

USER'S GUIDE TO THE -IR- DATABASE

INDIANA REGISTER

— AND —

INDIANA ADMINISTRATIVE CODE

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.

— JULY 3, 2017 —

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INDIANA REGISTER AND INDIANA ADMINISTRATIVE CODE
LEGISLATIVE SERVICES AGENCY
INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE, ROOM N201
INDIANAPOLIS, IN

MAILING ADDRESS:

LEGISLATIVE SERVICES AGENCY
INDIANA REGISTER AND ADMINISTRATIVE CODE DIVISION
200 WEST WASHINGTON STREET, SUITE 301
INDIANAPOLIS, IN 46204

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.

INDIANA REGISTER AND ADMINISTRATIVE CODE DIVISION

Becky Walker, Co-Managing Editor

Kimbra K. Salt, Co-Managing Editor

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 2011 edition, on the Indiana General Assembly's Website, was the fourteenth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2010, and replaced the 2010 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 2013 edition, on the Indiana General Assembly's Website, was the sixteenth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2012, and replaced the 2012 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.

The 2015 edition, on the Indiana General Assembly's Website, was the eighteenth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2014, and replaced the 2014 edition.

The 2016 edition, on the Indiana General Assembly's Website, was the nineteenth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2015, and replaced the 2015 edition.

The 2017 edition, on the Indiana General Assembly's Website, was the twentieth recompilation of the *Indiana Administrative Code*, contains all agency rules in effect after December 31, 1978, through agency rules filed through December 31, 2016, and replaced the 2016 edition.

Since the posting of the 2017 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.

¹A 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 2017 edition of the *Indiana Administrative Code* is obsolete. Unrepealed, unexpired, and unamended rule text appearing in the 2017 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 2017 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*:

| NOTE | EXPLANATION |
|-------------------------------------|---|
| <i>Agency Abolished</i> | 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. |
| <i>Expired</i> | Under IC 4-22-2.5 or IC 13-14-9.5, the rule has expired. |
| <i>Reinstated</i> | The Indiana General Assembly has reinstated previously repealed rules of an agency. |
| <i>Repealed</i> | The agency has expressly repealed the provision by rule. |
| <i>Statutory Authority Repealed</i> | The Indiana General Assembly has repealed the authorizing statute. |
| <i>Transferred</i> | 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. |
| <i>Voided</i> | The Indiana General Assembly has expressly voided part or all of the rules of an agency. |

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:

| EXAMPLE | EXPLANATION |
|---|--|
| • <i>filed Jan 15, 2000, 10:40 a.m.</i> | Date and time a rule document was filed with the Secretary of State or, after June 30, 2006, the Publisher. |
| • <i>Rules and Regs. 1971, p. 95</i> | Year of publication and page number on which an addition or amendment of the section was printed in the Secretary of State's publication <i>Indiana Rules and Regulations</i> (1947) or <i>Additions and Revisions to Rules and Regulations</i> . (Applies to rules issued before May 16, 1978.) |
| • <i>Unpublished</i> | Indicates that an addition or amendment affecting a section was not published in <i>Indiana Rules and Regulations</i> (1947) or <i>Additions and Revisions to Rules and Regulations</i> . (Applies to rules issued before May 16, 1978.) |
| • <i>25 IR 1266</i> | Volume and page number on which an addition, amendment, agency correction, or readoption of the section was printed in an issue of the <i>Indiana Register</i> . (Applies to rules issued after May 15, 1978, through rules published in the July 1, 2006, <i>Indiana Register</i> .) |

- 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]”.

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- | <i>Indiana Register</i> database |
| 317 | Entity identifier (either <i>IAC</i> 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]

| | | |
|----|---|--|
| AC | = | Agency Correction |
| AF | = | Publisher’s Receipt for Filed Document |
| AO | = | Attorney General’s Opinions |
| AR | = | 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 |

| | | |
|----|---|--|
| DG | = | Disapproval by Governor |
| EI | = | Economic Impact Statement |
| EO | = | Executive Orders |
| ER | = | Emergency Rule |
| FC | = | IDEM Continuation of First Notice |
| FD | = | IDEM Findings and Determinations |
| FI | = | IDEM Fiscal Impact Statement |
| FN | = | IDEM First Notice |
| FR | = | Final Rule |
| NA | = | Notice of Rule Adoption |
| ND | = | Rule Activity Notice |
| NI | = | Notice of Intent to Adopt a Rule |
| NR | = | Nonrule Policy Document |
| OA | = | Objection to Errata (Attorney General) |
| OG | = | Objection to Errata (Governor) |
| ON | = | Other Notice |
| PC | = | Publisher's Correction |
| PH | = | Notice of Public Hearing |
| PR | = | Proposed Rule |
| RC | = | Notice of Recall |
| RF | = | Readopted Final Rule |
| RN | = | Notice of Intent to Readopt |
| RP | = | Readopt Proposed Rule |
| SC | = | IDEM Continuation of Second Notice |
| SN | = | IDEM Second Notice |
| WD | = | Notice of Withdrawal |

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*.

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)

Economic Impact Statements
Final Rules (and Readoptions)
Emergency Rules
Errata
Publisher's Receipts for Filed Documents

GOVERNOR'S ACTIONS:

Executive Orders
Requests for Additional Time
Disapprovals and Objections

ATTORNEY GENERAL'S ACTIONS:

Opinions
Disapprovals and Objections

NONRULE POLICY DOCUMENTS

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~~

ADDING 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: ~~m~~**May**

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.: Indiana Register

NOTE: Documents are filed upon receipt in the *Indiana Register* office, not by the date a letter is postmarked.

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

Becky Walker
Co-Managing Editor
(317) 232-9557
becky.walker@iga.in.gov

Kimbra K. Salt
Co-Managing Editor
(317) 232-9554
kimbra.salt@iga.in.gov

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")**

IC 4-22-2-19 (60-Day Notice) **(Example)**

IC 4-22-2-25 (One-Year Notice) **(Example)**

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 (Example)**

(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.237-2017 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 5-28-17-6**, and a statement of the resources available to regulated entities through the small business ombudsman designated under **IC 5-28-17-6**. 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** (IC 4-22-2.5-4(b)) (Example)
- **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 Division”.

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

AGENCY RULEMAKING DOCKET

IC 4-22-2-22.5

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 SMALL BUSINESS OMBUDSMAN

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

EMERGENCY RULES; SUBMISSION TO PUBLISHER; ASSIGNMENT OF DOCUMENT CONTROL NUMBER; EFFECTIVE DATE; EXPIRATION; EXTENSION

IC 4-22-2-37.1

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.)

EXPIRATION AND READOPTION OF ADMINISTRATIVE RULES

IC 4-22-2.5

BUDGET APPROVAL

Executive Order 2-89

Financial Management Circular #2010-4

OFFICE OF MANAGEMENT AND BUDGET - REGULATORY MORATORIUM

Executive Order 13-03

Financial Management Circular #2015-1

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 5-10.5-4-2

Sec. 2. (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.

