices to the Administrative Rules Oversight Committee

HEA 1583 made various changes1 to Indiana Code provisions regarding the Administrative Rules Oversight Committee (“AROC”). AROC is comprised of eight (8) legislators appointed by legislative caucus leaders.

HEA 1583 included several changes or additions to how agencies interact with AROC, including the following:

- Requirement that all documents submitted to AROC, except documents incorporated by reference under IC 4-22-2-21, be submitted in electronic format.

- Requirement for agencies to submit to AROC economic impact information related to a proposed rule that is required to be submitted to OMB because under Ind. Code §4-22-2-28 it is estimated to have a total economic impact of greater than $500,000 on all regulated persons.
   - This submission must identify the rule by LSA Document Number.
   - This submission must be made at the same time the agency submits the rule – along with associated data, analysis, and description of assumptions to the Office of Management and Budget (“OMB”).
   - Additionally the legislation directs OMB to submit to AROC its fiscal impact statement prepared under Ind. Code § 4-22-2-28(d) and to make this statement available to the agency proposing the rule.

- For situations where an agency adopts a proposed rule that required a $500,000 economic impact statement to be submitted to OMB, and then later recalls and subsequently readopts the rule, to:
   - Submit sufficient information to OMB to allow OMB to determine whether the initial fiscal impact statement needs to be revised.
   - A revised fiscal impact statement must be prepared by OMB if the readopted rule substantially differs from the recalled rule.

- Requirement for agencies to submit certain other information to AROC, as soon
as practicable after preparation of the information, if preparation or submission of the information is required by statute, such as:

- Analysis prepared to comply with Ind. Code § 4-22-2-19.5, including:
  - Minimization of expenses to regulated entities and consumers of products and services regulated entities impacted by the rule;
  - Achievement of regulatory goals in least restrictive manner;
  - Avoidance of duplicating standards in state and federal law;
  - Statement of rule text to promote ease of comprehension; and
  - Ability to be practicably enforced.

- The justification statement that must be included in the Notice of Public Hearing under Ind. Code § 4-22-2-24(d)(3).
  - This statement must provide justification for any requirement or cost that is imposed on a regulated entity by the rule and is not expressly required by law.

- A small business economic impact statement prepared pursuant to Ind. Code § 4-22-2.1-5 describing the annual economic impact of a rule on all small businesses after full implementation of the rule.

- Analysis prepared in rule readoptions to comply with Ind. Code § 4-22-2.5-3.1 for purposes of considering whether alternative methods exist for achieving the rule’s purpose that would be less costly, less intrusive, or minimize impact on small businesses.

- For environmental rules, information published pursuant to Ind. Code §§ 13-14-9-3 or 13-14-9-4 regarding fiscal impact of the rule and applicable alternatives; and

- Analysis prepared to comply with any other applicable law relating to cost, economic impact, or fiscal impact of the rule.

Again, these submissions to AROC must identify the LSA Document Number for the rule and be submitted in electronic format. Specifically, the submissions should be directed to:

AROC@iga.in.gov

Prior to implementation of HEA 1583, AROC reviewed adopted rules that met the fiscal impact threshold. Now AROC will be responsible for reviewing each rule that must be submitted to the AG’s office and Governor’s office for approval, in addition to the rules that have total estimated economic impact of $500,000 or more, as determined by the agency or by OMB. AROC also has authority to review, at its own initiative, other rules, proposed rules, agency practices, or failures to adopt rules.

AROC’s review of submitted and rules includes consideration of the following:

1. Direct economic impact.
2. Compliance with the intent of the General Assembly.
3. The extent to which the rule creates an unfunded mandate on any state agency or political subdivision.
4. The extent to which the rule complies with the standards in Ind. Code § 4-22-2-19.5.

After review of proposed rules and information submitted to AROC based on the above provisions, AROC may recommend to the Governor that the proposed rule be approved or disapproved. AROC may also recommend that the proposed rule be modified. If the agency decides it should revise the rule, it would be required to recall the rule and readopt it with changes.

