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TITLE 610 DEPARTMENT OF LABOR

LSA Document #01-340

September 24, 2002

The Honorable Jerry Denbo, Chairperson
Administrative Rules Oversight Committee
c/o George Angelone
Legislative Services Agency

Dear Chairperson Denbo,

I am writing to inform the Administrative Rules Oversight Committee of the following situation, regarding adoption of Final Rule 610 IAC 4-6.

The Indiana Department of Labor is adopting Final Rule 610 IAC 4-6. Although this rule is replacing 610 IAC 4-4, which is being repealed, our adoption process does not qualify for statutory exceptions made available for agencies amending an already existing rule. Final Rule 610 IAC 4-6 is the Indiana Department of Labor's rule relating to the reporting and recording of occupational workplace illnesses and injuries. Indiana Code 4-22-2-19 requires our agency to start our rule-making process within sixty days of obtaining statutory authority, and we have not begun the adoption process for 610 IAC 4-6 within sixty days. This is so for the following reasons.

Reasons for Delay

From 2001 through 2002, the federal Occupational Safety and Health Administration (OSHA) adopted this rule nationally. We are a state Agency responsible for enforcing all federal occupational safety and health regulations, and under federal OSHA law we are a "state plan" state. As such, federal funding for our Agency, and the Agency's very existence, are contingent upon enforcement of rules substantially similar to federal OSHA rules. Thus it is necessary that we adopt for Indiana a state rule substantially similar to the newly, federally adopted record keeping regulation. However, that newly, federally adopted record keeping regulation was not adopted until well after the sixty days deadline required by Indiana law. Thus, we could not adopt a substantially similar state regulation until well after the sixty days deadline required by Indiana law.

Sincerely,

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