XIII. EXECUTIVE ORDER NO. 2-89

(Indiana Register, 12 IR 1466, March 1989)

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)

C. Financial Management Circular #2015-1

Financial Management Circular: #2015-1
Effective Date: December 18, 2015
General Subject: Administrative Rulemaking
Specific Subject: Regulatory Moratorium
Authority: IC 4-3-22-1; IC 4-3-22-14; IC 4-3-22-15; Executive Order 2-89; Executive Order 13-03

WHEREAS, Executive Order 13-03 established the "Regulatory Moratorium" to suspend administrative agency rulemaking;

WHEREAS, Executive Order 13-03 tasks the Office of Management and Budget (OMB) with conducting a comprehensive review and evaluation of existing administrative rules;

WHEREAS, Executive Order 13-03 permits limited exceptions to the Regulatory Moratorium and requires agencies to cooperate with and report certain information to OMB; and

WHEREAS, Financial Management Circular #2013-1 was instituted to guide implementation of the Regulatory Moratorium, and agencies would benefit from an update to the process originally implemented.

1. This Financial Management Circular (FMC) establishes the procedures OMB will use to implement Executive Order 13-03, including the review of claimed exceptions to the Regulatory Moratorium and requirements to report on the proposed or pending use of rulemaking authority whose source is not within Ind. Code 4-22-2 or Ind. Code 13-14-9 (including emergency rulemaking authority).

Procedure for requesting an exception to the Regulatory Moratorium

2. Beginning December 18, 2015, this FMC applies to any request for an exception to the Regulatory Moratorium.
3. The Regulatory Moratorium does not apply to:
 - a. Rules to fulfill an objective related to job creation and increasing investment in Indiana or to improve the quality of Indiana's workforce;
 - b. Rules that repeal existing rules or reduce their regulatory impact;
 - c. Rules that implement a federal mandate and no waiver is permitted;
 - d. Rules necessary to avoid a violation of a court order or federal law that would result in sanctions by a court or the federal government against the state for failure to conduct the rulemaking action;
 - e. Rules to address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within a state agency or wasteful or abusive activities perpetrated against a state agency;
 - f. Rules that reduce State spending; or
 - g. Rules whose predominate purpose and effect are to address matters of emergency or health or safety, including the promulgation of an emergency rule under Ind. Code § 4-22-2-37.1.
4. To receive a determination whether an exception applies to a proposed rule, the agency head shall submit a request in writing addressed to OMB via e-mail, sent to sbarules@gov.in.gov. The agency head shall submit this request before filing a notice of intent to adopt a rule under Ind. Code 4-22-2 or a notice under Ind. Code 13-14-9.
5. In order to facilitate OMB's review of proposed rules, the request shall include the

following information:

- a. Detailed summary of the proposed rule, including, but not limited to, the following:
 - i. a history and background of the rule;
 - ii. the reasons for the proposed rule;
 - iii. the statutory authority for the proposed rule;
 - iv. the statutory authority for the agency to promulgate the proposed rule; and
 - v. a description of the existing legal framework governing the subject matter of the proposed rule with reference to all applicable statutes, regulations, and other legal provisions;
- b. Identification of the exceptions that the agency believes permit the agency to promulgate the rule notwithstanding the Regulatory Moratorium and a detailed explanation of why each identified exception applies;
- c. Fiscal Impact Analysis as described in FMC #2010-4;
- d. Cost-Benefit Analysis as described in FMC #2010-4;
- e. Copy of the proposed rule, if a draft is available; and
- f. Contact information (name, phone number, email address) for an agency staff member who can answer substantive questions about the proposed rule and the underlying policy area.

This information will better equip OMB to review proposed rules to determine their eligibility for an exception under the Regulatory Moratorium and enable OMB to provide guidance to agencies as they navigate the process. This information will also expedite OMB review of proposed rules following publication of the notice of intent to adopt a rule in the Indiana Register by enabling OMB to provide substantive commentary on the proposed rule early in the rule-making process.

6. The OMB Director shall issue a determination in writing regarding the applicability of an exception.
7. If the OMB Director determines no exception applies to a proposed rule, the Regulatory Moratorium suspends any formal rulemaking activity with regard to the proposed rule. Under these circumstances, the agency must not file a notice of intent to adopt a rule (under Ind. Code 4-22-2) or a notice under Ind. Code 13-14-9 with regard to the proposed rule until the Regulatory Moratorium ends.
8. If the OMB Director determines an exception applies to a proposed rule, the agency may file a notice of intent to adopt a rule (under Ind. Code 4-22-2) or a notice under Ind. Code 13-14-9 with regard to a proposed rule. For a proposed rule that qualifies for an exception under the Regulatory Moratorium, all other applicable procedures under statute, Executive Order 2-89 and FMC No. 2010-4 govern the promulgation of the proposed rule.

Requirement to report any proposed or pending rules whose source of promulgation authority is not within Ind. Code 4-22-2 or Ind. Code 13-14-9

9. An agency shall notify the OMB Director in writing via e-mail, sent to sbarules@gov.in.gov, as soon as practicable of any proposed or pending rulemaking action for which legal authority is not within Ind. Code 4-22-2 or Ind. Code 13-14-9, and provide the following:
 - a. A summary of the proposed rule;
 - b. A statement regarding the proposed rule's potential to promote private-sector

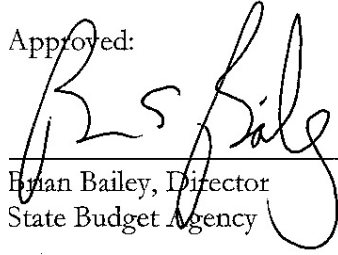
job growth or foster private-sector economic development; and

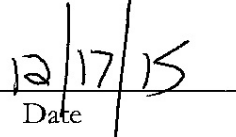
c. An estimated date of the proposed rule's adoption.

This includes proposed or pending emergency rules.

10. This Circular rescinds FMC #2013-1.

Approved:


Brian Bailey, Director
State Budget Agency


Date

XV. REGULATORY MORATORIUM PROCEDURES

A. Regulatory Moratorium Background

The regulatory moratorium was established by Executive Order 13-03, and took effect on January 14, 2013. The moratorium applies to all executive branch agencies, and prohibits an agency from beginning a rulemaking unless an exception applies. Financial Management Circular #2015-01 (FMC #2015-01) lists the exceptions to the moratorium, and the process for requesting authority to proceed with a rulemaking under one of the exceptions. The Office of Management and Budget (OMB) determines whether an exception applies in consultation with the agency. Moratorium exception requests must be approved before beginning the formal rulemaking process.

B. Required Contents of Exception Request

- Detailed summary of the proposed rule
 - History and background of the rule
 - Justification for the rule
 - Statutory authority for the rule
 - Statutory authority for agency promulgation of rules
 - Description of existing legal framework governing the subject matter of the rule
- Identification of the applicable moratorium exception(s)
- Fiscal Impact Analysis described in FMC #2010-04
- Cost-Benefit Analysis described in FMC #2010-04
- Draft of proposed rule
- Contact information for appropriate agency staff member

C. OMB Review Process

STEP 1: Exception request submitted to OMB from agency head on agency letterhead with all supporting materials required by FMC #2015-01. The request and materials should be submitted electronically to sbarules@gov.in.gov.

STEP 2: OMB will acknowledge receipt of the request, then review the request for completeness. If the request contains all required materials, OMB will assign a tracking number and provide the tracking number to the agency. The agency should reference the tracking number in further correspondence with OMB. If a request is incomplete, OMB will hold the request until all supporting materials are received.