 Agencies are not required to wait for AROC to provide a recommendation to the Governor regarding the rule before proceeding to final adoption. However, failures by agencies
to comply with these new notice requirements may result in invalidation of the rule. Ind. Code § 4-22-2-44 provides that a rulemaking action that does not conform to Ind. Code chapter 4-22-2 is invalid and does not have the effect of law until it is adopted in conformity with the chapter.

Pursuant to the Attorney General’s responsibility under Ind. Code § 4-22-2-32 to review adopted rules for legality, Advisory Division attorneys will review to confirm that agencies have complied with these new requirements as applicable for all rules received.

**TO Recap:**

Agencies must now send $500,000 economic impact information to AROC at the same time it sends the information to OMB.

Additionally, agencies must now send records specified in Ind. Code § 4-22-2-28(i) to AROC as soon as practicable after preparation of the information.

These submissions should be sent to:

AROC@iga.in.gov.³

Agencies should include in their rule packets sufficient information to demonstrate compliance with the AROC notification requirements. Copies of email cover pages that specify which attachments were transmitted will generally be sufficient for this purpose.

*House Enrolled Act 1055 (Public Law 140-2013)*

**Emergency Rulemaking Authority**

Effective July 1, 2013, Ind. Code § 4-22-2-37.1 was amended to remove all language and references to specific agencies, boards, and commissions that have been given emergency rulemaking authority by the General Assembly. This authority was correspondingly recodified in the various enabling chapters that relate to each of those agencies, boards, and commissions. Before the enactment of HB 1055, emergency rulemaking authority – along with associated procedural and effectiveness provisions – for certain agencies, boards, and commissions was only listed in section 37.1. On the other hand, emergency rulemaking authority for other agencies, boards, and commissions had only been listed in those entities’ enabling legislation, which is contained in various Titles, Articles, and Chapters of Indiana Code outside of Ind. Code chapter 4-22-2. Furthermore, in some instances emergency rulemaking authority for particular agencies, boards, and commissions was reflected in both section 37.1 and the entities’ enabling legislation.

The original version of HB 1055 was prepared by the Code Revision Commission. It was designed to eliminate ambiguities and potential conflicts created by the inconsistent authorization approaches taken in the past and to create a uniform method for how new authorizations or changes to existing authorizations would be handled going forward. With the effectiveness of this legislation, persons reviewing questions of whether emergency rulemaking authority exists for an agency or particular purpose should look to the chapter or chapters of the Code that set forth the powers, duties, and responsibilities of the agency.

Section 37.1 still includes the generally applicable procedure for adopting an emergency rule, as well as the default effectiveness timeframe of 90 days, which can be extended once for an additional 90 days. See Ind. Code § 4-22-2-37.1(g). However, the statute that provides an agency, board, or commission with emergency rulemaking authority may also modify this effectiveness timeframe to provide for a longer or shorter period before termination of the emergency rule, or, in some instances, for indefinite effectiveness of the emergency rule.

So that the public and government agencies can have a concise reference summarizing
where the General Assembly has authorized emergency rulemaking, HB 1055 also provided that
the publisher of the Indiana Administrative Code shall annually publish a list of agencies
authorized to adopt rules under Section 37.1.

That list will be made available by the Legislative Services Agency at:
http://www.in.gov/legislative/register/irtoc.htm

Executive Order 13-03, which established a regulatory moratorium to suspend
administrative rulemaking, excluded from its suspension (among other things) “rules whose
predominant purpose and effect are to address matters of emergency health and safety, including
the promulgation of an emergency rule under Ind. Code § 4-22-2-37.1.” However, paragraph 7
of EO 13-03 directed agencies to notify OMB of any proposed rule believed to satisfy an
exception before initiating rulemaking action. Additionally, OMB Financial Management
Circular 2013-01 provided that agencies shall notify the OMB Director, in writing via email to
sbarules@sba.in.gov, of any proposed or pending rulemaking actions, including proposed or
pending emergency rules, for which legal authority is not within Ind. Code chapter 4-22-2 or Ind.
Code chapter 13-14-9. This FMC was issued prior to the effective date of HB 1055; however, it
is instructive in relation to how OMB interprets and applies the executive order and the
obligations under the rulemaking statute.