STEP 3: OMB will review the request to determine whether an exception applies. OMB may contact the agency with questions or if additional information is needed.

STEP 4: OMB will provide the agency with a letter approving or denying the exception request.

D. Fiscal Impact Analysis Tips

- Be comprehensive
 - Calculate the estimated impact on any related federal, state, or local funds
 - Identify any sources for expenditures, including appropriations from general or dedicated funds

- Identify sources of revenue, including taxes, fees, fines, grants, and investments
- Separate out all fiscal impacts
 - By type of impact (state vs. local)
 - By revenues and expenditures
 - By funding sources
 - By year (provide at least 5 years of impact)
- Include all expenditures
 - Discuss both direct and indirect costs of the rule
 - Calculate implementation costs, administrative costs, personnel costs, equipment costs
- Include any agency response to the fiscal impact
 - Identify how the agency will cover any expense or revenue losses
 - Identify whether the proposed rule will require increased appropriations

E. Cost-Benefit Analysis Tips

- Isolate the effects of the rule
 - All costs and benefits should be "but for" the proposed rule
 - Ignore any costs and benefits that would exist in absence of the proposed rule
- Be comprehensive
 - Include all direct and indirect costs and benefits
 - Consider the impact on all persons affected by the rule (not only regulated persons)
 - Include costs and benefits of any repealed or amended rules
 - Consider any cost or burden resulting from a transition
 - Include the fiscal impact
- Attempt to quantify the costs and benefits
 - Use a uniform unit of measure, even if the unit is made up
 - Be creative
 - Use known data to extrapolate additional costs and benefits
 - Assign values
- Consider alternatives
 - Consider any incentives and human behavior
 - Consider default rules
 - Consider information vs. mandates

F. Helpful Resources

- OMB Website
 - www.in.gov/omb/2626.htm
 - Contact Info
 - Justin L. McAdam
General Counsel and Policy Director
Office of Management and Budget
(317) 234-2285
jmcadam@gov.in.gov
 - Aaron Bennett
Operations Manager
Office of Management and Budget
(317) 232-4411
aarbennett@gov.in.gov
-

XVI. SMALL BUSINESS ECONOMIC IMPACT STATEMENT INFORMATION

Pursuant to IC 4-22-2.1-5, a Small Business Economic Impact Statement is necessary when a rule will impose costs or requirements on a small business. IC 4-22-2.1-4 defines "small business" as a business with the majority of its employees in Indiana that employed no more than 150 employees on at least 50% of the working days of the business during the preceding calendar year whose employees. The Small Business Economic Impact Statement requirement applies to all agencies except the Indiana Department of Environmental Management and certain boards of the Department of Homeland Security. The agency must first determine whether the proposed rule will impose **any** cost or requirement on **any** small business, and if so, the agency must prepare a Small Business Economic Impact Statement.

If a Small Business Economic Impact Statement is not required, the agency should provide a statement to the Publisher that the rule does not impose any cost or requirement on any small business. It is helpful to include information explaining how the agency reached that conclusion in the statement. If there is any doubt about whether a cost or requirement would be imposed on a small business, the agency should prepare a Small Business Economic Impact Statement.

Five items are required by IC 4-22-2.1-5(a) to be included in the Small Business Economic Impact Statement:

- (1) An estimate of the number of small businesses, separated by industry sector, that will be subject to the proposed rule.
- (2) An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.
- (3) An estimate of the total annual economic impact that compliance with the rule will have on all small businesses subject to the rule.
- (4) A statement justifying any cost or requirement that is imposed on a small business by the rule that is not expressly required by a statute or federal law. The statement must include a reference to any data, studies, or analyses the agency relied on in determining whether a cost or requirement will be imposed.
- (5) An analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The analysis must consider the following methods:
 - (A) The establishment of less stringent compliance or reporting requirements for small businesses.
 - (B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
 - (C) The consolidation or simplification of compliance or reporting requirements for small businesses.
 - (D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.
 - (E) The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

The Small Business Economic Impact Statement must be published with the proposed rule, and must be delivered with the proposed rule to the small business ombudsman no later than the date

of publication. At least 7 days before the public hearing, the small business ombudsman must review the proposed rule and Small Business Economic Impact Statement and submit written comments to the agency. The agency must make the comments from the small business ombudsman available on its website and for distribution at the public hearing. The agency must consider the comments from the small business ombudsman and respond in writing before adopting the rule. Note that IC 4-22-2.1-8 provides a cause of action to a small business that is adversely affected by a rule if the agency does not comply with the Small Business Economic Impact Statement process.

A public hearing notice must include a statement that justifies any cost or requirement that is imposed on a regulated entity and is not expressly required by statute or federal law. IC 4-22-2-24(d). This statement is different than the Small Business Economic Impact Statement because it addresses all regulated entities, not only small businesses. The justification statement must include a reference to any data, studies, or analyses the agency relied on in determining whether an imposed cost or requirement is necessary.

XVII. ADMINISTRATIVE RULES DRAFTING MANUAL

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.

(b) After June 30, 2006, all documents submitted to the publisher under this chapter must be submitted electronically in the format specified by the publisher.

As added by P.L.31-1985, SEC.9. Amended by P.L.215-2005, SEC.2; P.L.123-2006, SEC.3”

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>

XVIII. CHECKLIST FOR ADOPTION OF ADMINISTRATIVE RULES

NOTE: This checklist is intended as a general guideline only and should not be considered a definitive explanation of the rulemaking process. **Consult IC 4-22 and statutes concerning rulemaking authority for a particular agency before beginning the rulemaking process, as the rulemaking process may vary between some agencies.** The Attorney General is the legal advisor to all agencies in the drafting and preparation of rules. (IC 4-22-2-22)

NOTE: The Legislative Services Agency is the Publisher (Publisher) of the Indiana Register and Indiana Administrative Code. Documents should be submitted to the Publisher via email at register@iga.in.gov, in Word or WordPerfect format only.

NOTE: Additional details and examples may be found in this Guide and the Administrative Rules Drafting Manual.

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

Attorney General Review of Administrative Rules:

Memorandum - Revised August 30, 2016

Financial Management Circular #2015-01:

Regulatory Moratorium Exceptions Procedure

NOTE: Executive Order #13-03 established a moratorium on administrative rules, with some exceptions. Financial Management Circular #2015-01 establishes the procedure for requesting an exception to the moratorium that must be completed before beginning the rulemaking process.

STEP 1:

Submit the Notice of Intent to Adopt a Rule, which must include the statutory authority for the rulemaking, an overview of the intent and scope of the rulemaking, and the information for the Small Business Regulatory Coordinator and Small Business Ombudsman required under IC 4-22-2-28.1, electronically (Word or WordPerfect format) to the Publisher at register@iga.in.gov. The Notice of Intent to Adopt a Rule must be published at least twenty-eight (28) days before publication of the Proposed Rule. The Publisher 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 submits its Notice of Intent to Adopt a Rule with the Publisher, the agency shall simultaneously provide the Budget Agency (sbarules@sba.in.gov or sbarules@gov.in.gov) with a copy of the Notice of Intent to Adopt a Rule and additional required documents. (See Financial Management Circular #2010-4)

NOTE: Each agency is required to maintain an indexed rulemaking docket containing each pending rulemaking action on the agency's website. The rulemaking document must be updated promptly and kept current throughout the rulemaking process. A copy of the rulemaking docket must be

included as supporting documentation when submitting the Final Rule packet to the Attorney General. See IC 4-22-2-22.5 for rulemaking docket requirements.

NOTE: The rulemaking process for some agencies may vary, so IC 4-22 and agency statutes should be consulted before beginning the rulemaking process. For example, the Indiana Department of Environmental Management (IDEM) does not publish a Notice of Intent to Adopt a Rule, but instead must submit a First Notice of Comment Period, a Second Notice of Comment Period to the Publisher, or a Findings and Determination before submitting the Proposed Rule for publication. (See IC 13-14-9)

STEP 2:

Obtain approval from the Budget Agency before submission of the Proposed Rule for publication. ([Executive Order 2-89](#); [Financial Management Circular #2010-4](#)).

STEP 3:

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), electronically 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 (sbarules@sba.in.gov or sbarules@gov.in.gov) and to the Legislative Council (legislative.council@iga.in.gov). (IC 4-3-22-13; IC 4-22-2-28; IC 4-22-2.1-5)

STEP 4:

(1) Electronically submit the Proposed Rule, with the corresponding small business Economic Impact Statement (if applicable, see IC 4-22-2.1-5) as a separate attachment, to the Publisher to obtain an intended date of publication. Submit each Proposed Rule individually, and do not send the Notice of Public Hearing until an intended date of publication is received, so that statutory timelines may be met.

(2) Upon receipt of the Proposed Rule, the Publisher will provide an intended date of publication to the agency to be referenced in setting a date for the public hearing. The public hearing must be at least twenty-one (21) days after the date of publication of the Proposed Rule and Notice of Public Hearing on the -IR- Database Website and publication in the newspaper.

(3) When the intended date of publication is received, electronically submit the Notice of Public Hearing to the Publisher based on this intended date of publication. Submit the Notice of Public Hearing, including all information required under IC 4-22-2-24(d), and one (1) electronic or paper copy of the matters incorporated by reference under IC 4-22-2-21 to the Publisher.

(4) The Publisher will send a written or electronic Authorization to Proceed with the rulemaking.

(5) 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 date of publication of the Proposed Rule and Notice of Public Hearing on the -IR- Database Website and publication in the newspaper.

(6) 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: If applicable, the agency must deliver a copy of the Economic Impact Statement, along with the Proposed Rule, to the Small Business Ombudsman (kcolclazier@iedc.in.gov) not later than the date of publication on the -IR- Database Website. (IC 4-22-2.1-5(c)(2))

NOTE: The agency must deliver an electronic copy of the Economic Impact Statement or Fiscal

Impact Statement with supporting documentation to the Legislative Council as soon as practicable under IC 4-22-2-28(i).

NOTE: The Proposed Rule should substantively match the information submitted to the Office of Management and Budget in the agency's request for an exception to the rules moratorium.

STEP 5:

If applicable, IC 4-22-2.1-6 requires that the Small Business Ombudsman 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 Small Business Ombudsman'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:

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) If the Proposed 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 7:

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

STEP 8:

When applicable, under IC 4-22-2-28(b), an agency must respond in writing to the Small Business Ombudsman's comments before finally adopting a rule under IC 4-22-2-29.

STEP 9:

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

STEP 10:

Prepare and submit the following in one solid colored folder or binder to the Attorney General for approval:

- (1) The Final Rule on a CD-ROM clearly labeled with the agency name and LSA document number and placed in a three-hole punched plastic sleeve with a signature page, followed by a divider.
- (2) One (1) copy of clearly labeled supporting documentation, followed by a divider. Supporting documentation includes:
 - (A) Newspaper proof of publication (Publisher's affidavit).
 - (B) A transcript or summary of the public hearing.
 - (C) The written Authorization to Proceed from the Publisher.
 - (D) Written comments received during the rulemaking process.
 - (E) Other miscellaneous matters made a part of the rule package, if applicable, including:
 - (i) Moratorium Exception letter.
 - (ii) Transmittal emails to Legislative Council.

(iii) List of all text changes made after publication of the Proposed Rule in the Indiana Register.

(iv) 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.

(v) Copy of the rulemaking docket.

(3) One (1) copy of any matters incorporated by reference, if applicable, including a notice briefly describing the

incorporated matters, followed by a divider.

(4) Executive summary (required by Governor but may be submitted at this time), followed by a divider.

(5) Budget Agency approval letter (see STEP 2).

The Attorney General may request submission of additional documents. (IC 4-22-2-31; IC 4-22-2-33; IC 4-22-2-35)

STEP 11:

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 12:

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 13:

Upon acceptance for filing by the Publisher, a Publisher's Receipt for Documents Filed will be posted on the -IR- Database Website. This posting begins the 30-day period until the rule becomes effective. Subsequently, the rule will be posted on the -IR- Database Website. (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
232-9557 or 232-9554
register@iga.in.gov

Legal and Drafting Assistance:
Advisory Division
Office of the Attorney General
Indiana Government Center South
402 West Washington Street, Fifth Floor

Other Procedures

Readoptions:

(1) Generally, to readopt a rule(s), submit a Notice of Intent to Readopt via email to the Publisher. The Notice of Intent to Readopt contains information similar to that of a Notice of Intent to Adopt a Rule, but pertaining to the rules being readopted. An example may be found in the Administrative Drafting Manual. The agency must also conduct a review of the rule to consider whether any

alternate methods would be less costly or intrusive and of the most recent economic impact statement. See IC 4-22-2.5-3.1 for further detail. The readoption process for IDEM is detailed in IC 13-14-9.5.

(2) After the Notice of Intent to Readopt has been posted, the agency must wait thirty (30) days for any written request to separate any portion of the document from the rulemaking, and should wait an extra five (5) days to allow for receipt of any letters postmarked within the thirty (30) period. If no requests are received, the Readopted Final Rule on a CD-ROM (in Word or WordPerfect format) should be delivered to the Publisher with the paper signature page, signed by the authorizing person, in a folder or binder. See IC 4-22-2.5.

NOTE: The Regulatory Moratorium does not apply to readoptions.

Emergency Rules:

Emergency Rules do not follow the same approval process as a normal rule. The Emergency Rule document must be submitted to the Publisher on a CD-ROM in Word or WordPerfect format, with a paper signature page in the pocket of the folder or binder. The only signature needed for an Emergency Rule is the authorizing person with a line for the filing date and time. (See IC 4-22-2-37.1).

Notice of Recall:

To recall a rule document, an agency must email the LSA document number to the Publisher and request that the document be recalled. The Notice of Recall will then be generated by the Publisher. See IC 4-22-2-40.

Notice of Withdrawal:

To withdraw a rule document, an agency must email the LSA document number to the Publisher and request that the document be withdrawn. The Notice of Withdrawal will then be generated by the Publisher. See IC 4-22-2-41.