If you have any questions, please contact a Deputy Attorney General in the Advisory
Division:
Susan Gard       susan.gard@atg.in.gov
Kevin McDowell   kevin.mcdowell@atg.in.gov
Misty Mercer     misty.mercer@atg.in.gov
Jim Schmidt      james.schmidt@atg.in.gov
Donna Sembroski donna.sembroski@atg.in.gov
Phil Thompson    philip.thompson@atg.in.gov
Gordon White     gordon.white@atg.in.gov

1 The full text of HEA 1583 is available at:
2 Current AROC member information and related committee information is available at:
   http://www.in.gov/legislative/interim/committee/aroc.html
3 Note: Documents that are required by law to be published in the Indiana Register should be sent to
   register@iga.in.gov. Documents that need to be sent to AROC should be sent to AROC@iga.in.gov. Documents
   that need to be sent to AROC and be published in the Register, including the notices required under IC §§ 4-22-2-
   19(c)(2) (the “sixty day notice”) and 4-22-2-25(a) (the “one year notice”), should be sent to both addresses.
4 Ind. Exec. Order 13-03 (January 14, 2013), http://www.in.gov/legislative/iac/20130206-IR-
   GOV130031EOA.xml.pdf.
6 Additionally, SECTION 355 of the 2013 budget bill (House Enrolled Act 1001) provided the following:
   “Rules (as defined in IC 4-22-2-3) necessary or appropriate to carry out legislation enacted in the 2013 session of the
general assembly shall be treated as permissible rules excluded from the suspension of rulemaking imposed by
Executive Order 13-03, so long as the notice of intent to adopt a rule under IC 4-22-2 is filed by December 31, 2014,
and the rule is otherwise adopted pursuant to IC 4-22.”

LEGISLATION ABOLISHING THE ADMINISTRATIVE RULES OVERSIGHT
COMMITTEE AND TRANSFERRING SMALL BUSINESS OMBUDSMAN TO
OFFICE OF LIEUTENANT GOVERNOR
(MAY 16, 2014)
TO: Agency Counsel and Rulemaking Authorities
FROM: Matt Light
Chief Counsel, Advisory Division, Office of Attorney General
DATE: May 16, 2014
RE: Legislation abolishing the Administrative Rules Oversight Committee and transferring small business ombudsman to Office of Lieutenant Governor

This memo provides information and guidance regarding two bills involving administrative rulemaking that were enacted during the 2014 legislative session. Pursuant to the Office of Attorney General’s role under Ind. Code § 4-22-2-22 as legal advisor for agencies in drafting and preparation of rules, we’re sending this memo as a reference guide to promote understanding of and compliance with new and existing requirements.

**Senate Enrolled Act 80 (Public Law 53-2014)**
**Abolishment of the Administrative Rules Oversight Committee**

Senate Enrolled Act 80, which included various provisions dealing with legislative interim study committees, abolished the Administrative Rules Oversight Committee (AROC). Portions of SEA 80 were effective on March 24, 2014, when the Governor signed the bill, including SECTION 13 which abolished AROC.

SECTIONs 55 through 61 of the bill made several changes to sections of the rulemaking chapter (Ind. Code chapter 4-22-2) that previously involved AROC, including changes regarding the following:

- Notices from agencies about inability to begin the rulemaking process within 60 days of the effective date of the statute that authorized the rule.¹
  - These notices now have to be sent **only to the publisher** of the Indiana Register.
- Notices regarding inability to complete the rulemaking process within 1 year after publication of the Notice of Intent.²
  - These notices now have to be sent **only to the publisher** of the Indiana Register.
- Requirements to send copies of analysis, data, and descriptions of assumptions relating to economic impact analysis regarding proposed rules required to be submitted to the Office of Management and Budget based on estimates of total economic impact of greater than $500,000 on all regulated persons.
  - The copies of analysis, data, and descriptions of assumptions relating to economic impact analysis now have to be sent to the **Legislative Council**.
  - The proposed rule and economic impact information still has to be sent to OMB.
- Other documents that, based on House Enrolled Act 1583 from 2013, had to be sent to AROC.⁴
  - These documents now have to be sent to the **Legislative Council**.
  - These documents include:
    - Analysis prepared to comply with Ind. Code § 4-22-2-19.5, such as:

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¹ Ind. Code § 4-22-2-19.
² Ind. Code § 4-22-2-25.
³ See Ind. Code §§ 4-22-2-28 and -40
⁴ Ind. Code § 4-22-2-28(i).
• Minimization of expenses to regulated entities and consumers of products and services regulated entities impacted by the rule;
• Achievement of regulatory goals in least restrictive manner;
• Avoidance of duplicating standards in state and federal law;
• Statement of rule text to promote ease of comprehension; and
• Ability to be practicably enforced.