Change of Public Hearing:

If a change of public hearing is needed, contact the Publisher at register@iga.in.gov in order to obtain a new intended date of publication. Once the new intended date of publication is received, submit a Change in Notice of Public Hearing to the Publisher for publication. The new date, time, or location of the public hearing must be shown in boldface text. Remember that the new hearing information must also be published in a newspaper of general circulation in Marion County. Both postings of the new public hearing information must be completed at least twenty-one (21) days before the public hearing is held.

Agency Correction:

To correct the text of the Indiana Administrative Code, a Final Rule, an Emergency Rule, or a Readopted Final Rule, the agency must submit the document for filing to the Publisher. The document must be submitted to the Publisher on a CD-ROM in Word or WordPerfect format, with a paper signature page in the pocket of the folder or binder and a copy of any materials incorporated by reference. The only signature needed for an agency correction is the authorizing person with a line for the filing date and time. See IC 4-22-2-38.

XIX. 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) An overview of the intent and scope of the rulemaking.
- (2) The statutory authority for the rulemaking.
- (3) 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.

(4) The:

- (A) name;
- (B) address;
- (C) telephone number; and
- (D) e-mail address;

of the Small Business Ombudsman designated under IC 5-28-17-6.

(4) A statement of the resources available to regulated entities through the small business ombudsman designated under IC 5-28-17-6. (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 and any data, studies, or analyses referenced in a justification of requirements or costs on regulated entities, if any, is on file and may be examined and copied 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 or register@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 the Publisher at register@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. Readoptions

[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. **NOTE:** The Regulatory Moratorium does not apply to readoptions.
- (2) The agency must also conduct a review of the rule to consider whether any alternate methods would be less costly or intrusive and of the most recent economic impact statement. See IC 4-22-2.5-3.1 for further detail. The readoption process for IDEM is detailed in IC 13-14-9.5.
- (3) 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.

- (4) 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.
- (5) 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. Please use the following address for U.S. Mail:
Legislative Services Agency
Indiana Register and Administrative Code Division
200 West Washington Street, Suite 301
Indianapolis, IN 46204

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:

register@iga.in.gov

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

XX. ATTORNEY GENERAL REVIEW OF ADMINISTRATIVE RULES

MEMORANDUM -- Revised August 30, 2016

The purpose of this document is to clarify what must be included when a rule is submitted to the Office of the Attorney General for review.

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."

Following adoption of the rule, compile the following materials into one solid colored folder or binder for submission to the Office of the Attorney General: the one rule CD-ROM (with the rule in Word or WordPerfect format) contained in a 3 hole-punched plastic sleeve, followed by a divider; one copy of all supporting documentation (see below), followed by another divider; and a copy of any materials incorporated by reference (electronic or hard copy). Include a Rule Signature Page in the plastic sleeve containing the rule CD-ROM, signed by the appropriate authority and/or body.

Supporting documentation included in the rule folder or binder should include:

- a. Printed from the Indiana Register:
 - i. Notice of Intent
 - ii. Proposed Rule
 - iii. Economic Impact Statement
 - iv. Notice of Public Hearing (including any changes of hearing)
- b. Authorization to Proceed from the Indiana Register
- c. Publisher's affidavit and a copy of the public hearing notice published in the Indianapolis Star (and any other newspapers as applicable)
- d. State Budget Agency approval letter
- e. If the rule imposes costs or requirements on small businesses (see IC 4-22-2.1-4; IC 4-22-2.1-6; IC 4-22-2-28):
 - i. Cover letter or other documentation showing that the Economic Impact Statement was submitted to the Small Business Ombudsman
 - ii. Comments from the Small Business Ombudsman (comments must also be available on the agency website and at the public hearing)
 - iii. Printout of the web page with the Small Business Ombudsman comments
 - iv. Agency response to Small Business Ombudsman's comments
- f. If the rule will have a total estimated economic impact greater than \$500,000 on all regulated persons or entities in the first twelve month period after the rule is

fully implemented (See IC 4-22-2-28):

- i. Economic impact analysis submitted to the Office of Management and Budget (OMB)
- ii. Fiscal Impact Statement prepared by OMB, or OMB statement that the agency analysis was adopted
- iii. If the rule will **not** have a \$500,000 impact, a statement to that effect should be included in the supporting documentation
- g. Cover emails for any transmittal to the Legislative Council (See IC 4-22-2-28(h) and IC 4-22-2-28(i))
- h. Public comments, including any written comments and a transcript or minutes of the public hearing. If no members of the public appeared at the public hearing, a statement of the hearing officer is sufficient
 - i. Agency response to public comments
 - j. If the Final Rule is not identical to the Proposed Rule, a description of all changes
- k. 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 the chair or other authorized representative
- l. Printout of the most current version of the rulemaking docket (See IC 4-22-2-22.5)
- m. If the rule will not be signed by the Governor within one year of publication of the Notice of Intent, a copy of the notice to the Publisher required under IC 4-22-2-25 that was filed before the 250th day following the publication of the Notice of Intent
- n. Any other notices or documents published in the Indiana Register

Following approval of the Office of the Attorney General, the rule will be delivered as a courtesy to the agency to the Governor's General Counsel for final approval. From the Governor's office, the rule will be delivered to the Publisher as a courtesy to the agency. Note that statute allows the Publisher 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 Publisher.

Emergency Rules, Agency Corrections, and Final Readoptions do not go through the same approval process as normal rules. To the extent feasible, follow the same procedures used for Final Rules. Statute still requires these rules to be submitted electronically (via CD-ROM) to the Publisher, and it makes the most sense for them to be delivered in a similar format as normal rules. For further reference, see IC 4-22-2-37.1; IC 4-22-2-38; and IC 4-22-2.5.

For additional detail of rulemaking requirements and procedures, refer to IC 4-22-2, IC 4-22-2.1, and this Guide.

(See following pages for sample signature pages.)

Signature Pages for Documents Filed with the Publisher:

SAMPLE (FOR USE WITH FINAL RULES):

Rule Signature Page

Rule #: LSA Document #07-111(F)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority, i.e. State Board of Cosmetology and Barber Examiners; Indiana Gaming Commission)
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: _____
Michael R. Pence
Governor, State of Indiana

ACCEPTED FOR FILING:

By: Indiana Register
Legislative Services Agency

SAMPLE (FOR USE WITH EMERGENCY RULES):

Rule Signature Page

Rule #: LSA Document #08-_____ (E)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority, i.e. State Board of Cosmetology and Barber Examiners; Indiana Gaming Commission)
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: Indiana Register
Legislative Services Agency

SAMPLE (FOR USE WITH FINAL READOPTIONS):

Rule Signature Page

Rule #: LSA Document #08-111(F)
Agency: XYZ Agency, Board, or Commission (Entity w/Rulemaking Authority, i.e. State Board of Cosmetology and Barber Examiners; Indiana Gaming Commission)
Subject: Final Readoption

ADOPTED:

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

ACCEPTED FOR FILING:

By: 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, i.e. State Board of Cosmetology and Barber Examiners; Indiana Gaming Commission)
Subject: Agency Correction

ADOPTED:

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

ACCEPTED FOR FILING:

By: 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.

XXI. STATE AGENCIES

A. Alphabetical Listing of State Agencies

| | |
|---|-------|
| Accountancy, Indiana Board of. | 872 |
| Accounts, State Board of. | 20 |
| †Adjutant General. | 270 |
| Administration, Indiana Department of. | 25 |
| †Administrative Building Council of Indiana. | 660 |
| †Aeronautics Commission of Indiana. | 110 |
| Aging, Division of. | 455 |
| †Aging and Community Services, Department on. | 450 |
| †Agricultural Development Corporation, Indiana. | 770 |
| †Agricultural Experiment Station. | 350 |
| †Agriculture, Commissioner of. | 340 |
| Agriculture, Indiana State Department of. | 375 |
| †Air Pollution Control Board. | 325.1 |
| Air Pollution Control Division. | 326 |
| †Air Pollution Control Board of the State of Indiana. | 325 |
| Alcohol and Tobacco Commission. | 905 |
| Amusement Device Safety Board, Regulated. | 685 |
| Animal Health, Indiana State Board of. | 345 |
| Architects and Landscape Architects, Board of Registration for | 804 |
| †Athletic Commission, State. | 808 |
| Athletic Trainers Board, Indiana. | 898 |
| Attorney General for the State, Office of. | 10 |
| Auctioneer Commission, Indiana. | 812 |
| †Barber Examiners, Board of. | 816 |
| Behavioral Health and Human Services Licensing Board. | 839 |
| Boiler and Pressure Vessel Rules Board. | 680 |
| †Budget Agency. | 85 |
| Chemist of the State of Indiana, State. | 355 |
| †Children’s Health Insurance Program, Office of the | 407 |
| Child Services, Department of. | 465 |
| Chiropractic Examiners, Board of. | 846 |
| Civil Rights Commission. | 910 |
| †Clemency Commission, Indiana. | 230 |
| Community and Rural Affairs, Office of. | 17 |
| †Community Residential Facilities Council. | 431 |
| Consumer Protection Division of the Office of the Attorney General. | 11 |
| †Controlled Substances Advisory Committee. | 858 |
| Coroners Training Board. | 207 |
| Correction, Department of. | 210 |
| Cosmetology and Barber Examiners, State Board of. | 820 |
| Creamery Examining Board. | 365 |
| Criminal Justice Institute, Indiana. | 205 |
| †Deaf Board, Indiana School for the. | 514 |
| Dentistry, State Board of. | 828 |

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| †Developmental Disabilities Residential Facilities Council. | 430 |
| Dietitians Certification Board, Indiana. | 830 |
| Disability and Rehabilitative Services, Division of. | 460 |
| Economic Development Corporation, Indiana. | 55 |
| †Education, Commission on General. | 510 |
| Education, Department of. | 512 |
| Education, Indiana State Board of. | 511 |
| Education Employment Relations Board, Indiana. | 560 |
| Education Savings Authority, Indiana. | 540 |
| Egg Board, State. | 370 |
| †Election Board, State. | 15 |
| †Election Commission, Indiana. | 18 |
| †Elevator Safety Board. | 670 |
| Emergency Medical Services Commission, Indiana. | 836 |
| †Employees' Appeals Commission, State. | 33 |
| †Employment and Training Services, Department of. | 645 |
| Engineers, State Board of Registration for Professional. | 864 |
| †Enterprise Zone Board. | 58 |
| Environmental Adjudication, Office of. | 315 |
| Environmental Health Specialists, Board of. | 896 |
| Environmental Management, Department of. | 318 |
| †Environmental Management Board, Indiana. | 320 |
| Ethics Commission, State. | 40 |
| Fair Commission, State. | 80 |
| Family Resources, Division of. | 470 |
| Family and Social Services, Office of the Secretary of. | 405 |
| Finance Authority, Indiana. | 135 |
| Financial Institutions, Department of. | 750 |
| †Fire Marshal, State. | 650 |
| Fire Prevention and Building Safety Commission. | 675 |
| Firefighting Personnel Standards and Education, Board of. | 655 |
| †Forensic Sciences, Commission on. | 415 |
| Funeral and Cemetery Service, State Board of. | 832 |
| Gaming Commission, Indiana. | 68 |
| Geologists, Indiana Board of Licensure for Professional. | 305 |
| Grain Buyers and Warehouse Licensing Agency, Indiana. | 824 |
| Grain Indemnity Corporation, Indiana. | 825 |
| †Hazardous Waste Facility Site Approval Authority, Indiana. | 323 |
| Health, Indiana State Department of. | 410 |
| Health Facilities Council, Indiana. | 412 |
| Health Facility Administrators, Indiana State Board of. | 840 |
| †Higher Education of the State of Indiana, Commission for. | 500 |
| †Highways, Department of. | 120 |
| Home Inspectors Licensing Board. | 878 |
| Homeland Security, Department of. | 290 |
| †Horse Racing Commission, Indiana. | 70 |
| Horse Racing Commission, Indiana. | 71 |
| Hospital Council. | 414 |

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| Housing and Community Development Authority, Indiana. | 930 |
| †Human Service Programs, Interdepartmental Board for the Coordination of. | 490 |
| †Industrial Board of Indiana. | 630 |
| Inspector General, Office of the. | 42 |
| Insurance, Department of. | 760 |
| Labor, Department of. | 610 |
| Law Enforcement Training Board. | 250 |
| Library and Historical Board, Indiana. | 590 |
| †Library Certification Board. | 595 |
| †Lieutenant Governor, Office of the | 16 |
| Local Government Finance, Department of. | 50 |
| Lottery Commission, State. | 65 |
| Manufactured Home Installer Licensing Board. | 879 |
| Massage Therapy, State Board of. | 847 |
| †Medical and Nursing Distribution Loan Fund Board of Trustees, Indiana. | 580 |
| Medical Licensing Board of Indiana. | 844 |
| Mental Health and Addiction, Division of. | 440 |
| Meridian Street Preservation Commission. | 925 |
| Motor Vehicles, Bureau of. | 140 |
| Museum and Historic Sites Corporation, Indiana State. | 313 |
| †Natural Resources, Department of. | 310 |
| Natural Resources Commission. | 312 |
| Nursing, Indiana State Board of. | 848 |
| Occupational Safety Standards Commission. | 620 |
| †Optometric Legend Drug Prescription Advisory Committee, Indiana. | 857 |
| Optometry Board, Indiana. | 852 |
| Parole Board. | 220 |
| †Personnel Board, State. | 30 |
| Personnel Department, State. | 31 |
| Pesticide Review Board, Indiana. | 357 |
| Pharmacy, Indiana Board of. | 856 |
| Plumbing Commission, Indiana. | 860 |
| Podiatric Medicine, Board of. | 845 |
| Police Department, State. | 240 |
| Political Subdivision Risk Management Commission, Indiana. | 762 |
| Ports of Indiana. | 130 |
| †Preparedness and Training, Division of | 280 |
| Private Detectives Licensing Board. | 862 |
| Private Investigator and Security Guard Licensing Board. | 874 |
| Professional Licensing Agency, Indiana. | 810 |
| Professional Standards, Advisory Board of the Division of. | 515 |
| Professional Surveyors, State Board of Registration for. | 865 |
| †Proprietary Education, Indiana Commission on. | 570 |
| Psychology Board, State. | 868 |
| Public Access Counselor, Office of the. | 62 |
| Public Retirement System, Board of Trustees of the Indiana. | 35 |
| Public Records, Oversight Committee on. | 60 |
| Real Estate Appraiser Licensure and Certification Board. | 877 |