§ The justification statement that must be included in the Notice of Public Hearing under Ind. Code § 4-22-2-24(d)(3).
§ A small business economic impact statement prepared pursuant to Ind. Code § 4-22-2.1-5 describing the annual economic impact of a rule on all small businesses after full implementation of the rule.
§ Analysis prepared in rule readoptions to comply with Ind. Code § 4-22-2.5-3.1 for purposes of considering whether alternative methods exist for achieving the rule’s purpose that would be less costly, less intrusive, or minimize impact on small businesses.
§ For environmental rules, information published pursuant to Ind. Code §§ 13-14-9-3 or -4 regarding fiscal impact of the rule and applicable alternatives.
§ Analysis prepared to comply with any other applicable law relating to cost, economic impact, or fiscal impact of the rule.

§ Repeal of AROC rule review authority and obligations.

SECTIONS 55, 56, 57, 58, 60, and 61 were all effective on March 24, 2014. SECTIO 59, which made the changes outlined above to direct certain notices and documents to the Legislative Council in lieu of AROC, was effective on May 1, 2014.

The Legislative Council is established under Ind. Code § 2-5-1.1-1 and is comprised of 16 legislators, including the leaders of each of the 4 caucuses. Ind. Code § 5-14-6-4, as amended by SEA 80, provides that reports required to be sent to the Legislative Council must be sent to the Executive Director of the Legislative Services Agency (LSA) and to each of the individual members of the Legislative Council, although it also gives the Legislative Council the option of authorizing LSA to make the necessary distributions to Legislative Council members.

The Legislative Council met on Wednesday, May 14, 2014, and approved Resolution 14-05, which authorized LSA to receive reports and documents and to make necessary distributions to Legislative Council members. A new email address – Legislative.Council@iga.in.gov – has been created for purposes of sending the above notices to the LSA Executive Director and to the Legislative Council. This account will be available to the Executive Director and will also be used for purposes of agencies sending other reports and notices required by law to be sent to the Legislative Council.

House Enrolled Act 1332 (Public Law 187-2014)
Transfer of the Small Business Ombudsman to the Lieutenant Governor’s Office

The portions of House Enrolled Act 1332 relevant to this memo were effective May 1, 2014. HEA 1332 created the Office of Small Business and Entrepreneurship (OSBE) within the Office of the Lieutenant Governor. OSBE is directed to designate a small business ombudsman. HEA
1332 provided the small business ombudsman with various duties, including the responsibility to “[c]arry out the duties specified under IC 4-22-2-28 and IC 4-22-2.1 to review proposed rules and participate in rulemaking actions that affect small businesses” and to “[a]ssist in training agency coordinators that are assigned to rules under IC 4-22-2-28.1(e).”\(^5\)

Those functions had previously been handled by the Indiana Economic Development Corporation (IEDC) under Ind. Code § 5-28-17-5, but those provisions and responsibilities were repealed by HEA 1332.

Ind. Code § 4-22-2-28.1, which requires agencies to designate a small business regulatory coordinator and provides certain responsibilities for that coordinator, also requires a Notice of Intent to include the “name, address, telephone number, and electronic mail address of the small business ombudsman designated under IC 5-28-17-5, and a statement of the resources available to regulated entities through the small business ombudsman designated under IC 5-28-17-5.”\(^6\)

In accordance with the new statute, OSBE has designated a new small business ombudsman. Agencies notices should therefore update their templates Notices of Intent to reflect the following:

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 4-4-35-8 is:

Erik Scheub  
Office of Small Business and Entrepreneurship  
One North Capitol, Suite 600  
Indianapolis, IN 46204  
(317) 232-5679  
ombudsman@osbe.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman’s duties stated in IC 4-4-35-8, specifically IC 4-4-35-8(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The same information should be reflected in Notices of Intent to Readopt.