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| Real Estate Commission, Indiana. | 876 |
| †Reciprocity Commission of Indiana. | 145 |
| Revenue, Department of State. | 45 |
| Safety Review, Board of. | 615 |
| School Bus Committee, State. | 575 |
| Seclusion and Restraint in Schools, Commission on. | 513 |
| Secretary of State. | 75 |
| Securities Division. | 710 |
| Seed Commissioner, State. | 360 |
| Sexual Assault Victim Advocate Standards and Certification Board. | 201 |
| †Soil and Water Conservation Committee, State. | 311 |
| Soil Scientists, Indiana Board of Registration for. | 307 |
| †Solid Waste Management Board. | 320.1 |
| Solid Waste Management Division. | 329 |
| Speech-Language Pathology and Audiology Board. | 880 |
| †Standardbred Board of Regulations, Indiana. | 341 |
| †Stream Pollution Control Board of the State of Indiana. | 330 |
| †Student Assistance Commission, State. | 585 |
| Tax Review, Indiana Board of. | 52 |
| †Teacher Training and Licensing, Commission on. | 530 |
| †Teachers' Retirement Fund, Board of Trustees of the Indiana State. | 550 |
| Technology, Office of. | 28 |
| †Television and Radio Service Examiners, Board of. | 884 |
| †Textbook Adoptions, Commission on. | 520 |
| Toxicology, State Department of. | 260 |
| †Traffic Safety, Office of. | 150 |
| †Transportation, Department of. | 100 |
| Transportation, Indiana Department of. | 105 |
| Underground Storage Tank Financial Assurance Board. | 328 |
| †Unemployment Insurance Board, Indiana. | 640 |
| Utility Regulatory Commission, Indiana. | 170 |
| †Vehicle Inspection, Department of. | 160 |
| Veterans' Affairs Commission, Indiana. | 915 |
| Veterinary Medical Examiners, Indiana Board of. | 888 |
| Victim Services Division. | 203 |
| †Violent Crime Compensation Division. | 480 |
| †Vocational and Technical Education, Indiana Commission on. | 572 |
| †Wage Adjustment Board. | 635 |
| War Memorials Commission, Indiana. | 920 |
| †Watch Repairing, Indiana State Board of Examiners in. | 892 |
| Water Pollution Control Division. | 327 |
| †Water Pollution Control Board. | 330.1 |
| White River State Park Development Commission, Indiana. | 935 |
| Worker's Compensation Board of Indiana. | 631 |
| Workforce Development, Department of. | 646 |

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

B. Listing of State Agencies by Title Number

| | |
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| 10 | Office of Attorney General for the State |
| 11 | Consumer Protection Division of the Office of the Attorney General |
| †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 |

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| 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 |
| †415 | Commission on Forensic Sciences |
| †430 | Developmental Disabilities Residential Facilities Council |
| †431 | Community Residential Facilities Council |
| 440 | Division of Mental Health and Addiction |
| †450 | Department on Aging and Community Services |
| 455 | Division of Aging |

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| 460 | Division of Disability and Rehabilitative Services |
| 465 | Department of Child Services |
| 470 | Division of Family Resources |
| †480 | Violent Crime Compensation Division |
| †490 | Interdepartmental Board for the Coordination of Human Service Programs |
| †500 | Commission for Higher Education of the State of Indiana |
| †510 | Commission on General Education |
| 511 | Indiana State Board of Education |
| 512 | Department of Education |
| 513 | Commission on Seclusion and Restraint in Schools |
| †514 | Indiana School for the Deaf Board |
| 515 | Advisory Board of the Division of Professional Standards |
| †520 | Commission on Textbook Adoptions |
| †530 | Commission on Teacher Training and Licensing |
| 540 | Indiana Education Savings Authority |
| †550 | Board of Trustees of the Indiana State Teachers' Retirement Fund |
| 560 | Indiana Education Employment Relations Board |
| †570 | Indiana Commission on Proprietary Education |
| †572 | Indiana Commission on Vocational and Technical Education |
| 575 | State School Bus Committee |
| †580 | Indiana Medical and Nursing Distribution Loan Fund Board of Trustees |
| †585 | State Student Assistance Commission |
| 590 | Indiana Library and Historical Board |
| †595 | Library Certification Board |
| 610 | Department of Labor |
| 615 | Board of Safety Review |
| 620 | Occupational Safety Standards Commission |
| †630 | Industrial Board of Indiana |
| 631 | Worker's Compensation Board of Indiana |
| †635 | Wage Adjustment Board |
| †640 | Indiana Unemployment Insurance Board |
| †645 | Department of Employment and Training Services |
| 646 | Department of Workforce Development |
| †650 | State Fire Marshal |
| 655 | Board of Firefighting Personnel Standards and Education |
| †660 | Administrative Building Council of Indiana |
| †670 | Elevator Safety Board |
| 675 | Fire Prevention and Building Safety Commission |
| 680 | Boiler and Pressure Vessel Rules Board |
| 685 | Regulated Amusement Device Safety Board |
| 710 | Securities Division |
| 750 | Department of Financial Institutions |
| 760 | Department of Insurance |
| 762 | Indiana Political Subdivision Risk Management Commission |
| †770 | Indiana Agricultural Development Corporation |
| 804 | Board of Registration for Architects and Landscape Architects |
| †808 | State Athletic Commission |
| 810 | Indiana Professional Licensing Agency |

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| 812 | Indiana Auctioneer Commission |
| †816 | Board of Barber Examiners |
| 820 | State Board of Cosmetology and Barber Examiners |
| 824 | Indiana Grain Buyers and Warehouse Licensing Agency |
| 825 | Indiana Grain Indemnity Corporation |
| 828 | State Board of Dentistry |
| 830 | Indiana Dietitians Certification Board |
| 832 | State Board of Funeral and Cemetery Service |
| 836 | Indiana Emergency Medical Services Commission |
| 839 | Behavioral Health and Human Services Licensing Board |
| 840 | Indiana State Board of Health Facility Administrators |
| 844 | Medical Licensing Board of Indiana |
| 845 | Board of Podiatric Medicine |
| 846 | Board of Chiropractic Examiners |
| 847 | State Board of Massage Therapy |
| 848 | Indiana State Board of Nursing |
| 852 | Indiana Optometry Board |
| 856 | Indiana Board of Pharmacy |
| †857 | Indiana Optometric Legend Drug Prescription Advisory Committee |
| †858 | Controlled Substances Advisory Committee |
| 860 | Indiana Plumbing Commission |
| 862 | Private Detectives Licensing Board |
| 864 | State Board of Registration for Professional Engineers |
| 865 | State Board of Registration for Professional Surveyors |
| 868 | State Psychology Board |
| 872 | Indiana Board of Accountancy |
| 874 | Private Investigator and Security Guard Licensing Board |
| 876 | Indiana Real Estate Commission |
| 877 | Real Estate Appraiser Licensure and Certification Board |
| 878 | Home Inspectors Licensing Board |
| 879 | Manufactured Home Installer Licensing Board |
| 880 | Speech-Language Pathology and Audiology Board |
| †884 | Board of Television and Radio Service Examiners |
| 888 | Indiana Board of Veterinary Medical Examiners |
| †892 | Indiana State Board of Examiners in Watch Repairing |
| 896 | Board of Environmental Health Specialists |
| 898 | Indiana Athletic Trainers Board |
| 905 | Alcohol and Tobacco Commission |
| 910 | Civil Rights Commission |
| 915 | Indiana Veterans' Affairs Commission |
| 920 | Indiana War Memorials Commission |
| 925 | Meridian Street Preservation Commission |
| 930 | Indiana Housing and Community Development Authority |
| 935 | Indiana White River State Park Development Commission |

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

XXII. 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.

XXIII. 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 search engine before becoming searchable. Newly posted documents, therefore, will not appear in search results immediately after posting.