Additionally, small business economic impact statements prepared pursuant to Ind. Code § 4-22-2.1-5 should now be directed to the small ombudsman at OSBE instead of being sent to IEDC.

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**TO RECAP:**

AROC has been abolished. Certain notices that previously had to be sent to AROC now have to be sent only to the publisher of the Indiana Register. Other notices and documents now have to be sent to the Legislative Council. These notices and documents should be sent to Legislative.Council@iga.in.gov.

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\(^5\) Ind. Code § 4-4-35-8(5), -8(8)  
\(^6\) Ind. Code § 4-22-2-28.1(e).
The small business ombudsman has been transferred from IEDC to the Lt. Governor’s office. Notice of Intent templates and Notice of Intent to Readopt templates should be updated to reflect the new small business ombudsman’s name, agency, and contact information. Small business economic impact statements should be sent to the new OSBE small business ombudsman.

Please note that the General Assembly made additional changes to agency rulemaking responsibilities through passage of House Enrolled 1121 (Public Law 72-2014). Those changes impact rulemaking docket obligations in Ind. Code § 4-22-2-22.5 and are effective July 1, 2014. Summaries and guidance regarding the statutory changes in HEA 1121 will be made available to agencies in advance of the effective date.

If you have any questions, please contact a Deputy Attorney General in the Advisory Division:

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APPENDIX E:
LEGISLATIVE COUNCIL RESOLUTION 14-05
(As Adopted May 14, 2014)

BE IT RESOLVED BY THE INDIANA LEGISLATIVE COUNCIL:

SECTION 1. (a) The following definitions apply throughout this resolution:
(1) "Executive Director" refers to the Executive Director of the Legislative Services Agency.
(2) "Public agency" includes the following:
   (A) The judicial branch of state government.
   (B) A state agency (as defined in IC 4-13-1-1).
   (C) A body corporate and politic created by statute.
   (D) A state educational institution.
(3) "Report" includes any annual or other report that is subject to IC 5-14-6 that a public agency:
   (A) voluntarily; or
   (B) under a statutory directive;
   submits to the entire membership of the General Assembly, the Legislative Services Agency, the Legislative Council, or a committee established under IC 2-5-1.3-4.

SECTION 2. The Legislative Council exercises its authority under IC 5-14-6-4, as amended by SEA 80-2014, SECTION 67, to provide for the Legislative Services Agency to make electronic distribution of reports to:
(1) the entire membership of the General Assembly;
(2) the Legislative Services Agency;
(3) the Legislative Council; or
(4) a committee established under IC 2-5-1.3-4;
instead of having the public agency submitting the report directly distribute the report to the member's Senate or House of Representatives electronic mail address, as otherwise required by statute.

SECTION 3. The Executive Director is directed to establish an email address or a portal on the Internet to receive reports and post received reports to the Internet Web site for the General Assembly. A public agency shall be treated as complying with a duty imposed under a statutory directive to distribute reports to:
(1) the entire membership of the General Assembly;
(2) the Legislative Services Agency;
(3) the Legislative Council; or
(4) a committee established under IC 2-5-1.3-4;
when the public agency submits the report in Portable Document Format (PDF) to the email address or Internet portal designated by the Executive Director. The Executive Director may set additional guidelines for the submission of reports.

SECTION 4. The Executive Director shall provide for periodic electronic notification:
(1) that a report has been received; and
(2) where it is posted on the Internet;
to the legislators designated to receive the submitted report. The notification may be made to an
email address other than the member's Senate or House of Representatives electronic mail
address, as otherwise required by statute, if requested by the legislator. The Executive Director
may also electronically distribute to a legislator the full text of any report. The Executive
Director shall electronically distribute the full text of a report to a legislator if requested by the
legislator or as directed by the Personnel Subcommittee of the Legislative Council.

SECTION 5. The Executive Director may receive, post, and distribute any document that
is required by a statutory directive to be submitted under or is otherwise subject to IC 5-14-6,
regardless of whether the submitting entity qualifies as a public agency or the submitted
document qualifies as a report.