A. Search Methods:

WILDCARD SEARCHES

Standard query parser supports single and multiple character wildcard searches within single terms. Wildcard characters can be applied to single terms, but not to search phrases

Single character (matches a single character) Use ?

The search string

te?t

would match

test and text

Multiple characters (matches zero or more sequential characters) Use *

The wildcard search:

hand*

would match

hand, handling, handwritten

You can also use wildcard characters in the middle of a term. For example:

te*t

would match

test, text, testament ...

*est

would match

west, request, digest

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.)

| |
|--|
| <p>Indiana General Assembly</p> <p>Administrative Rules Drafting Manual</p> <p>Emergency Authority List</p> |
| <p>Indiana Register</p> <p>Current IR</p> <p>Archive</p> |
| <p>Indiana Administrative Code</p> <p>Latest Update</p> <p>Archive</p> |
| <p>IR and IAC Search</p> <p>Enter search terms</p> <input type="text"/> <p><input type="checkbox"/> All Registers</p> <p><input type="checkbox"/> Latest Update IAC</p> <p><input type="button" value="Search"/></p> <p>Advanced Search</p> |
| <p>Register DIN (Document ID Number)</p> <input type="text"/> <p><input type="button" value="Go"/></p> <p>Enter the full DIN, example: 20060301-IR-025050010NIA</p> |
| <p>LSA Document # (Documents since July 2, 2006)</p> <input type="text"/> - <input type="text"/> <input type="button" value="Go"/> <p>Example: 06 - 121</p> |
| <p>IAC Cite</p> <input type="text"/> - IAC - <input type="text"/> <input type="button" value="Go"/> <p>Enter Title and Article (optional) example: 45 - IAC - 1</p> |
| <p>Indiana Code Cite</p> <input type="text"/> - <input type="text"/> - <input type="text"/> - <input type="text"/> <input type="button" value="Go"/> <p>Enter Title, Article*, Chapter*, and Section* * = optional example: 4 - 22 - 8 - 2</p> |

← Directs the user to the “Law & Administrative Rules” page of the General Assembly website.

← Link to the Administrative Rules Drafting Manual

← Link to the Emergency Authority List

← 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:

| | | |
|---|---|--|
| <p>When are documents archived? IAC: Annually IR: Annually</p> | <p>How far back does the archive go? IAC: 2003 Edition IR: October 2000, Volume 24</p> | <p>How do I search the archive? (1) Checkmark the "IAC Editions". (2) Checkmark the "IR Volumes".</p> |
|---|---|--|

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

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).

| | | | | | | |
|--|---|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| Search within IAC Editions (one or more) | <input checked="" type="checkbox"/> Latest Update | <input type="checkbox"/> All Editions | <input type="checkbox"/> 2016 Edition | <input type="checkbox"/> 2015 Edition | <input type="checkbox"/> 2014 Edition | <input type="checkbox"/> 2013 Edition |
| | <input type="checkbox"/> 2012 Edition | <input type="checkbox"/> 2011 Edition | <input type="checkbox"/> 2010 Edition | <input type="checkbox"/> 2009 Edition | | |
| | <input type="checkbox"/> 2008 Edition | <input type="checkbox"/> 2007 Edition | <input type="checkbox"/> 2006 Edition | <input type="checkbox"/> 2005 Edition | | |
| | <input type="checkbox"/> 2004 Edition | <input type="checkbox"/> 2003 Edition | | | | |

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.

| | | | | | | | |
|--|---|---|--|--|--|--|--|
| Search within IR Volumes (one or more) | <input checked="" type="checkbox"/> All Volumes (to Current) | <input type="checkbox"/> Current IR (since Jul 1, 2015) | <input type="checkbox"/> Recent IR (since Apr 5, 2016) | <input type="checkbox"/> Jan-Dec 2015 (Jan 2015 - Dec 2015) | <input type="checkbox"/> Jan-Dec 2014 (Jan 2014 - Dec 2014) | <input type="checkbox"/> Jan-Dec 2013 (Jan 2013 - Dec 2013) | <input type="checkbox"/> Jan-Dec 2012 (Jan 2012 - Dec 2012) |
| | <input type="checkbox"/> Jan-Dec 2011 (Jan 2011 - Dec 2011) | <input type="checkbox"/> Jan-Dec 2010 (Jan 2010 - Dec 2010) | <input type="checkbox"/> Jan-Dec 2009 (Jan 2009 - Dec 2009) | <input type="checkbox"/> Jan-Dec 2008 (Jan 2008 - Dec 2008) | | | |
| | <input type="checkbox"/> Jan-Dec 2007 (Jan 2007 - Dec 2007) | <input type="checkbox"/> Jul-Dec 2006 (Jul 2, 2006 - Dec 2006) | <input type="checkbox"/> Volume 29 (Oct 2005 - Jul 1, 2006) | <input type="checkbox"/> Volume 28 (Oct 2004 - Sep 2005) | | | |
| | <input type="checkbox"/> Volume 27 (Oct 2003 - Sep 2004) | <input type="checkbox"/> Volume 26 (Oct 2002 - Sep 2003) | <input type="checkbox"/> Volume 25 (Oct 2001 - Sep 2002) | <input type="checkbox"/> Volume 24 (Oct 2000 - Sep 2001) | | | |

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.

| | | | | |
|---|-----------------|---|--------|----------------------|
| Advanced Search (Documents since July 2, 2006): | LSA Doc Number: | <input type="text"/> - <input type="text"/> | Title: | <input type="text"/> |
|---|-----------------|---|--------|----------------------|

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.

| |
|---|
| Number of matches: 0 Search completed in 0.000379 seconds. |
|---|

XXIV. 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.

XXV. 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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- “All Documents” link
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 - Disapprovals
 - Opinions
 - List
 - Review of administrative rules
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- Changes in Notices of Public Hearing
 - Procedure for submission for publication
- Checklist for Adoption of Administrative Rules
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- Citations
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- Code Revision Commission
- Comment period deadlines (IDEM Notices)

- Contact information (Register staff)
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- Governor
- Document identification number
- Document formats
- Document listings (order)
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- E-mail address for submissions
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 - Executive Order #13-05: Creation of Family Impact Statements in Certain Indiana State Departments and Agencies
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- Intended date of publication
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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>

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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.

**APPENDIX D:
ATTORNEY GENERAL'S RULE REVIEW CHECKLIST (LIST)**

Click [HERE](#) to view and/or print the Rule Review Checklist that was provide at the Rulemaking Seminar on August 30, 2016, organized by the Office of the Indiana Attorney General.

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.

*